

Is a CERP condolence payment to the local national's family appropriate?

Yes. Given the evidence in this investigation, the deaths of Yassin Muhanad Nafawa and Najat Hamed Nafawa were an unintentional consequence during this mission to use their home as an Observation Post. The family had 8 children. Recommend that the maximum of \$2500 per fatality (mother and father) be paid in this instance.

Where there any other civilian casualties or property damage?

Yes. According to LN sources (See Exhibit V)

There was a child that had minor wounds and one additional Death - not directly related to the incident and not independently verified.

Sajaad Yaseen Muhammad (Aged 10) minor flesh wound to the upper right arm

4 month old male infant – grandchild of the deceased who allegedly died do to exposure the morning of the incident. According to the family the Infant was buried and never brought to the hospital. No death certificate exists. (See Exhibit V)

Property Damage -

There is damage to the walls and one window of the residence (See Exhibit Q and V)

Section V - Recommendations

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

Recommend that there is a clarification of the Rules of Engagement

Recommend that MND-B clarify the use of civilian structures for military purposes. In a non-linear urban environment such as found in Baghdad, situations exist that warrant using civilian homes for military purposes such as setting up observation posts. In this type environment, often times the only cover and concealment available to overwatch key terrain is provided by civilian structures. In urban areas civilian structures must be used for military purposes to protect US forces and allow for freedom of movement throughout the battle space. The rules of engagement must be clarified granting use of civilian structures determined to be of military necessity.

Although this incident was not part of this operation, FRAGO 26 (Operation Mousetrap / Carentan) to OPORD 02-06 (Currahee Resolve) addressed this type of military necessity. This NAVSOF operation was an extension of Operation Mousetrap/Carentan. (See Exhibit X)

I have included the NAVSOF legal opinion of this incident in my investigation (See Exhibit AA). This legal opinion further clarifies use of civilian structure in terms of military necessity.

The following are extracts from MOD 2 TO ANNEX E (RULES OF ENGAGEMENT) TO FRAGO 016 TO PHASE IIIA OF OPERATION ORDER 05-07 (Exhibit Y)

Below are extracts from Frago 26: (Exhibit X)

5 USC 552 (b)(1)

Frago 26 specifies that the IOCOORD provide analysis on this specific situation:
(Exhibit X)

3.D.4. (U) RCT IOCOORD.

505C 552(13)(1)

In summary, recommend that a clarification to the existing ROE be made to allow for the use of civilian structures for military operations

Exhibit List

- A. NSWTU – PSD Hostile Incident Report
- B. NSWTG – AP Over-watch element 4BCT/101
- C. SIR – 3-67 AR
- D. SIR Follow-up – 3-67 AR
- E. Statement of [REDACTED] (NAVSO), dtd 20 Jan 06
- F. Statement of [REDACTED] (NAVSO), dtd 20 Jan 06
- G. Statement of [REDACTED] (NAVSO), dtd 20 Jan 06
- H. Statement of [REDACTED] (NAVSO), dtd 20 Jan 06
- I. Statement of [REDACTED] (3-67 AR), dtd 21 Jan 06
- J. Transcription of Interpreter Interview, dtd 21 Jan 06
- K. Statement of [REDACTED] (THT), dtd 24 Jan 06
- L. Statement of [REDACTED] (THT), dtd 26 Jan 06
- M. Iraqi Police Report, dtd 15 Jan 06 (Arabic w/ English translation)
- N. DIIR
- O. Sketch of Terrain
- P. Map and pictures of residence/objective
- Q. Picture of window
- R. Death Certificate of LN Male (Arabic w/ English translation)
- S. ID Card of deceased LN Male (Arabic w/ English translation)
- T. Death Certificate of LN Female (Arabic w/ English translation)
- U. ID Card of deceased LN Female (Arabic w/ English translation)
- V. Consequence Management Report
- W. FRAGO 26 – Operation Mousetrap/Carentan
- X. ROE Extract
- Y. Follow-up Statement of [REDACTED] (3-67 AR), dtd 11 Feb 06
- Z. Autopsy Results and Iraqi Statements
- AA. NAVSO Legal Opinion

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

NSWTU-PSD HOSTILE INCIDENT REPORT

TO: NSWTG-AP

FROM: NSWTU-PSD

DTG OF REPORT: 150330CJAN06

SUBJECT: NSWTU-PSD Hostile Incident Report

AAA DTG OF Incident: 150220CJAN06

BBB Location: BAHGDAD, 3/67 AR AO (RTE [REDACTED] / RTE [REDACTED] INTERCHANGE)

CCC Zone: 23

505055213(X1)

DDD Reporting unit: NSWTU-PSD

Task organization: NSWTU-PSD SNIPER ELEMENT

EEE Patrol mission: CIM-011

FFF Activities: NSWTU-PSD PERSONNEL MANNING OBSERVATION POINTS IVO RTE PLUTO/ROUTE BREWERS INTERCHANGE.

GGG Mounted or dismounted: DISMOUNTED

HHH Type of vehicles or weapons used in the patrol: 2 X M2 ABRAM'S.
PERSONAL WEAPONS USED IN ENGAGEMENT: M-16, SR-25. ADDITIONAL PATROL MEMBERS WERE CARRYING M46 AND M4A1.

III Route used: INTENTED OBSERVATION POINT

JJJ Patrol stationary or moving: MOVING

KKK Was fire returned: YES

LLL Description of attackers: MIDDLE AGED IRAQI MALE DISPLAYED HOSTILE INTENT WHILE THE INTERPRETOR WAS YELLING "WE ARE AMERICAN SOLDIERS". HE WALKED THROUGH THE HOUSE CARRYING THE WEAPON AND PRESENTED HIMSELF TO ONE OF OUR TEAM MEMBERS. HE WAS INSIDE THE HOUSE, CHARGED HIS WEAPON AND LEVELED IT THROUGH THE WINDOW TOWARDS THE TEAM MEMBER OUTSIDE.

MMM Result of the contact: 2 X 5.56 ROUNDS IMPACTED THE HOSTILE INDIVIDUAL CENTER MASS. HE DROPPED INSIDE THE ROOM. NO CONFIRMATION OF DEATH.

NNN Were there civilian bystanders? YES, SEVERAL FEMALES AND CHILDREN WERE SEEN INSIDE THE RESIDENCE.

OOO Detailed description of the attack:

AT APPROXIMATELY 0145, THE COMBINED NSW/ARMY OVERWATCH ELEMENT WAS INSERTED AT THEIR PRIMARY INSERTION POINT. THE ELEMENT BEGAN A FOOT PATROL APPROXIMATELY 500M TO THE TARGET HOUSE. ONCE THE ELEMENT REACHED THE HOUSE, SECURITY WAS SET. THE INTERPRETOR AND MYSELF APPROACHED THE DOOR AND WERE PREPARING TO KNOCK WHEN A WOMAN BEGAN SCREAMING INSIDE. I TOLD THE INTERPRETOR TO TELL THE WOMAN WE WERE AMERICANS AND WE MEANT NO HARM. I REPEATEDLY TOLD THE INTERPRETOR TO REPEAT THIS STATEMENT. THE INTERPRETOR REPEATED THIS STATEMENT IN A LOUD AND CLEAR VOICE APPROXIMATELY 4-5 TIMES. THE WOMAN INSIDE THE HOUSE CONTINUES YELLING AND I ASKED THE INTERPRETOR WHAT THE WOMAN WAS

SAYING. I WAS STANDING AT THE KITCHEN DOOR AND TOLD MY ELEMENT TO MAKE ENTRY INTO THE MAIN DOOR APPROXIMATELY 10 FEET TO MY LEFT. THE INTERPRETOR THEN SAID THE WOMAN IS YELLING "GET THE AK". I OBSERVED THROUGH THE WINDOW, A MALE WHO HAD A LANTERN IN HIS LEFT HAND AND AN AK-47 IN HIS RIGHT HAND. HE MADE MOVEMENT TOWARDS THE WINDOW ON THE OPPOSITE SIDE OF THE HOUSE TO MY LEFT APPROXIMATELY 10 FEET AWAY. I TOLD EVERYONE A MALE INSIDE HAD AN AK. THE INTERPRETOR CONTINUED STATING IN A LOUD AND CLEAR VOICE WE WERE AMERICANS. I THEN HEARD 3 X AK ROUNDS FIRED FROM THE INSIDE OF THE HOUSE AND I MOVED ALONG THE EXTERIOR OF THE HOUSE TOWARDS THE AREA WHERE THE MALE WAS MOVING. NOONE OBSERVED WHO FIRED THE ROUNDS OR OBSERVED WHERE THE ROUNDS IMPACTED. THE MAN WAS THEN OBSERVED BY AN ARMY SNIPER STANDING IN THE WINDOW THAT WAS LOCATED TO MY LEFT. THE ARMY SNIPER WAS STANDING JUST OUTSIDE THIS WINDOW. THE ARMY SNIPER OBSERVED THE MAN CHARGE HIS WEAPON AND THEN POINT THE WEAPON OUT THE WINDOW AT THE ARMY SNIPER DEMONSTRATING CLEAR HOSTILE INTENT. BASED UPON THE THREE ROUNDS JUST FIRED AND THIS DEMONSTRATION OF HOSTILE INTENT THE ARMY SNIPER FIRED 2 FIRED 2 X 5.56 ROUNDS THROUGH THE WINDOW CENTER MASS ON A MALE INSIDE. I LOOKED INSIDE THE WINDOW AND NOTICE THE LANTERN MOVING BACK INSIDE THE HOUSE. I THEN SAW SEVERAL WOMEN AND CHILDREN INSIDE THE ROOM AND CALLED "CEASE FIRE". EVERYONE BEGAN TO EXFIL TOWARDS THE EXTRACT POINT. WE THEN BEGAN TAKING FIRE FROM ACROSS THE STREET APPROXIMATELY 200M NORTHWEST OF OUR POSITION. WE DID NOT RETURN FIRE. PEOPLE BEGAN TO COME OUTSIDE IN THE STREET WE WERE CROSSING AND WE HEARD YELLING IN THE NEIGHBORHOOD. SEVERAL IP'S LOCATED AT A NEARBY CHECKPOINT BEGAN MOVING TOWARDS OUR POSITION. WE GAINED A STRONGHOLD IN AN ABANDONED HOUSE, SET SECURITY, AND CALLED FOR EXTRACT. WHILE IN THE HOUSE 2 X MAM'S WERE CIRCLING THE AREA ON FOOT. WE COULD NOT IDENTIFY A WEAPON ON THEIR PERSON. AN IP PATROL ALSO MOVED BY THE HOUSE. IT TOOK APPROXIMATELY 5 MINUTES FOR OUR EXTRACT PLATFORM TO ARRIVE.

Commander's Comments: PRIOR TO DEPARTING FOR THIS COUNTER EFP/IED SNIPER MISSION, ALL PERSONNEL WERE BRIEFED ON APPROPRIATE ROE'S FOR THIS AO BY THE NSWTU-PSD LEGAL OFFICER AND PATROL LEADER. 3/67 AR INTELLIGENCE OFFICER BRIEFED OUR ELEMENT ON THE ATMOSPHERICS IN THE AREA. SPECIFICALLY, HE STATED THE LOCAL RESIDENTS WOULD SHOW A 50/50 CHANCE ON ACCEPTING OUR PRESENCE IN THEIR HOMES AS OBSERVATION POINTS. THEIR AGGRESSIVE BEHAVIOR ONLY EMPHASIZED THIS POINT.

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TASK ORGANIZATION

INTERPRETER

INTERPRETER

INTERPRETER

KEY TASKS:

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BRYANT SENDS

BT/AR

SIR FORMAT

LINE 1: E/3-67 AR

LINE 2: Incident: 1 X LN KIA

LINE 3: Date/time group (DTG) incident occurred: 150301JAN06

LINE 4: Location of incident: [REDACTED] 502552(B)(1)

LINE 5: Personnel involved

Name	Rank	Unit	SSN	Sex	Age	Race
[REDACTED]	[REDACTED]	E/3-67	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

LINE 6: Summary of incident: 15 0301 JANUARY 06, When attempting to occupy an OP with NAVSOF, LN occupants of the OP became restless and began screaming. The NAVSOF team leader and interpreter attempted to inform occupants that American Soldiers were outside and that they meant them no harm. A LN male occupant then moved to a position in the front window of the residence [REDACTED] was covering. The LN occupant was holding an AK-47 and proceeded to load a magazine and charge the weapon. AT this time the LN occupant pointed the weapon directly at [REDACTED] at which time [REDACTED] fired three aimed shots at the armed LN occupants chest. At this time the NAVSOF team leader order the team to begin their EXFIL.

LINE 7: Damage to government and/or civilian property:

LINE 8: Commander reporting: _____

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SIR

Line 1: E/3-67 AR

Line 2: NAVSOF Mission on 15 Jan 06, 1LN KIA

Line 3: 150301JAN06

Line 4: [REDACTED]

Line 5: Personnel involved

Name	Rank	Unit	SSN	Sex	Age	Race
[REDACTED]	[REDACTED]	E/3-67 AR	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Line 6: Insertion was to take place at 0130hrs on 15 Jan 06. 40 PAX were distributed between six vehicles: two Bradley Fighting Vehicle section and a four HMMWV section. The OPs were comprised of three team leaders, code named Black, Grey and Gold. Once the convoy SP'd from the FOB, the Bradley section headed north on the South bound lane of Route Pluto and the HMMWVs headed north on the north bound lane of Route [REDACTED]. The HMMWV section turned east into a muhala to the north of and adjacent to CP [REDACTED] where two OP teams dismounted and maneuvered to their respective safe houses. The Bradley section turned west into a muhala south-west of and adjacent to CP [REDACTED] and OP Black dismounted. Once dismounted the section moved to their respective safe house and occupied the courtyard. The interpreter made contact with the female of the household. She began to yell and scream and repeatedly hollered, in Arabic, "get the AK-47". Three AK-47 rounds were fired off from an undetermined location. The interpreter began to yell and explain in Arabic that they were Americans and meant no harm. One member of the section yelled in English the same thing. A man then came down stairs with an AK-47 and stood at a window overlooking the courtyard. He spotted one of the team members outside of the window, charged his rifle, and then pointed it at the door a different team member was about to enter. Two team members outside of the window (one NAVSOF and one 3-67 AR, [REDACTED]) took this action as hostile intent and shot three rounds center-mass (two rounds from [REDACTED], one round from the NAVSOF member). Once compromised the team called for immediate extraction and the Bradley section responded within three minutes. All OPs were then extracted back to the FOB, time 0252.

505052(B)(7)

Concurrently, E/3-67 AR had a platoon plus size element doing construction East of the IP checkpoint on RTE Brewers at CP 515. After the rounds were fired, Rider 6 (E/3-67 AR) called in a SALT report and Saber 2 confirmed that the small arms fire was because OP Black was compromised. No action was taken by E/3-67 AR because the NAVSOF team was quickly being extracted. Around 0200 hours, Rider 6 dismounted and talked to the POB personnel at the IP checkpoint. In summary, the sergeant from the POB said he was told by the Iraqi family that the family thought the NAVSOF team were thieves and were trying to steal something. He reported one LN was seriously injured. Two Iraqi IP trucks were seen by Rider 6 driving away from the scene with their emergency lights flashing, headed SW along RTE Brewers. Because the POB went back to the house, around 0330 Rider 6 again asked the same sergeant from the POB what happened. In summary, he explained that he identified American soldiers leaving the scene. He described their pants and the sidearm on their waste. He also said the injured LN had died, however, how he knew this is undetermined.

Line 7: No damage to government or civilian property

Line 8: [REDACTED] CPT, EN E/3-67 AR

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SWORN STATEMENT

For use of this form, see AR 190-45; the proponent agency is ODCSOPS

PRIVACY ACT STATEMENT

AUTHORITY: Title 10 USC Section 301; Title 5 USC Section 2951; E.O. 9397 dated November 22, 1943 (SSN).
 PRINCIPAL PURPOSE: To provide commanders and law enforcement officials with means by which information may be accurately
 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 FBI RISTAMLYAH BAGHDAD IRAQ	2. DATE (YYYYMMDD) 2006 01 20	3. TIME 1716	4. FILE NUMBER
5. LAST NAME, FIRST NAME, MIDDLE NAME [REDACTED]	6. SSN [REDACTED]	7. GRADE/STATUS IS1	
8. ORGANIZATION OR ADDRESS NSA			

9. I, [REDACTED], WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

ON 15th JANUARY at approximately 0800 my two point men entered a break in the wall (Gate) of our Op. I then moved up and checked the "Op" out. I called for the rest of the Team to pull up and send the Interpreter to my position. Once Security was set I instructed the Interpreter to knock on the door and say that we were American forces and to please open the door. At this time a woman inside the house started to scream and I could make out multiple people inside the house. I told the Interpreter to continue saying that we were American forces. At this point I began yelling also in English that we were American forces multiple times. I heard the women in the house talking and I asked the Interpreter what she said. The Interpreter said "Get the AK!" I then see through my window a male carrying a lantern in ^{the left} hand and an AK in the right, moving through a hallway heading towards the main window. At this point I came over ~~laughing~~ as well as talking loudly that there is a male moving inside with an AK.

10. EXHIBIT E	11. INITIALS OF PERSON MAKING STATEMENT [REDACTED]	PAGE 1 OF 3 PAGES
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ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT" TAKEN AT DATED

THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT AND PAGE NUMBER MUST BE INDICATED.