



2D BRIGADE & 502D INF RGT
101ST AIRBORNE DIVISION (AASLT)
ROUTING SHEET



SUBJECT

06-149/EOF - Death of L.N.

DATE ACTION INITIATED

23 APR 06

ORIGINATOR / ACTION OFFICER

STRIKE LEGAL

OFFICE SYMBOL

AFZB-KB-JA

TELEPHONE

242-4342

SUSPENSE

ROUTING

OFFICE	COMMENTS	INITIALS	DATE
BRIGADE S1			
BRIGADE S2			
BRIGADE S3			
BRIGADE S4			
BRIGADE S6 (SIGO)			
BRIGADE CHAPLAIN			
BRIGADE SURGEON			
BRIGADE SJA		[REDACTED]	28 Apr 06
BRIGADE CSM			
BRIGADE XO			
DEPUTY COMMANDER			
BRIGADE COMMANDER		[REDACTED]	30 Apr 06

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IMPACT

PERSONNEL

FUNDS

TIME

TRAINING

SUPPLIES

OTHER

SUMMARY

- Why Red smoke as a warning shot? 30 APR @

[REDACTED] PFC 2 BCT JAG

From: [REDACTED] 4ID SJA Chief Admin Law [REDACTED].smil.mil]
Sent: Tuesday, May 09, 2006 6:11 PM
To: [REDACTED] 2 BCT Trial Counsel; [REDACTED] 2 BCT JAG
Subject: [U] FW: 2-101 eof 149, signed

Categories: UNCLASSIFIED, FOR OFFICIAL USE ONLY
Attachments: Document.pdf
Classification Caveat: FOR OFFICIAL USE ONLY
Classification Classification: UNCLASSIFIED

6



Document.pdf (194 KB)

Classification: UNCLASSIFIED//FOR OFFICIAL USE ONLY

Attached is the signed action for 149, death of a local national for EOF. The ADC-M wants the unit to review their EOF and retrain as needed regarding using red smoke. Red smoke is not part of the EOF procedures. Thanks. Please mark this as closed on your tracker. Also, was the green on blue, 138 for our records only? This is not a required 15-6 and I will scan it and save it. This can be marked as closed on the tracker as well. Thanks.

V/R

[REDACTED]
Chief, Administrative Law
[REDACTED]

6

-----Original Message-----

From: [REDACTED]mailto:[REDACTED].smil.mil]
Sent: Tuesday, May 09, 2006 6:09 PM
To: [REDACTED] 4ID SJA Chief Admin Law
Subject: 2-101 eof 149, signed

Classification: UNCLASSIFIED//FOR OFFICIAL USE ONLY

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.)

(Recorder)

(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)

SECTION VIII - ACTION BY APPOINTING AUTHORITY (para 2-3, AR 15-6)

The findings and recommendations of the ~~(investigating officer)~~ ~~(board)~~ are approved ~~(not approved)~~ ~~(approved with following exceptions: _____)~~ ~~(substituted)~~. (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.)

I approve the findings and recommendations. The unit needs to review EOF procedures and retrain as appropriate regarding using red smoke. I remand all other recommendations to the BDE CDR to take action as he deems appropriate.

THOMAS C. MAFFEY
Brigadier General, US Army
Assistant Division Commander (Maneuver)

6

[REDACTED] 2 BCT JAG

Sent: Tuesday, May 09, 2006 6:11 PM
To: [REDACTED] 2 BCT Trial Counsel; [REDACTED] 2 BCT JAG
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V/R

[REDACTED]
Chief, Administrative Law
[REDACTED]

-----Original Message-----

From: [REDACTED] [mailto:[REDACTED]@smil.mil]
Sent: Tuesday, May 09, 2006 6:09 PM
To: [REDACTED] SJA Chief Admin Law
Subject: 2-101 eof 149, signed

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(Recorder)

(Investigating Officer) (President) **6**

(Member)

(Member)

(Member)

(Member)

SECTION VII - MINORITY REPORT (para 3-13, AR 15-6)

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(Member)

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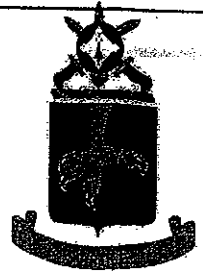
THOMAS C. MAFFEY
Brigadier General, US Army
Assistant Division Commander (Maneuver)



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY

HEADQUARTERS, 2D BRIGADE COMBAT TEAM & 502D INFANTRY REGIMENT
101ST AIRBORNE DIVISION (AIR ASSAULT)
CAMP STRIKER, IRAQ 09398



AFZB-KB-CDR

MEMORANDUM THRU Staff Judge Advocate, MND-B, Camp Liberty, Iraq

FOR Commander, MND-B, Camp Liberty, Iraq

SUBJECT: Approval and Ratification of AR 15-6 Investigation #06-149, Escalation of Force Resulting in Death of Local National Findings and Recommendations

1. The undersigned has reviewed thoroughly the aforementioned investigation conducted by [REDACTED] and approved by [REDACTED].
[REDACTED] I ratify and approve the findings and recommendations enclosed.

2. Commander's Comments:

- Good Report - Proper Decision by Unit to exercise EOF, especially in light of recent SUSIED threats in AO SHELIF (TALON).
- All EOF procedures correct
- Consequent mgt efforts correct - unfortunate but justified

3. POC for this memorandum is the undersigned.

[REDACTED SIGNATURE]

IN
Commanding

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		YES	NO ^{1/}	NA ^{2/}
2	Exhibits (para 3-16, 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)?	X		
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
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 3-16d, 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)?			X
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 5-3b, 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 5-2d, AR 15-6)?			
C. COMPLETE ONLY IF RESPONDENT WAS DESIGNATED (Section II, Chapter 5, AR 15-6)				
9	Notice to respondents (para 5-5, 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:			
	(If counsel is a lawyer, check here <input type="checkbox"/>)			
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 of findings and recommendations, dated 27 April 2006.

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

In view of the above findings, the *(investigating officer) (board)* recommends:

See attached memorandum of findings and recommendations, dated 27 April 2006.

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.)

(Recorder)

(Investigating Officer) (President)

6

(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)

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.)

(Appointing Authority)

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REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
HEADQUARTERS, 2D BRIGADE & 502D INFANTRY REGIMENT
101ST AIRBORNE DIVISION (AIR ASSAULT)
CAMP STRIKER, IRAQ APO AE 09398



AFZB-KB- JA

S: 28 April 2006

23 April 2006

MEMORANDUM FOR [REDACTED] B Company, 2-101 Brigade
Troops Battalion, 101st Airborne Division (Air Assault), Camp Striker, Iraq APO AE 09398

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SUBJECT: Appointment as Investigating Officer, Investigation #06-149

1. You are hereby appointed an investigating officer, pursuant to AR 15-6, to investigate the alleged Escalation of Force resulting in the death of a local national involving Headquarters Headquarters Company, 2-101 Brigade Troops Battalion on or about 22 April 2006. You are to make specific findings and recommendations concerning the causes of the incident. Until the investigation is completed, this will be your primary duty responsibility.

2. Your investigations and findings will include, but not be limited to the following:

a. The exact time and place of the incident.

b. How exactly the incident occurred, to include the events leading up to and concurrent with the incident.

c. The type of weapon(s) involved in the incident.

d. The soldier's mission at the time of the incident.

e. The existence, training and type of risk assessment and safety measures taken prior to the incident.

f. Additionally, if negligence is found, analyze what steps could be taken in the future to avoid it.

g. Any other matters you deem relevant.

3. You will use informal procedures under AR 15-6, Chapter 4. If, during your investigation, you suspect that persons you intend to interview may have violated any provision of the Uniform Code of Military Justice (UCMJ) or any other criminal law, you must advise them of their rights under the UCMJ, Article 31 as documented on DA Form 3881. Witness statements should be sworn and recorded on DA Form 2823.

4. Prepare the report of proceedings on DA Form 1574 and submit the original to me by the above suspense. You will also complete a storyboard documenting the incident to be attached to the report of proceedings. You must submit any requests for delay to me in

AFZB-KB-JA

SUBJECT: Appointment as 15-6 Investigating Officer, Investigation #06-149

writing. Include with your report all documentary evidence, sworn statements, and other information or evidence you considered.

5. Before proceeding with the investigation you must contact [REDACTED] at the Brigade Annex for an initial legal briefing. She will serve as your primary legal advisor and can be reached at [REDACTED]

6. By virtue of your appointment, you may direct the assistance of personnel with special technical knowledge to assist or advise you during your investigation. Requests should be coordinated through your legal advisor.

7. If during the course of your investigation you discover systemic training deficiencies that potentially caused or contributed to the incident under investigation, you will immediately contact your legal advisor for further guidance.

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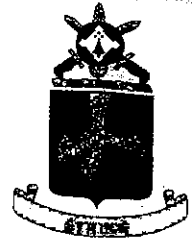
[REDACTED]

EN
Commanding



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
HEADQUARTERS, 2D BATTALION, 502D INFANTRY REGIMENT
101ST AIRBORNE DIVISION (AIR ASSAULT)
CAMP STRIKER, IRAQ APO AE 09398



AFZB-KB-S2

27 April 2006

MEMORANDUM FOR RECORD

SUBJECT: Findings and Recommendations for Investigation #06-149 (Escalation of Force)

1. On 22 April 2006 at 0935 hours, [REDACTED] of A Co. 2-101 BTB, fired at a local national driving a four door sedan on [REDACTED] resulting in his death after the local national failed to comply with warnings to not approach. Overall, proper escalation of force was observed and no actions should be taken against the members of Strike Iron Claw.

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2. Summary of the Facts.

On 22 APR 2006, Strike Iron Claw (SIC) was tasked with a RTE clearance mission of [REDACTED] to maintain freedom of movement in AO Talon for Coalition Forces (CF). In preparation for the mission, the platoon leader ([REDACTED]) gave a mission brief to bring forward the specific tasks before the platoon. Among the issues discussed in the mission brief was the distinct threat of VBIED's due to a strike two days prior. Before leaving to conduct the mission, [REDACTED] reviewed the Rules of Engagement (ROE) for threatening vehicles as is the standard in A Co. During this review, all members of the platoon clearly understood the actions they were to take in the event of a possible VBIED attack. (Note: For clarification the actions they were to take followed the shout, show, provide warning shots, attempt to disable the vehicle, and finally shoot the driver.) Once this was complete the platoon loaded into their vehicles and began movement. [REDACTED] of A Co. 2-101 BTB was assigned as the turret gunner for the lead vehicle of the clearance mission for that day (RG-31, A22).

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At approximately 0930, Strike Iron Claw turned onto [REDACTED] moving west. Within five minutes, SIC was located at grid coordinates [REDACTED] when a local national, white, four door sedan began to approach SIC. When the vehicle came within 120m of SIC, a Stop sign paddle was waived to inform the local nationals within the vehicle to discontinue their approach. The vehicle did not cease and a smoke grenade was launched toward the vehicle as a warning at 100m from SIC. At this point the vehicle slowed briefly, but then began to come at SIC at a faster rate of speed. It became necessary at this point for SIC to fire two 5.56 ball rounds at the vehicle in an attempt to disable the vehicle. One round was fired at the engine compartment on the drivers' side and was later found to have hit the front, drivers side tire. The second round impacted the engine block and ricocheted out of the engine compartment. When the vehicle was at 40m from SIC, it still showed no signs of stopping. In response, [REDACTED] following the Rules of Engagement (ROE) for the Iraq theater of operations, fired a single 5.56 round from his M4 at the driver in an attempt to disable him.

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AFZB-KB-

SUBJECT: Findings and Recommendations for Investigation #06-149 (Escalation of Force)

After the shot was fired, the vehicle veered off the road and stopped. Members of SIC moved towards the vehicle to assess the situation and found the driver alive, but seriously injured. Medics were called in to provide assistance in an effort to keep the local national alive. When the medic arrived from his position in the Buffalo he found the LN with a gunshot wound to the lower part of the chin. He immediately began to position the body in an effort to treat the wound and stop the bleeding. Simultaneously, escalation of force was called in to B Co 1-502IN. Within five minutes of treating the wounded local national an emergency medical evacuation (MEDEVAC) was called into the 1-502 TOC. SIC began moving the local national towards [REDACTED] in order to meet the medevac. At 0955, the local national was declared dead on arrival at the [REDACTED] helipad. 2

Soon after the platoon recomposed themselves and, understanding that an investigation would ensue, began movement back to the site of the escalation of force. When they returned to the site, they found that the vehicle was missing. They interviewed the local nationals present and discovered that the uncle, who was the passenger in the vehicle during the shooting, had already called for a wrecker and had the vehicle towed. The platoon took pictures of the EOF site and returned to [REDACTED]. When they returned they found the uncle there trying to get the body of the driver. They asked where the vehicle was located and the uncle replied it was taken to the drivers' residence. After some convincing, the uncle agreed to take the platoon to the residence. Maintaining situational awareness, [REDACTED] stopped the platoon approximately 400 meters from the final destination due to the dubious layout of the road leading to the house. The platoon was able to convince four local nationals who had been traveling on the road (and happened to be related to the uncle) to retrieve the car and push it to them. They obliged and brought it to them allowing the platoon to take pictures of the vehicle. The platoon concluded the incident by returning to [REDACTED] and taking pictures of the deceased body. Afterwards, they finished their mission and returned to Camp Striker. 2
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3. Findings.

After carefully considering the evidence, I find that:

- a. The members of Strike Iron Claw were sufficiently trained on the Rules of Engagement (ROE) for the Iraq theater of operations.
- b. [REDACTED] felt the vehicle was an immediate threat to the safety and welfare of himself and his platoon, resulting in the escalation of force. 6
- c. [REDACTED] gave the local national driving the vehicle more than ample time and warning to stop the vehicle.
- d. The leadership took the proper precautions by briefing the platoon on the possible threat of VBIED's.
- e. The members of Strike Iron Claw acted quickly and properly in an effort to save the local nationals life.

AFZB-KB-
SUBJECT: Findings and Recommendations for Investigation #06-149 (Escalation of Force)

4. Recommendations.

In view of the above findings, I recommend:

- a. That no actions be taken against [REDACTED] or his leadership.
- b. That [REDACTED] be commended for his excellent marksmanship and perseverance in protecting members of his unit.

5. The point of contact for this memorandum is the undersigned at [REDACTED] and [REDACTED]@smil.mil.

[REDACTED]
[REDACTED]
[REDACTED]
MI
Investigating Officer

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6

CHRONOLOGY OF EVENTS
Investigation #06-149 (Escalation of Force)

22 APR 2006

0930 – Strike Iron Claw conducted movement onto [REDACTED]
0935 – An unidentified white vehicle begins to conduct movement towards SIC.
0938 – Escalation of Force called in. SIC begins to assess the situation and provide medical assistance.
0944 – SIC requests MEDEVAC through 1-502 and conducts movement to [REDACTED]
0955 – SIC arrives at [REDACTED]. LN declared dead on arrival.
Approx. 1045 – SIC moves out to take pictures of the EOF area and the vehicle.
Approx. 1130 – SIC returns to [REDACTED]
Approx. 1215 – SIC finds the vehicle and takes pictures.

2

24 APR 2006

Initiated investigation. Reviewed incident and materials to conduct the investigation. Talked to A Co. 1SG and XO and collected the SIR, pictures of the incident, and initial company products of the incident.

25 APR 2006

Gained sworn statements from those involved. Interviewed [REDACTED], [REDACTED] (Medic), and [REDACTED] (PL). All interviewed were concise and to the point. There were no signs of deception and all questions were answered clearly. Reviewed the company's standard for ROE training. Reviewed all of the sworn statements and compared them to the stories given. The interviews and sworn statements matched up.

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26 APR 2006

Gained sworn statements from [REDACTED] and [REDACTED]. Discussed the company SOP on ROE training with [REDACTED] (the XO) and [REDACTED]. Reviewed the platoon method for mission briefing and how they conducted it that morning.

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12/11/2004 10:04 AM

LIST OF EXHIBITS
Investigation #06-149 (Escalation of Force)


<u>TAB</u>	<u>EXHIBIT</u>
A	Story Board
B	Pictures of engagement area
C	Pictures of vehicle
D	Pictures of uninjured uncle
E	Pictures of the driver's ID's
F	SIR
G	Sworn Statement of [REDACTED]
H	Sworn Statement of [REDACTED]
I	Sworn Statement of [REDACTED]
J	Sworn Statement of [REDACTED]
K	Sworn Statement of [REDACTED]
L	Sworn Statement of [REDACTED]
	[REDACTED]
M	Sworn Statement of [REDACTED]

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EXHIBIT A

STORYBOARD

22 APR 06 Escalation of Force

Incident on  2

FINDINGS

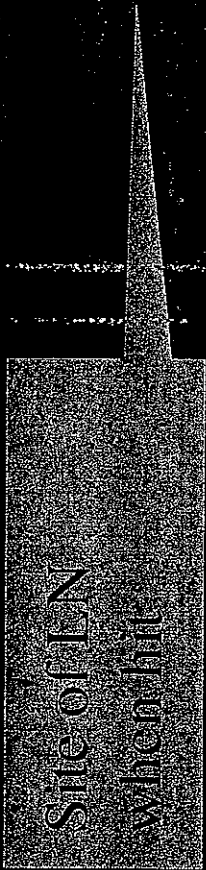
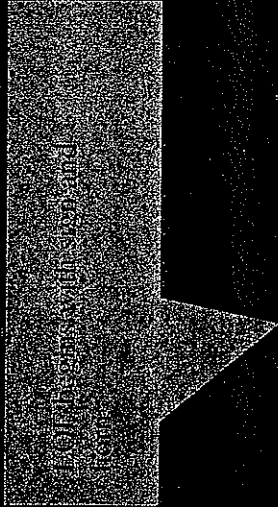
- No evidence of neglect or willful misconduct
- Proper use of escalation of force procedures
- Soldiers trained on ROE at Ft. Campbell, in Kuwait, and once every month since October 2005 during platoon level training.
- Driver was given ample time and warning to prevent escalation of force being used against him.
- [REDACTED] only acted as he did because he felt the driver was an immediate threat to him and his platoon.

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RECOMMENDATIONS

- No action be taken against any soldier involved.
- This scenario be used for Brigade level ROE training in the near future.

EXHIBIT B



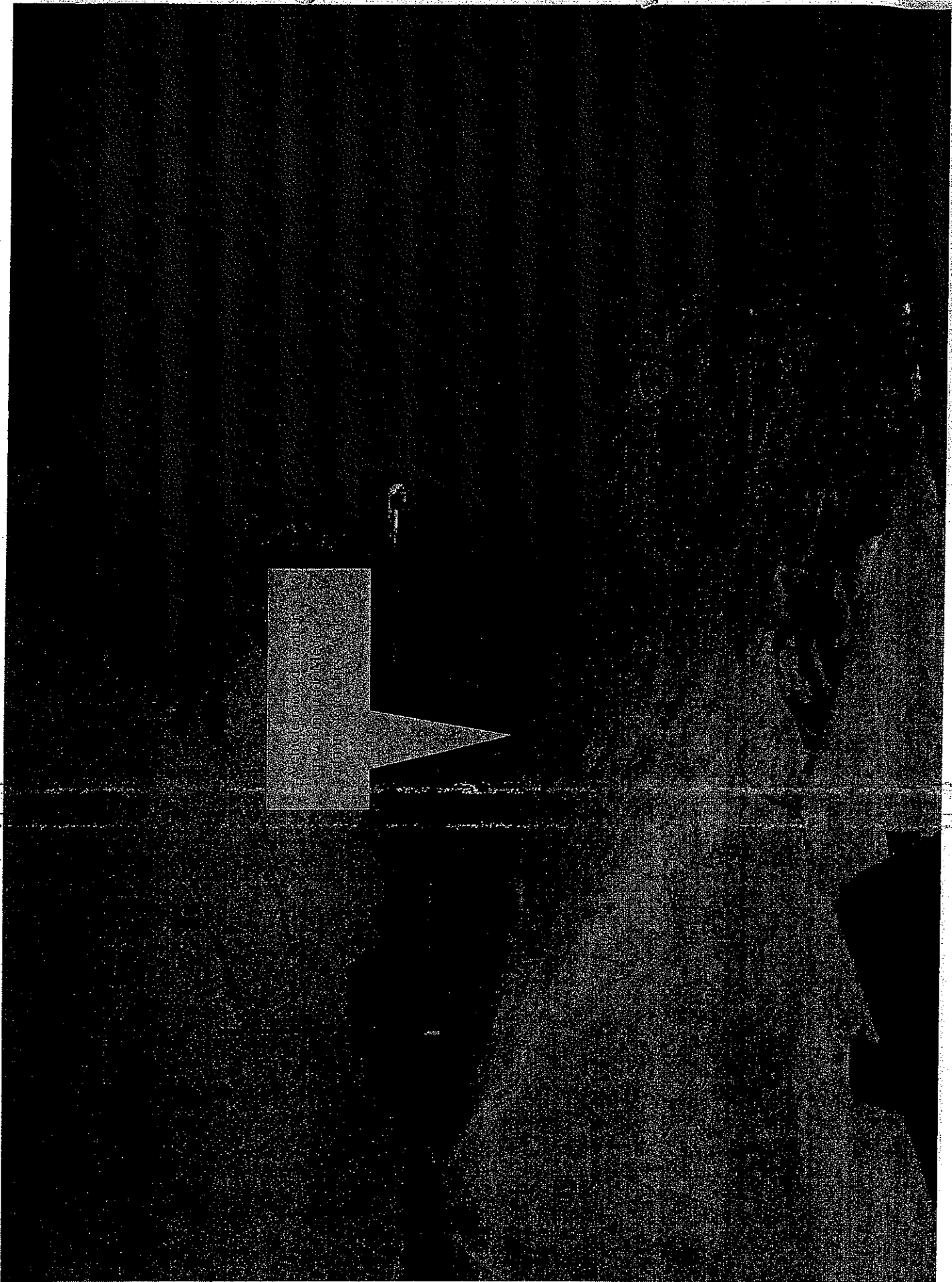


EXHIBIT C

Round 1
entry

Round 1
entry
flattened but
repaired before
picture taken

Round 2
entry

Round 2
entry