



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

AFZP-VA-HQ

18 February 2006

MEMORANDUM FOR RECORD

SUBJECT: Commander's Emergency Response Program payment to [REDACTED]  
(Claim Number 06-IR8-274)

1. On 16 June 2005, [REDACTED]'s husband was killed by CF at a flash checkpoint, when he came around a curve in the road and could not stop his vehicle in time.
2. I certify that CERP funds are available 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]  
[REDACTED]  
[REDACTED]  
CPT, EN  
Project Purchasing Officer

000690



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

AFZB-JA-C

15 February 2006

MEMORANDUM OF OPINION

SUBJECT: Claim of [REDACTED] 06-IR8-274

- 1. Identifying Data:** [REDACTED] by [REDACTED] af
- 2. Date and place the incident occurred giving rise to the claim:** The claim occurred on 16 June 2005 in Balad, Iraq.
- 3. Amount of claim and date it was filed:** Claimant filed a claim for \$2,500 on 14 Feb. 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 her husband, [REDACTED], was killed by CF near a traffic control point near the Yethrib police station. The traffic control point was allegedly located on a curve in the road, which did not allow sufficient room for the deceased to stop. The deceased has ten children. A SIGACTS investigation revealed that TF 100-442 established a flash TCP in the area of the accident. Soldiers waved at a dark sedan approaching the CP, but the vehicle did not stop. A warning shot was fired but the vehicle did not stop. The TCP fired at the driver which killed him and caused the vehicle to roll. In support of the claim, the Claimant has produced a court certified death certificate, witness statement, claimant's statement.
- 6. Opinion:** "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, the deceased was killed during an escalation of force when the vehicle did not comply with the instructions from the TCP. The escalation of force constitutes a combat activity because the soldiers were responding to a perceived threat.
- 7. Recommendation:** The claim is denied.

[REDACTED]  
[REDACTED]  
[REDACTED]  
CPT, JA  
Claims Judge Advocate

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# TF Band of Brothers Claims Intake Form

To: United States Army Foreign Claims Commission

From: Name: [REDACTED]

POA/ATT: [REDACTED]

Power of Attorney provided and interpreter approved: \_\_\_\_\_

Decedents: [REDACTED]

Hometown: \_\_\_\_\_

Iraqi Resident: \_\_\_\_\_

My claim arose at: \_\_\_\_\_

(Town)

Balad - Yethrib

(City)

(Country)

My claim arose on: \_\_\_\_\_

Month

~~Oct 25, 2005~~

Day

Year

16 June 2005

Proof of Ownership: \_\_\_\_\_

N/A

VIN Match: \_\_\_\_\_

Interpreter Approved: \_\_\_\_\_

Death Certificates (Name, Cause of Death, Age, and Time of Death Consistent with Claimant allegations): original count death cert seen.

(OD - bullets)

Interpreter Approved: \_\_\_\_\_

Medical Report/Legal Expert Opinion: \_\_\_\_\_

N/A

Interpreter Approved: \_\_\_\_\_

Witness Statement (Consistent?): \_\_\_\_\_

① Bystander - saw dead guy - didn't see accident

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.)

Near the Yethrib police station

CF of near the Yethrib police station

on a curve, can see around the corner

& he tried to stop but was shot by CP.

Dune Prince car - black; 1995; in the afternoon.

20m from the CP when car was shot.

Evidence: count death cert (hospital death cert N/A b/c guy was already dead)

10 kids!

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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	\$2,500

Total: \$2,500

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)

\$ \_\_\_\_\_ local \_\_\_\_\_

(Signature of Claimant) \_\_\_\_\_

Subscribed before me this 14 day of February, 2006.

(Signature) \_\_\_\_\_