DEPARTMENT OF THE ARMY
HEADQUARTERS, 506TH REGIMENTAL COMBAT TEAM
101ST AIRBORNE DIVISION (AIR ASSAULT)
CAMP LOYALTY, IRAQ APO AE 09390

REPLY TO
ATTENTION OF

AFZB-KG-CO

16 March 2006

MEMORANDUM FOR Commander, Multi-National Division-Baghdad, Camp Liberty, Iraq 09344-3029

SUBJECT: AR 15-6 Investigation – Death of a Local National Occurring on 8 March 2006 – Collision with Bradley Fighting Vehicle, B Co., 3-67 AR BN

1. I have reviewed the above-referenced investigation and recommend that the investigating officer's findings and recommendations be approved.

2. Point of contact for this memorandum is [redacted] Regimental Judge Advocate, at [redacted] or SIPR at [redacted] — 6

[redacted] — 6

COL, IN
Commanding

DEPARTMENT OF THE ARMY
HEADQUARTERS, 506TH REGIMENTAL COMBAT TEAM
101ST AIRBORNE DIVISION (AIR ASSAULT)
CAMP LOYALTY, IRAQ 09390

REPLY TO
ATTENTION OF

AFZB-KG-CO

8 March 2006

MEMORANDUM FOR [redacted], Headquarters and Headquarters Company, 3d Battalion, 67th Armor Regiment, 506th Regimental Combat Team, 101st Airborne Division (Air Assault), Camp Rustamiyah, Iraq 09390

SUBJECT: Appointment as Investigating Officer

1. You are hereby appointed an investigating officer pursuant to AR 15-6 to conduct an informal investigation into the incident occurring on 8 March 2006 where a local national vehicle was run over by an M2 Bradley Fighting Vehicle that was making a U-turn on [redacted] in the vicinity of FOB Loyalty. The driver of the local national vehicle was killed as a result. Your investigation will focus on the following areas:

a. What were the facts and circumstances leading to the accident? Was there any negligence on the part of U.S. Forces?

b. Was the Bradley being operated in a responsible manner? What safety measures were employed to prevent accidents such as the one that occurred?

c. What was the name and address of the local national?

d. Was a claims card issued as a result of the incident? What was the make and model of the destroyed vehicle? What is the name and address of the next-of-kin who should receive any payment?

e. What, if any, corrective actions, training, or changes to procedures should be made in light of this incident? What lessons can be learned for future mission planning?

2. In your investigation, all witness statements will be taken on paper and sworn using DA Form 2823. If you discover any suspected criminal misconduct you must first read the individual their Article 31, UCMJ Rights, prior to taking their statement. From the evidence, you will make findings as to whether any criminal laws or Army regulations have been violated. In addition to your findings, you will make recommendations for any appropriate action to be taken. These recommendations may include but are not limited to: UCMJ or administrative actions concerning one or more individuals, additional training, policy changes, etc. Conduct your investigation pursuant to AR 15-6. Additionally, seek advice from RCT Legal prior to commencing your investigation ([redacted]).

AFZB-KO-CO
SUBJECT: Appointment as Investigating Officer

3. This investigation takes precedence over your other assigned duties. Record your findings and recommendations utilizing DA Form 1574. Submit your investigation packet to this headquarters NLT 1700 13 March 2006. Any requests for an extension should be made to me verbally or in writing.

[redacted]

COL, IN
Commanding

# 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 [redacted] — C
*(Appointing authority)*

on 8 March 2006 *(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 Camp Rustamiyah *(Place)* at 0900 *(Time)*

on 9 March 2006 *(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 0900 *(Time)* on 14 March 2006 *(Date)*

and completed findings and recommendations at 1700 *(Time)* on 14 March 2006 *(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? | | | |
| | *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 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)* | | | | X |
| 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 5-6b, 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)* | *(Investigating Officer) (Board President)* |
| *(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 2-3, 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.)*

C

I approve the findings and recommendations. I have issued [redacted] a GOMOR. Remand to BDE CDR to take action as he deems appropriate.

James D. Thurman

[redacted]

Major General, USA
Commanding

**Exhibit A (Evidence and Findings)**

**(a) What were the facts and circumstances leading to the accident?**

- 20 1200 FEB 06 — Assumed security of UN Compound ([redacted]
- 08 0600 MAR 06 — Element consisting of two M2 BFV's (B31 [the B32 crew was using this vehicle] & B34), six dismounts, and a medic departed the UN Compound with the task of performing a combat logistical patrol to FOB LOYALTY and the purpose being to provide the UN Compound security force with its daily allocation of Class I
- 08 0600-0605 MAR 06 — Element moves eastward along [redacted], with the assistance of IP's at CP36 – takes a right on [redacted] halfway ([redacted]) between CP 36 & 550 on [redacted] [redacted] element turns left, crosses the median, with the intent on crossing the northbound lane of traffic in order to enter FOB LOYALTY
- 08 0605 MAR 06 — The lead vehicle B31 lead by [redacted] and driven by [redacted] drives over a local national vehicle traveling north on [redacted] at [redacted]
- 08 0615 MAR 06 — [redacted] notified the BDE HQ on FOB LOYALTY and the Platoon Sergeant, [redacted], remained on site; BDE notifies 3-67 AR BN TOC
- 08 0625 MAR 06 — Iraqi Police arrived on the scene
- 08 0635 MAR 06 — Medic [redacted] pronounces that [redacted] passed away due to massive trauma caused by a vehicular accident; [redacted] was unable to be extracted from the vehicle
- 08 0638 MAR 06 — 4xM1114 arrived on site for assistance, [redacted] is the Patrol Leader
- 08 0645 MAR 06 — Iraqi Fire Department arrived on the scene
- 08 ~0735 MAR 06 — Iraqi Police officially released all elements from the scene and they immediately moved back to UN Compound
- 08 0900 MAR 06 — Element moves to FOB RUSTAMIYAH for further questioning

**(b) Was the Bradley being operated in a responsible manner? What safety measures were employed to prevent accidents such as the one that occurred?**

The driver and vehicle commander for B31 slowed down and used the appropriate signaling device to facilitate safe movement across [redacted]. The M2 BFV used and was equipped with a [redacted]

**(c) What was the name and address of the local national?** [redacted] and his address is [redacted]

**(d) Was a claims card issued as a result of the incident? What was the make and model of the destroyed vehicle? What is the name and address of the next-of-kin who should receive any payment?**

A claims card was issued at the scene to an unknown IP, who happened to identify himself as the neighbor of the victim, because [redacted] was the sole passenger in the vehicle. [redacted] provided to the IP's on site (investigating officer was [redacted] who also has custody of all personal belongings) all information requested. [redacted], eldest son who is 30 years old, cell number [redacted], should receive payment. The following information refers to the vehicle and its original registered owner: 6

Vehicle Make: Hyundai
Vehicle Year: 1994
Vehicle: Golden
Vehicle Original Registered Owner: [redacted] 6
Vehicle Original Registered User: [redacted]
Address: [redacted]
Information verified by [redacted] and [redacted] verified a family document stating that [redacted] is the current owner of this vehicle

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**(e) What, if any, corrective actions, training, or changes to procedures should be made in light of this incident? What lessons can be learned for future mission planning? Was there any negligence on the part of U.S. Forces?**

After a thorough investigation, the proximate cause for the death of [redacted] on 08 MAR 06 due to a collision with an M2 BFV was not due to gross negligence or malicious intent on the part of anyone related to the accident. Multiple events could have possibly prevented or at least limited the scope of damage/injury. The driver and vehicle commander for B31 slowed down and used the appropriate signaling device to facilitate safe movement across [redacted]; however, they could have waited until all traffic came to a complete stop before proceeding instead of assuming the local national vehicle would stop. The local national, [redacted], appeared to be coming to a stop and either ignored or misunderstood the visual signal used; however, chose to drive into the direct path of an M2 BFV. 6 6

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Recommend the following:

- [redacted] receives a letter of concern highlighting the importance and responsibility of being a vehicle commander. It is physically impossible for the driver to have seen the vehicle in question; however, the vehicle commander must understand the conditions presented and make sound judgments quickly. This accident may have been prevented simply by ensuring all traffic came to a complete halt prior to crossing the road.

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- Condolence payment and regrets be made directly to the next of kin of [redacted] by the B/3-67 AR Company Commander and confirm that the claims card was received.
- All coalition traffic no longer be allowed to cross the median at [redacted] on [redacted] onto oncoming traffic in order to enter FOB LOYALTY.

**Index of Exhibits:**

Exhibit A (Evidence and Findings)
Exhibit B (Memorandum of Appointment, 08 MAR 06)
Exhibit C (SIR Report, 08 MAR 06)
Exhibit D (Story Board Sent to BDE, 08 MAR 06)
Exhibit E (Sworn Statement, [redacted] (TC), 08 MAR 06)
Exhibit F (Sworn Statement, [redacted]g (driver), 08 MAR 06)
Exhibit G (Sworn Statement, [redacted] (gunner), 08 MAR 06)
Exhibit H (Sworn Statement, [redacted]er (TC), 08 MAR 06)
Exhibit I (Sworn Statement, [redacted]n (driver), 08 MAR 06)
Exhibit J (Sworn Statement, [redacted]r (gunner), 08 MAR 06)
Exhibit K (Sworn Statement, [redacted] (medic), 08 MAR 06)
Exhibit L (Driver License, [redacted], 31 JAN 06)
Exhibit M (Dispatch, 27 FEB 06)
Exhibit N (Sworn Statement, [redacted]
12-13 MAR 06)
Exhibit O (Iraqi Police Report – Translated, 13 MAR 06)
Exhibit P (Iraqi Police Report, 13 MAR 06)

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