

MEMORANDUM FOR Cdr, 4th Brigade, 3 ID

SUBJECT: AR 15-6 Investigation Findings and Recommendations

1. I investigated the circumstances of the shooting and killing of a civilian at 241050 FEB 05 in the International Zone outside FOB ██████ Baghdad, Iraq. The following is a summary of events:

a. 7th Platoon, A Battery, 1-76 Field Artillery was conducting left-seat ride operations with C Company, 1-160 Infantry, 2-82 Field Artillery observing and evaluating as right-seat ride. A Battery conducted training and rehearsals with their C Company counterparts immediately before their convoy operation on 24 FEB 05. C Company had extensive experience and numerous stories to share regarding the types of activities on the roads.

b. Four vehicles convoyed from FOB ██████ out of the International Zone (IZ) to the Ministry of Housing and Construction outside of ██████. The convoy reentered the IZ and separated in teams of two. Two HMMWV vehicles drove to the southeast of FOB ██████. The two vehicles involved were C-53 driven by PFC ██████, the TC SFC ██████, Gunner PFC ██████ (lead vehicle) and C-52 driven by PVT ██████, the TC SSG ██████, Gunner PV2 ██████ (trail vehicle). The trail vehicle had a large sign on the rear of the vehicle stating "American Convoy. No Passing" written in English and Arabic. A blue sedan drove alone towards the rear of the convoy maintaining a high speed, if not accelerating.

c. PV2 ██████, A Battery, was the .50-cal gunner on the rear vehicle. He could see at least two persons in the vehicle. He felt threatened by the approaching vehicle, yelled at it to stop, and motioned the vehicle to stop. The vehicle continued to drive directly at the convoy. There were no other vehicles to either side on a three lane-wide road, but the vehicle stayed in the middle lane aimed at the rear convoy vehicle. PV2 ██████ felt imminently threatened by a possible vehicle-borne improvised explosive device (VBIED) being used against himself, his vehicle, and his fellow soldiers. He pulled the charging handle of the weapon, yelled "Warning Shot!" and fired. He fired two rounds, one of which went through the windshield and chest of the driver and the other through the windshield and the right forearm of the driver.

d. The sedan swerved in direction to its left and rear-ended the M1114. The M1114 stopped and the passenger got out, saying in English that the brake wasn't working, indicating by hand motion that the handbrake was malfunctioning also. He attempted to leave, but SSG ██████ detained him.

e. The Iraqi Police (IP) arrived after being contacted by 1-76 FA TOC and took over the investigation at the scene. LTC ██████, MCI phone ██████, was the senior IP on site. The passenger was transported to the local Baghdad hospital and treated for

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small lacerations to the left bicep, tricep and forearm as well as small lacerations to the left cheek, chin and neck. The deceased was also transported to the hospital.

f. A meeting with LTC [REDACTED] was arranged at 241930FEB05 at the IP station near the [REDACTED] utilizing an interpreter assigned to the gate at FOB [REDACTED]. LTC [REDACTED] confirmed the above facts and provided the paper work for the initial investigation. The initial IP report is attached and is written in Arabic and translated by [REDACTED] (Exhibit [REDACTED]). The passenger in the vehicle stated that there was no previous warning given before shots were fired. However, both the driver and passenger seemed to be pre-occupied with the brake problems and may not have seen or heard the warnings.

g. LTC [REDACTED] stated that the complete investigation would be available as early as 27 Feb 05 and would cooperate with providing the final report in writing if required. The IPs highly recommended that respects be given to the family. The IPs stated the victim is survived by his four sons and a daughter who live at the same address and his wife whom resides or is currently in [REDACTED]. In addition the following information was given for the passenger and deceased.

Mosul

Mohamad, Monsoor, Salan
Passenger: [REDACTED]
34 yr old Iraqi Male, DOB 5 OCT 1970

Address: [REDACTED] Bldg 23, 6th Floor, Flat #14
[REDACTED] 215 Apartments in the IZ

Driver (deceased): [REDACTED] Hassen, Mustafa, Ali
No age given

Address: [REDACTED] Bldg 30, 2nd Floor, Flat #5
[REDACTED] 215 Apartments in the IZ

2. Findings:

a. After reviewing all of the facts of this case there is no doubt in my mind that PV2 [REDACTED] acted in accordance with the rules of engagement and the correct manner of escalating force prior to engaging with lethal fires. PV2 [REDACTED] felt threatened by what he perceived to be a potential VBIED that threatened his life and the life of his crew. He escalated force just as he had been trained and as discussed with his crew at the rehearsal prior to the mission, and still the driver ignored the warnings. A reasonable person would have seen the sign on the back of the vehicle identifying it as a U.S. convoy, and would have responded to hand gestures and verbal commands. I find nothing that could be considered criminal or negligent conduct on the part of PV2 [REDACTED].

3. Recommendations:

a. 1-76 FA chain-of-command determine the need or requirement for combat stress counseling for PV2 [REDACTED]

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b. Condolence payment be made to the family of ^{Hassen, Mustafa, Ali} [REDACTED] in the amount of \$2,500.

c. Payment be made to the passenger, ^{Mohamad, Mansour, Salah} [REDACTED], for the injuries he received as determined by the JAG and the chain-of-command.

(encls)
Appointment Orders
Exhibits A-

[REDACTED]
MAJ, AV
Investigating Officer

Index of Exhibits
AR 15-6 Investigation

Enclosure

I. Memorandum of Appointment

Exhibit

A. Significant Incident Report (SIR)

B. Sworn Statement, PV2 [REDACTED]

C. Sworn Statement, SSG [REDACTED]

D. Sworn Statement, PVT [REDACTED]

E. Sworn Statement, PFC [REDACTED]

F. Sworn Statement, SFC [REDACTED]

G. Sworn Statement, PFC [REDACTED]

H. Aerial Photo of Location of Incident

I. 15 Photos of Incident

J. 6 page Police Report Copy (Original at ^{Karadai Marwan} [REDACTED] Iraqi Police Station) and 5 page translation

S: 261200 FEB 05

AFZP-VE-C

24 FEB 05

MEMORANDUM FOR MAJ [REDACTED] HQ, 4th Brigade, 3ID(M)

SUBJECT: AR 15-6 Investigation Appointment

1. You are appointed to investigate the circumstances of a shooting and killing of a local national at 241050 FEB 05 in the International Zone outside the front gate of FOB Honor.
2. You will follow the procedures of AR 15-6. You will interview and take statements from all individuals who have information about the shootings as the tactical situation permits. Servicemembers will be given Privacy Act information and make statements on DA Form 2823. If you suspect anyone of crimes in violation of the UCMJ, you will advise them of their Article 31(b), UCMJ, rights on DA Form 3881.
3. You have until the suspense to complete your investigation. You will get advice from the Brigade Judge Advocate before and throughout your investigation.

[REDACTED]
COL, EN
Commanding