



DEPARTMENT OF THE ARMY
HEADQUARTERS, 3RD BRIGADE COMBAT TEAM
OPERATION IRAQI FREEDOM, COB SPEICHER
TIKRIT, IRAQ APO AE 09393

AFZP-VA-HQ

28 January 2006

MEMORANDUM FOR RECORD

SUBJECT: Commander's Emergency Response Program payment to [REDACTED]
(Claim Number 06-IR8-103)

1. On 17 Jul 05, [REDACTED] s daughter was shot and killed by U.S. Forces.
2. I certify that funds are available from the CERP to pay [REDACTED] in the amount of \$2500.00. This is a condolence payment.
3. The request to pay [REDACTED] in the amount of \$2500.00 from CERP has been legally reviewed. There is no legal objection to this payment and it is accordingly approved.

[REDACTED]
CPT, EN
Project Purchasing Officer

001424



DEPARTMENT OF THE ARMY
OFFICE OF THE STAFF JUDGE ADVOCATE
HEADQUARTERS, 101ST AIRBORNE DIVISION (AIR ASSAULT)
OPERATION IRAQI FREEDOM, COB SPEICHER
TIKRIT, IRAQ, APO AE 09393

REPLY TO
ATTENTION OF

AFZB-JA-C

19 January 2006

MEMORANDUM OF OPINION

SUBJECT: [REDACTED] 06-IR8-103

1. **Identifying Data:** [REDACTED]
2. **Date and place the incident occurred giving rise to the claim:** The claim occurred on 17 July 2005 in Balad, Iraq.
3. **Amount of claim and date it was filed:** Claimant filed a claim for \$4,000 on 17 January 2006.
4. **Jurisdiction:** This request is presented for consideration under the provisions of the Foreign Claims Act, 10 USC Section 2734, as implemented by Chapter 10, Army Regulation 27-20. This claim was properly filed in a timely manner.
5. **Facts:** The Claimant alleges that a CF patrol came to a house and conducted a search. Claimant alleges that CF shot the lock and the bullet ricocheted striking and killing a girl in a neighboring house. Claimant alleges that CF apologized and gave them a piece of paper with contact information, but that Claimant lost the paper. A SIGACTS investigation revealed no information reference this incident.
6. **Opinion:** Under AR 27-20, paragraph 10-3, liability under the FCA may be based on acts or omissions of U.S. soldiers or civilian employees of a U.S. military department only if they are considered negligent or wrongful. Here, there is insufficient evidence suggesting that CF caused the alleged damage. In addition, under AR 27-20, paragraph 10-3, claims arising "directly or indirectly" from combat activities of the U.S. Armed Forces are not payable. AR 27-20 defines combat activities as, "Activities resulting directly or indirectly from action by the enemy, or by the U.S. Armed Forces engaged in armed conflict, or in immediate preparation for impending armed conflict." Here, CF actions constitute combat activity and thus precludes compensation.
7. **Recommendation:** The claim is denied.

[REDACTED]
CPT, JA
Chief of Claim

001425

Claims Form

To: United States Army Foreign Claims Commission

From: Name: _____

POA/ATT: _____

Power of Attorney provided and interpreter approved: _____

Decedents: _____

Hometown: Balad

Iraqi Resident: _____

My claim arose at: _____

(Town)

Yethrib - Balad

(City)

(Country)

My claim arose on: _____

Month

17

Day

July

05

Year

Proof of Ownership: _____

N/A

Interpreter Approved: _____

Death Certificates (Name, Cause of Death, Age, and Time of Death Consistent with Claimant allegations): COD - NO COD, but says death by CF

- original seen

death cert says 19 July is date of death

Interpreter Approved: _____

Legal Expert Opinion: _____

N/A

Interpreter Approved: _____

W/ CF killed girl during search - (Neighbor)

Witness Statement (Consistent?): W2 - Neighbor - same story

Interpreter Approved: _____

Give a brief statement of the accident or incident on which the claim for damages to property or for personal injury is based. (Use back of this sheet if necessary.)

CF convoy came & searched house. CF shot the lock

& bullet ricocheted & hit girl in other house.

Girl was not in same house that was being

searched. CF apologized & gave paper but lost the

paper. Decedent died instantly.

At 4:00 pm. Near primary school.

Evidence: photos of dead girl; identification

001426

List in detail the amount of property damage and itemized expenses resulting from the property damage or personal injury: (Attach bills and receipts, if applicable.)

Item	Amount
Wrongful death	\$4,000

Total: \$4,000

I was insured to the following extent against the damage or injuries I have sustained:

N/A

The name and address of my insurer (if any) is:

(Name) _____ (Address) _____

I claim as damages: (Indicate amount in U.S. dollars and local currency)
\$ 4,000 local _____

[Redacted Signature]
(Signature of Claimant)

Subscribed before me this 18 day of Jan, 2000.

[Redacted Name]
(Print Name)
[Redacted Signature]
(Signature)