Any Classified Document Downgraded in this packet is done so under the Memorandum for Record, dated 28 February 2007, Subject: Declassification Guidance for Operation Iraqi Freedom (OIF) 05-07 issued by the 4th Infantry Division G2
MEMORANDUM FOR RECORD

SUBJECT: Appointment of Major [REDACTED] as Investigating Officer

This memo confirms that on 21 June 2006, I verbally appointed MAJ [REDACTED] as an investigating officer pursuant to AR 15-6. I ordered MAJ [REDACTED] to conduct an informal investigation into the facts and circumstances surrounding the fatal escalation of force conducted by D/2-506 IN in which one local national male was killed.

LTC, AR
Commanding

ALL ITEMS ARE REDACTED UNDER 50 USC 552(B)(6) UNLESS OTHERWISE NOTED
MEMORANDUM FOR RECORD

SUBJECT: Assumption of Command

By the authority of Army Regulation 600-20, paragraph 2-6A(1), the undersigned assumes command of the 4th Brigade Combat Team, Multi National Division – Baghdad, APO AE 09348, effective 16 June 2006.

LTC, AR
Commanding
The speed of the vehicle, the failure of the driver to stop, slow down or alter his course, and the specific threat warnings received by this patrol, all combined to support a determination of hostile intent. Although the death of any non-combatant is tragic, the Soldiers here did not violate the ROE by using deadly force to protect themselves and their fellow Soldiers from a perceived deadly threat.

As described in Exhibit 9, the Platoon Leader decided to take the entire patrol to the nearest NP checkpoint to bring the National Police back to the scene. After the recent abduction of the 2/101 Soldiers, the Platoon Leader’s decision not to leave a lone vehicle at the site was the right decision. When the patrol returned to the site, the body of the local national had been removed from the scene. Should we ever identify the family of the deceased, we will consider paying a foreign claim or a condolence payment for this death.
MEMORANDUM FOR RECORD

SUBJECT: AR 15-6 Report of Investigation (Escalation of Force)

1. Purpose. The purpose of this memorandum is to provide the findings and recommendations regarding the Escalation of Force (EOF) by 1/D/2-506 IN on 21JUN06 vicinity 14827.

2. Summary of Incident.

   a. At 211543JUN06 1/D/2-506th IN was on combat patrol headed northbound in Zone 26 when the lead vehicle struck an IED at 14827 (EXHIBIT 1). Two vehicles suffered damage: D17 suffered three flat tires, a destroyed power box and radiator; the second vehicle (LX) suffered a fractured driver side window (EXHIBIT 22). Immediately the patrol called in the 9 line IED report and established a cordon around the scene. D17 had pushed through the kill zone during the explosion and established a blocking position to the northeast around the curve, D113 established a blocking position covering the road to the north, LX remained centered mass of the cordon to provide cover overwhelmed, and D111 established a blocking position covering the "T" intersection to the south (EXHIBIT 7 - 16). D111 was oriented north with the gunner, SPC [REDACTED] covering the high speed avenue of approach to the west. Soldiers conducted their 5 and 25 meter searches to locate secondary IED's. Once the area around the vehicle was clear Soldiers began to establish Traffic Control Points (TCP) (EXHIBIT 7 - 16).

   b. The driver of D111, SPC [REDACTED] placed 2 cones 50 - 75 meters on the road to the south and west of his vehicle. He was in the process of retrieving concertina wire from his vehicle when he heard SPC [REDACTED] shouting verbal command to stop, "awful", to a white vehicle approaching their position. Both the gunner, SPC [REDACTED] and the driver, SPC [REDACTED] were shouting and providing the hand and arm signals to stop. The vehicle showed no signs of acknowledging their commands (EXHIBIT 6, 7, 8). SPC [REDACTED] fired two warning shots from his M6 pistol and the driver fired two warning shots from his M4 (Exhibit 6, 7, 8), but the approaching vehicle showed no signs of acknowledging the shots fired. The vehicle commander, SGT [REDACTED] acknowledged the approaching vehicles failure to comply with either the verbal or visual commands or the warning shots and directed SPC [REDACTED] to fire disabling shots into the engine block (EXHIBIT 6, 7, 8). These measures showed no results as the vehicle continued to approach with no change in speed, approximately 35-40 MPH. At approximately 75 meters from their position SGT [REDACTED] gave the order to use deadly force. Both SPC [REDACTED] and SPC [REDACTED] fired lethal shots into the approaching vehicle. At an estimated 50 meters away from their position SPC [REDACTED] got into the running M1114, SPC [REDACTED] dropped down in the hatch, and the vehicle was driven forward to avoid a collision with the approaching white vehicle.

   c. The white vehicle missed D111 and continued to roll through the intersection at the same rate of speed. The white vehicle continued for an estimated 30-75 meters before crashing into a stationary bus (EXHIBIT 7, 9, 24). Since the vehicle was suspected to be a possible VBED, the cordon area was expanded to include the vehicle. EOD support had already been requested for post blast analysis of the initial incident.

3. General sequence of events. All times listed are on 21JUN06 (EXHIBIT 1):

   a. 1543: 1/D/2-506 strikes IED
   b. 1606: 1/D/2-506 reports EOF
SUBJECT: AR 15-6 Report of Investigation (Escalation of Force)

4. Findings of the investigation.

a. The actions taken by SPC and SPC in the death of a Local National (LN) during the Escalation of Force (EOF) on 21 Jun 06 were justified. The statements of all three occupants of D111 clearly articulate the appropriate use of Escalation of Force. The lack of acknowledgement from the driver of the white car to all means of non lethal and disabling measures that ended in the use of lethal force and death of a LN (EXHIBITS 8, 7, 6).

b. The Patrol Leader (PL) acknowledged receipt of an intelligence brief prior to departing on the patrol. This brief was presented orally from the 2-506th TOC and included notification of information in spot report SPOT OBIZ-DET-E-099-00 (EXHIBIT 9a).

c. Intelligence information from the 2-506th TOC identified VBIED vehicles for the PL and his patrol to look for but did not identify that two of the vehicles would be detonated by remote control (EXHIBIT 9a).

d. The vehicle that was fired upon was not a white and orange taxi therefore did not meet the description provided in the PL's mission brief (EXHIBIT 24). From the D111 blocking position the soldiers reasonably could not have identified the vehicle was not a taxi or white and orange (Exhibit 24).

e. All vehicles approaching D111 prior to the white vehicle acknowledged and responded appropriately to the verbal and visual commands of SPC (EXHIBIT 8a). The white vehicle approached at twice the speed as all other vehicles (EXHIBIT 8a).

f. SPC, SPC and SGT confirmed receipt of EOF training at home station prior to deployment, at Camp Buehring prior to movement to Baghdad, and prior to departure for their mission on 21 JUN 06 (EXHIBITS 6, 7, 8, 9a, 23).

g. Personnel in vehicles D17, D113, and LX made initial statements and were found to have no relevant information pertaining to the EOF incident primarily due to their position during the cordon (EXHIBIT 10 - 18). Personnel in those vehicles included: SGT, SPC and PFC in D17; SPC and SPC in D113; and SPC and SPC in LX (EXHIBIT 9a).

h. VBIED analysis from the 2-506th TOC reflects four VBIED attacks from 6 JUN 06 to 18 JUN 06 (EXHIBIT 18). VBIED analysis from the 2-506th TOC reflects 17 VBIED attacks since the TOA (EXHIBIT 18).

i. The EOD team did not conduct a controlled detonation of the white vehicle. The EOD team used a "boot banger water charge" to open the trunk of the white car since the robot could not confirm the vehicle was a VBIED (EXHIBIT 18-21).

j. One LN male was in the vehicle (EXHIBIT 7a).

k. The loud speaker for the vehicle, D111, does not work (EXHIBIT 7).

l. Patrol did not have M203 weapon in any of the vehicles. There are only two in the platoon.

m. The BN has had a PR&C in for 100 Galls sirens since Feb 06 which Division has not funded (EXHIBIT 25).
AFYB-UAE-XO
SUBJECT: AR 15-6 Report of Investigation (Escalation of Force)

a. I recommend no further action be taken on the soldiers involved in the EOF on 21 Jun 2006. I can not find anything in the soldiers' actions or their responses that reflects willful negligence or inappropriate use of the ROE or EOF procedures.

b. I recommend the 2-506th IN Battalion provide a hard copy of the most recent threat to the PL to ensure all the information gets down to the soldier. In this case the briefing threat did not completely match the perceived threat.

c. I recommend the 2-506th IN Battalion enforce and inspect junior NCO's and leaders Pre-Combat Checks by performing Pre-Combat Inspections. In this case, the loud speaker and the Patrol Leader's radio did not work. The NCO and Patrol leader admitted not doing checks prior to the mission departure.

d. I recommend taking a look at the sequence of events for TCP construction. First, I recommend that a standard be set on how fast a TCP must be established. Second, we may want to consider emplacing the concertina and road spikes sooner rather than later. Emplacing TCP components from the outside in would afford the patrol to establish stand off distance from approaching vehicles. In this case, the driver only had time to emplace cones before the vehicle approached their blocking position.

e. I recommend the 2-506th IN Battalion provide refresher training to their soldiers' on ROE and Escalation of Force to ensure soldiers know that warning shots are considered deadly force.

I. Division fund all EOF PR&Cs immediately in order to provide soldiers the tools required for success (EXHIBIT 25).

6. The point of contact for this memorandum is the undersigned at VOIP: 677-2105.

MAJ, QM
Executive Officer

ALL ITEMS ARE
REDACTED UNDER
SUB 552(B)(6)
UNLESS OTHERWISE
NOTED
SWORN STATEMENT

For use of this form, see AR 190-46; the proponent agency is PMG.

PRIVACY ACT STATEMENT

AUTHORITY: Title 10 USC Section 301; Title 5 USC Section 2901; E.G. 3967 dated November 22, 1943 (SSN).

PRINCIPAL

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

FOR Falcon

2. DATE (YYYY/MM/DD)

06/06/22

3. TIME

1528

4. FILE NUMBER

14833

5. LAST NAME, FIRST NAME, MIDDLE NAME

6. SSN

7. GRADE/STATUS

O-2/Flight Leader

8. ORGANIZATION OR ADDRESS

9. [Redacted]

WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

On 01 June 01 FIE Falcon was conducting a combat patrol. Field leader was myself. There were 5 vehicles in my convoy.

1. Vehicle was the "A" (TC, Driver, Gunner). Second

2. Vehicle was the "B" (TC, Driver, Gunner). Third vehicle

3. Vehicle was the "C" (TC, Driver, Gunner). Final vehicle

4. Falcon at 1800 and was attempting to make an insertion into Zone 25 on the Southeastern side by passing through Zone 26 due to recent IED activity in the Western side of Zone 25, while passing through Zone 26 the IED was struck by an IED. The IED detonated between the 1st 2nd vehicles. Causing damage to both vehicles. At this time the lead vehicle pushed through the Kill Zone, while the last 2 vehicle backed out of the Kill Zone. At this time I began to organize the cordon.

5. Took the North Eastern position. D13 took the North Western. And

6. Took the South Western blockage position. Once positions were set the crew began to do the SDI/SDS meter search. Once these areas were cleared they began to set out their TCP KITs.

10. EXHIBIT

11. INITIALS OF PERSON MAKING STATEMENT

THE BOTTOM OF EACH ADDITIONAL PAGE MUST BE INDICATED.
While the Driver [redacted] was setting out the IED site for DTTI/SOC, he was returning back to Black Jack Camp the Time I was at the site the wire was tripped and vehicle was moving back to the vehicle. At this time when the Driver [redacted] observed a vehicle moving, he increased their speed. From my position I saw the vehicle approaching. All direct information that I have with the engagement of the vehicle is Second-Hand intel from my position and I was inside of vehicle before the engagement. My Driver (SOC) was not inside the vehicle when the Driver [redacted] observed a vehicle approaching. Once the IED was activated, I went back to the vehicle just in time to see the vehicle with the primary weapon (PGD, IED). After the engagement with the vehicle while the Driver [redacted] pulled DTTI towards the vehicle, the vehicle was not stopped by the IED, but moved back to the blocking position. At this time believing this is the UBECO I deployed Fox 16 on the ground. EOD arrived on site and proceeded to blow the car in the belief it was a UBECO I deployed. After EOD completed the investigation at the area. I determined the vehicle was not a UBECO, and that the IED that hit us was 13mm or larger. After the ground was broke down we moved to COP 20 to secure a NPA Patrol to come and secure the body.
I did not leave a vehicle to secure the site due to recent objections of U.S. personnel. We took approximately 10 to 15 minutes to secure and bring the patrol of MP back to the site. When we returned the body had been removed and was gone. At this point it was roughly 1935 and we lost the security of the site to the MP. After completion of mission all personnel from what I was told the vehicle was driven hand and arm signals, VTVLS (vertical warning), warning shots, 9mm (into the ground), 44 warning shots, my disabling vehicle try to charge course or slow. The vehicle even after being fired on be stopped by a stationary bus.
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All items are in use. No change.

EOF PRACS

**SECRET/REPLACEMENT BLUE**

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**GREEN LASER POINTER**

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**CALL LIGHT**

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**GREEN LASER POINTER**

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Total: $3000

**ALL ITEMS ARE IN USE.**

**NOTE:** UNLESS OTHERWISE SPECIFIED.
REPORT OF PROCEEDINGS BY INVESTIGATING OFFICER/BOARD OF OFFICERS

SECTION I - APPOINTMENT

Appointed by: LTC, AR, Commanding (Appointing authority)

Date: 21 Jun 2006

(Attach inclosure 1: Letter of appointment or summary of oral appointment docket. See para 3-15, AR 15-6.)

SECTION II - PROCEEDINGS

The investigation (board) commenced at

FOB FALCON, Baghdad, Iraq

Time: 1300

(Place)

Date: 22 Jun 2006

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 Adviser.)

ALL ITEMS ARE REDACTED UNDER 5 USC 552(b)(6) UNLESS OTHERWISE NOTED

The investigating officer (board) finished gathering/hearing evidence at 1700 on 27 Jun 2006

(Time) (Date)

and completed findings and recommendations at 2200 on 27 Jun 2006

(Time) (Date)

SECTION III - CHECKLIST FOR PROCEEDINGS

A. COMPLETE IN ALL CASES

YES NO NA

1. Inclosures (per 3-15, AR 15-6)
   a. The letter of appointment or summary of oral appointment docket?
   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 Statement/Consent, 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 omissions 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. Attach all negative statements on an attached sheet.
            2. Use of the NA column constitutes a negative representation that the circumstances described in the question did not occur in this investigation or board.

DA FORM 1574, MAR 93
EDITION OF NOV 77 IS OBSOLETE.
2. Exhibits (para. 2-1a, AR 15-6):
   a. Are all issues of fact (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 office or board attached before the first exhibit?  
      [X]  
   c. Did the testimony or statement of each witness or its record or its reduction to writing and attached as an exhibit?  
      [X]  
   d. Are copies, descriptions, or depictions (if reduced for real or documentary evidence) properly authenticated and is the location of the original evidence indicated?  
      [X]  
   e. Are descriptions or diagrams included or locations visited by the investigating officer or board? (para. 2-1b, AR 15-6)?  
      [X]  
   f. Is each written statement attached as an exhibit and is each oral statement 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. 2-1c, AR 15-6)?  
      [X]  

3. Was a quorum present when the board voted on findings and recommendations (para. 4-1 and 5-3h, AR 15-6)?  
   [X]  

4. B. COMPLETE ONLY IF FORMAL BOARD PROCEEDINGS (Chapter 5, AR 15-6):
   a. At the initial session, did the recorder read, or determine that all participants had read, the letter of appointment? (para. 7-2a, AR 15-6)?  
      [X]  
   b. Was a quorum present at every session of the board? (para. 5-3b, AR 15-6)?  
      [X]  
   c. Was each absence of any member properly excused? (para. 5-3a, AR 15-6)?  
      [X]  

5. C. COMPLETE ONLY IF RESPONDENT WAS DESIGNATED (Section II, Chapter 5, AR 15-6):
   a. Notice to respondents. (para. 3-5, AR 15-6):
      i. Was the method and date of delivery to the respondent indicated on each notice of notification?  
         [X]  
      ii. Was the date of at least five working days prior to the first session of the board?  
         [X]  
      iii. Does each notice contain information —
         (1) the date, hour, and place of the first session of the board concerning the 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?
      iv. If any respondent was provided a copy of all unclassified documents in the case file?
      v. If there were relevant classified materials, were the respondent and his counsel given access and an opportunity to examine them?

6. D. COMPLETE ONLY IF RESPONDENT WAS DESIGNATED (Chapter 5, AR 15-6):
   a. Notice to respondents. (para. 3-5, AR 15-6):
      i. Was the letter properly notified? (para. 5-5, AR 15-6)?  
         [X]  
      ii. 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]  

7. Counsel (para. 5-6, AR 15-6):
   a. Was each respondent represented by counsel?  
      [X]  
   b. Name and business address of counsel:

   (If counsel is a lawyer, check here [ ])

   a. Was respondent’s counsel present at all open sessions of the board relating to that respondent?  
      [X]  
   b. If military counsel was requested but not made available, is a copy (for, if oral, a memory) of the request and the action taken on it included in the report? (para. 5-6b, AR 15-6)?  
      [X]  

8. 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 by the appropriate officer?  
      [X]  
   b. Did each member successfully challenge or decline to participate in the proceedings?  
      [X]  

9. 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?  
      [X]  
   b. Examine and object to the introduction of real and documentary evidence, including written statements?  
      [X]  
   c. Observe 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]  
   f. Make or have his counsel make a final statement or argument? (para. 5-9, AR 15-6)?  
      [X]  

10. 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. 5-9, AR 15-6)?  
    [X]  

11. Are all of the respondents’ requests and objections which were denied indicated in the report of proceedings or in an enclosure or exhibit to it? (para. 5-11, AR 15-6)?  
    [X]  

FOOTNOTES:
1. Explain all legal issues on an attached document.
2. Use of the NA column constitutes a positive representation that the circumstances described in the question did not occur in the 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 for FINDINGS.

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

In view of the above findings, the (investigating officer) (board) recommends:
See attached MEMORANDUM for RECOMMENDATIONS.