



DEPARTMENT OF THE ARMY
HEADQUARTERS, 4TH INFANTRY DIVISION (MECHANIZED)
BLDG 410 761ST TANK BATTALION AVENUE
FORT HOOD, TEXAS 76544-5000

REPLY TO
ATTENTION OF

AFYB-JA-AL

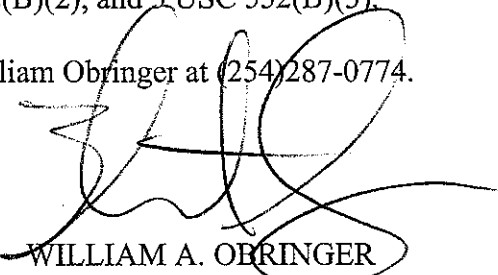
17 September 2007

MEMORANDUM FOR RECORD

SUBJECT: AR 15-6 Investigation pertaining to the escalation of force ("EOF") by Co D, 2nd Battalion, 506th Parachute Infantry Regiment, 4th Brigade Combat Team, 4th Infantry Division (Mechanized) on 21 June 2006 resulting in the death of one local national.

1. The Office of the Staff Judge Advocate, 4th Infantry Division (Mechanized) ("4ID") is the official records custodian of the AR 15-6 Investigation pertaining to the EOF incident of 21 June 2006 involving Co D, 2-506 PIR, 4BCT, 4ID(M) resulting in the death of one local national.
2. The standard method for transmitting AR 15-6 investigation documents from the Brigade to Division while deployed to Iraq was by digital sender or by sending photocopies by courier. In this case, the supporting documents were deteriorated to the point of being illegible making it unfeasible to accurately redact personal or security information.
3. The DA Form 1574, all appointment documents, and the investigators summary are all legible and able to be redacted (Encl). All other documents have been withheld in order to ensure compliance with 5 USC 552(B)(1), 5 USC 552(B)(2), and 5 USC 552(B)(3).
4. The POC for this memorandum is CPT William Obringer at (254)287-0774.

ENCL


WILLIAM A. OBRINGER
Captain, JA
Administrative Law Attorney

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] AR, Commanding
(Appointing authority)

on 21 Jun 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 FOB FALCON, Baghdad, Iraq at 1300
(Place) (Time)

on 22 Jun 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 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 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 (Certificate, if statement provided orally)?			X
f.	Explanation by the investigating officer or board of any unusual delays, difficulties, telephatics, 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.

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

		YES	NO	NA ²
2 Exhibits (para 3-1b, 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)?			
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		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 3-10a, 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)?				
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 5-3a, 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 5-2a, AR 15-6)?				
C. COMPLETE ONLY IF RESPONDENT WAS DESIGNATED (Section II, Chapter 5, AR 15-6)				
9 Notice to respondents (para 3-5, 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:			
	<i>(If counsel is a lawyer, check here <input type="checkbox"/>)</i>			
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 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.

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.)

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SPC 5592(B)(6)
UNLESS OTHERWISE
NOTED

_____ (Recorder)	 Executive Officer (Investigating Officer/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)
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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.)

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.



Commanding


Brigadier General, US Army
Deputy Commanding General (Support)

1 JUL 2006

I approve the findings and recommendations and remand to the BDE CDR for further action as he deems appropriate.



DEPARTMENT OF THE ARMY
 HQ, 704TH SUPPORT BATTALION
 4TH INFANTRY DIVISION (MECHANIZED)
 FOB FALCON; BAGHDAD, IRAQ
 APO AE 09361-2502

AFYB-UAE-XO

27 JUN 2006

MEMORANDUM FOR RECORD

SUBJECT: AP 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 211540Jun06 victim, [REDACTED] 5 USC 552 (B) (1)

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 [REDACTED] (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 of 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 center mass of the cordon to provide warlock coverage, and D111 established a blocking position covering the "T" intersection to the south (EXHIBIT 7 - 16). D111 was oriented north with the gunner, [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, [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 [REDACTED] shouting verbal command to stop, "awgaf", to a white vehicle approaching their position. Both the gunner, [REDACTED] and the driver, [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). [REDACTED] fired two warning shots from his M9 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, [REDACTED] acknowledged the approaching vehicles failure to comply with either the verbal or visual commands or the warning shots and directed [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 [REDACTED] gave the order to use deadly force. Both [REDACTED] and [REDACTED] fired lethal shots into the approaching vehicle. At an estimated 50 meters away from their position [REDACTED] got into the running M1114. [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 VBIED, 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 21 JUN 06 (EXHIBIT 1):

- a. 1543: 1/D/2-506 strikes IED
- b. 1606: 1/D/2-506 reports EOF

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- c. 1655: EOD arrives to conduct post blast analysis of IED
- d. 1730: Recovery assets arrive
- e. 1825: EOD conducts boot blast of suspected VBIED vehicle
- f. 1910: EOD clears site
- g. 1915: Recovery assets RP to FOB FALCON

4. Findings of the investigation.

a. The actions taken by [REDACTED] and [REDACTED] 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 (EXHIBIT 6, 7, 8).

b. The Patrol Leader (PL) [REDACTED] 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-B-080-06 (EXHIBIT 9a, 17).

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 [REDACTED] (EXHIBIT 8a). The white vehicle approached at twice the speed as all other vehicles (EXHIBIT 8a).

f. [REDACTED] and [REDACTED] 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 (EXHIBIT 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 - 16). Personnel in those vehicles included: [REDACTED] and [REDACTED] in D17; [REDACTED] and [REDACTED] in D113; and [REDACTED] and [REDACTED] in LX (EXHIBIT 9a).

i. VBIED analysis from the 2-506th TOC reflects four VBIED attacks from 8 JUN 06 to 18 JUN 06 (EXHIBIT 18). VBIED analysis from the 2-506th TOC reflects 17 VBIED attacks since the TOA (EXHIBIT 18).

j. 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 19-21).

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

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

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

n. The BN has had a PR&C in for 100 Galls sirens in since Feb 06 which Division has not funded (EXHIBIT 25).

5. Recommendations.

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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 briefed 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.

f. 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: [REDACTED]

[REDACTED]
MAJ, QM
Executive Officer

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DEPARTMENT OF THE ARMY
4TH BRIGADE COMBAT TEAM, 4TH INFANTRY DIVISION
FOB PROSPERITY, BAGHDAD, IRAQ
APO AE 09348

REPLY TO
ATTENTION OF:

AFYB-UA-CDR

29 June 2006

MEMORANDUM FOR RECORD

SUBJECT: Appointment of [REDACTED] as Investigating Officer

This memo confirms that on 21 June 2006 I verbally appointed [REDACTED] as an investigating officer pursuant to AR 15-6. I ordered [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.

[REDACTED]
LTC, AR
Commanding

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DEPARTMENT OF THE ARMY
4TH BRIGADE COMBAT TEAM, MULTI NATIONAL DIVISION - BAGHDAD
FOB PROSPERITY APO AE 09348

REPLY TO
ATTENTION OF:

AFYB-UA-CO

16 June 2006

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

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