



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

**SUBJECT**

06-163 EOF, Article 15-6 Investigation – Signed Action

DATE ACTION INITIATED**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			
BRIGADE CSM			
BRIGADE XO			
DEPUTY COMMANDER			
BRIGADE COMMANDER			12 Jul 06

IMPACT

___ PERSONNEL

___ FUNDS

___ TIME

___ TRAINING

___ SUPPLIES

___ OTHER

SUMMARY

2d BCT, 101st Airborne Division (AASLT)

6

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) (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.)

I CONCUR WITH THE INVESTIGATING OFFICER'S FINDINGS AND RECOMMENDATIONS. THE SOLDIERS INVOLVED TOOK EVERY PRECAUTION POSSIBLE TO AVOID THE LOSS OF A CIVILIAN LIFE. WE WILL CONTINUE TO REINFORCE THIS LESSON AS AN EXAMPLE OF PROPER ENFORCEMENT OF ROE.

I approve the Findings and Recommendations and remand to the Brigade Commander to take action as he deems appropriate.

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

6



DEPARTMENT OF THE ARMY
 HEADQUARTERS, 1ST SQUADRON, 75TH CAVALRY REGIMENT
 2ND BRIGADE COMBAT TEAM
 101ST AIRBORNE DIVISION (AIR ASSAULT)
 CAMP STRYKER, IRAQ
 APO AE 09398



REPLY TO
 ATTENTION OF

AFZB-KB-J-CDR

27 May 2006

MEMORANDUM FOR COMMANDER 1-75

SUBJECT: Findings and Recommendations for Investigation #06-163

1. Summary of Events:

a. At 171925MAY06, Alpha section 1/A/1-75 observed a cargo truck approximately 200 meters from their mounted observation point in the south bound lane of [REDACTED] at Grid [REDACTED] in vicinity of [REDACTED]. The approaching vehicle showed no indication of changing lanes or slowing down as it approached the OP at a high rate of speed. [REDACTED] in the position of gunner for the closest vehicle displayed proper EOF procedures by utilizing sirens, lights, and hand/arm signals in an attempt to stop the vehicle.

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b. At 171925MAY06, [REDACTED] fired 2x rounds of 5.56mm into the median of [REDACTED] as warning shots. The truck passed through the traffic cones established by 1/A/1-75 approximately 100 meters from their TCP and proceeded toward their position, displaying no signs of slowing. [REDACTED] then fired 2x rounds 5.56mm into the engine block in an attempt to disable the vehicle.

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c. At 171926MAY06, [REDACTED] utilized deadly force and fired 2x rounds 5.56mm into the windshield. The driver was struck in the chest with 1x round. The truck came to a halt, the driver exited and fell to his knees on the MSR. He attempted to stand and then collapsed.

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d. At 171927MAY06, [REDACTED] and [REDACTED] exited their vehicle to approach the LN and administer immediate first aid and resuscitation techniques. At 171931MAY06, [REDACTED] arrives on the scene and pronounced the LN dead.

e. At 171935MAY06, [REDACTED] searched the vehicle and found 2 cases of beer, 1 case of gin, and 2 empty gin bottles in the cab of the truck next to the drivers' seat.

2. Findings:

a. The key elements to this are the alcohol possessed by the local national and the empty bottles signifying that the local national was intoxicated at the time of the incident. After three years of presence in Iraq, it is unlikely that the local national was completely unaware of the proper movement of a civilian vehicle upon approaching a military check point. In an intoxicated state, the local national was unable to comprehend the extensive danger of driving through a TCP without following proper procedure.

b. Rules of Engagement: [REDACTED] followed the rules of engagement properly. The patrols use of traffic cones established a solid line that the local nationals understand as a boundary for traffic control. [REDACTED] responded properly to the vehicle not slowing down

6

by using hand/arm signals, and a siren to stop the vehicle. After the vehicle showed no signs of stopping before the cones, [REDACTED] turned towards his weapon for warning shots into the median, fired shots to disable the vehicle, and then used his M4 for deadly force to eliminate the threat to him and the rest of the Soldiers at the mounted observation post. After engaging the vehicle, [REDACTED] and [REDACTED]'s quick reaction to perform first aid shows that the section performed every action possible to help the local national.

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3. Recommendations:

a. After reviewing the facts of this case, I recommend that no further action be taken against any of the soldiers involved in the incident. [REDACTED] followed orders to perform the proper steps of an EOF according to the ROE in theatre. [REDACTED] and [REDACTED] properly administered first aid on the local national and [REDACTED] properly searched the vehicle for other threats after pronouncing the LN dead.

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b. The leadership of 1st Platoon should continue to review platoon SOP, ensuring that ROE and EOF standards are reviewed before every mission. Briefing of the SOP should ensure that all members of the platoon are as prepared as [REDACTED] to react to an escalation of force incident.

4. Chronology of Investigation

180930MAY06 [REDACTED] appointment as Investigating Officer

181130MAY06 Conducted initial interview with [REDACTED]

190900MAY06 Received sworn statements from [REDACTED], [REDACTED], and [REDACTED]

190930MAY06 Conducted interviews with [REDACTED] and [REDACTED]

201200MAY06 Completed Report and findings memorandum

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5. The point of contact is [REDACTED], e-mail: [REDACTED]@army.mil

[REDACTED]

[REDACTED], EN
Investigating Officer

2 BCT 2-101 BTB SJA

From: [REDACTED] 4ID SJA Operational Law NCO [REDACTED]@army.smil.mil]
Sent: Monday, June 12, 2006 1:33 PM
To: [REDACTED] 2 BCT 2-101 BTB SJA
Subject: [C] FW: EOF 9 MAY 2-101 #163 signed

Attachments: Document.pdf

6



Document.pdf (684 KB)

Classification: CONFIDENTIAL//FOR OFFICIAL USE ONLY

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

From: [REDACTED] [mailto:[REDACTED]@army.smil.mil]
Sent: Monday, June 12, 2006 11:18 AM
To: [REDACTED] 4ID SJA Operational Law NCO
Subject: EOF 9 MAY 2-101 #163 signed

Classification: CONFIDENTIAL//FOR OFFICIAL USE ONLY

SECTION VI - AUTHENTICATION (para 3-17, AR 15-6)

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(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)~~ ~~(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.)

I CONCUR WITH THE INVESTIGATING OFFICER'S FINDINGS AND RECOMMENDATIONS. THE SOLDIERS INVOLVED TOOK EVERY PRECAUTION POSSIBLE TO AVOID THE LOSS OF A CIVILIAN LIFE. WE WILL CONTINUE TO RE-INFORCE THIS LESSON AS AN EXAMPLE OF PROPER ENFORCEMENT OF ROE.

I approve the Findings and Recommendations and remand to the Brigade Commander to take action as he deems appropriate.

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

6



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



SUBJECT
06-163 Article 15-6 Investigation – EOF Death of LN

DATE ACTION INITIATED
17 May 2006

ORIGINATOR / ACTION OFFICER
STRIKE LEGAL

OFFICE SYMBOL
AFZB-KB-JA

TELEPHONE
242-4342

SUSPENSE
20 May 2006

ROUTING

OFFICE	COMMENTS	INITIALS	DATE
BRIGADE S1			
BRIGADE S2			
BRIGADE S3			
BRIGADE S4			
BRIGADE S6 (SIGO)			
BRIGADE CHAPLAIN			
BRIGADE SURGEON			
BRIGADE SJA		[REDACTED]	28 May 06
BRIGADE CSM			
BRIGADE XO	CONCERN	[REDACTED]	30 MAY 06
DEPUTY COMMANDER	CONCERN - DO NOT NEED DEAD LN IN STORYBOARD PICTURE...	[REDACTED]	31 MAY 06
BRIGADE COMMANDER		[REDACTED]	3 JUN 06

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IMPACT

___ PERSONNEL ___ FUNDS ___ TIME ___ TRAINING ___ SUPPLIES ___ OTHER

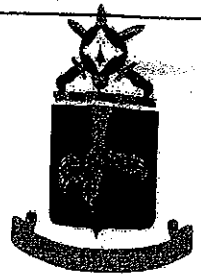
SUMMARY

2d BCT, 101st Airborne Division (AASLT)



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

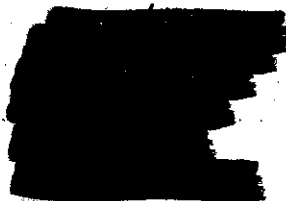
SUBJECT: Approval and Ratification of AR 15-6 Investigation #06-163, Escalation of Force Resulting in Death of Local National Findings and Recommendations

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:

① No Issues.

3. POC for this memorandum is the undersigned.

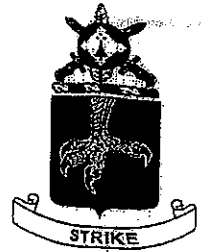


[REDACTED] IN
Commanding



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: 20 May 2006

17 May 2006

MEMORANDUM FOR [REDACTED] Troop, 1st Squadron, 75th
Calvary Regiment, 101st Airborne Division (Air Assault), Camp Striker, Iraq APO AE 09398

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SUBJECT: Appointment as Investigating Officer, Investigation #06-163

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 E Company, 1-22 on or about 17 May 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 #06-163

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 VOIP 242-4342.

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.

[REDACTED]

[REDACTED]

IN
Commanding

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REPORT OF PROCEEDINGS BY INVESTIGATING OFFICER/BOARD OF OFFICERS

For use of this form, see AR 15-6; the proponent agency is DTJAG.

IF MORE SPACE IS REQUIRED IN FILLING OUT ANY PORTION OF THIS FORM, ATTACH ADDITIONAL SHEETS

SECTION I - APPOINTMENT

Appointed by _____
(Appointing authority)

on 17 MAY 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 CAMP STRIKER, IRAQ at 0900
(Place) (Time)

on 17 MAY 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 1300 on 24 MAY 06
(Time) (Date)
and completed findings and recommendations at 1300 on 24 MAY 06
(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, irregularities, 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.

		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

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

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

SEE ATTACHED MEMORANDUM

SECTION VI - AUTHENTICATION (para 3-17, AR 15-6)

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(Recorder)

(Investigating Officer) (President)

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(Member)

(Member)

(Member)

(Member)

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(Member)

(Member)

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I CONCUR WITH THE INVESTIGATING OFFICER'S FINDINGS AND RECOMMENDATIONS. THE SOLDIERS INVOLVED TOOK EVERY PRECAUTION POSSIBLE TO AVOID THE LOSS OF A CIVILIAN LIFE. WE WILL CONTINUE TO REINFORCE THIS LESSON AS AN EXAMPLE OF PROPER ENGAGEMENT OF ROE.

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DEPARTMENT OF THE ARMY
HEADQUARTERS, 1ST SQUADRON, 75TH CAVALRY REGIMENT
2ND BRIGADE COMBAT TEAM
101ST AIRBORNE DIVISION (AIR ASSAULT)
CAMP STRYKER, IRAQ
APO AE 09398



REPLY TO
ATTENTION OF

27 May 2006

MEMORANDUM FOR COMMANDER 1-75

SUBJECT: Findings and Recommendations for Investigation #06-163

1. Summary of Events:

a. At 171925MAY06, Alpha section 1/A/1-75 observed a cargo truck approximately 200 meters from their mounted observation point in the south bound lane of [REDACTED] at Grid [REDACTED], in vicinity of [REDACTED]. The approaching vehicle showed no indication of changing lanes or slowing down as it approached the OP at a high rate of speed. SGT [REDACTED] in the position of gunner for the closest vehicle displayed proper EOF procedures by utilizing sirens, lights, and hand/arm signals in an attempt to stop the vehicle.

b. At 171925MAY06, SGT [REDACTED] fired 2x rounds of 5.56mm into the median of [REDACTED] as warning shots. The truck passed through the traffic cones established by 1/A/1-75 approximately 100 meters from their TCP and proceeded toward their position, displaying no signs of slowing. SGT [REDACTED] then fired 2x rounds 5.56mm into the engine block in an attempt to disable the vehicle.

c. At 171926MAY06, SGT [REDACTED] utilized deadly force and fired 2x rounds 5.56mm into the windshield. The driver was struck in the chest with 1x round. The truck came to a halt, the driver exited and fell to his knees on the MSR. He attempted to stand and then collapsed.

d. At 171927MAY06, SGT [REDACTED] and PFC [REDACTED] exited their vehicle to approach the LN and administer immediate first aid and resuscitation techniques. At 171931MAY06, SSG [REDACTED] arrives on the scene and pronounced the LN dead.

e. At 171935MAY06, SSG [REDACTED] searched the vehicle and found 2 cases of beer, 1 case of gin, and 2 empty gin bottles in the cab of the truck next to the drivers' seat.

2. Findings:

a. The key elements to this are the alcohol possessed by the local national and the empty bottles signifying that the local national was intoxicated at the time of the incident. After three years of presence in Iraq, it is unlikely that the local national was completely unaware of the proper movement of a civilian vehicle upon approaching a military check point. In an intoxicated state, the local national was unable to comprehend the extensive danger of driving through a TCP without following proper procedure.

b. Rules of Engagement: SGT [REDACTED] followed the rules of engagement properly. The patrols use of traffic cones established a solid line that the local nationals understand as a boundary for traffic control. SGT [REDACTED] responded properly to the vehicle not slowing down

by using hand/arm signals, and a siren to stop the vehicle. After the vehicle showed no signs of stopping before the cones, SGT [REDACTED] turned towards his weapon for warning shots into the median, fired shots to disable the vehicle, and then used his M4 for deadly force to eliminate the threat to him and the rest of the Soldiers at the mounted observation post. After engaging the vehicle, SGT [REDACTED] and PFC [REDACTED] quick reaction to perform first aid shows that the section performed every action possible to help the local national.

3. Recommendations:

a. After reviewing the facts of this case, I recommend that no further action be taken against any of the soldiers involved in the incident. SGT [REDACTED] followed orders to perform the proper steps of an EOF according to the ROE in theatre. SGT [REDACTED] and PFC [REDACTED] properly administered first aid on the local national and SSG [REDACTED] properly searched the vehicle for other threats after pronouncing the LN dead.

b. The leadership of 1st Platoon should continue to review platoon SOP, ensuring that ROE and EOF standards are reviewed before every mission. Briefing of the SOP should ensure that all members of the platoon are as prepared as SGT [REDACTED] to react to an escalation of force incident.

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- 181130MAY06 Conducted initial interview with SSG [REDACTED]
- 190900MAY06 Received sworn statements from SGT [REDACTED] SSG [REDACTED] and SGT [REDACTED]
- 190930MAY06 Conducted interviews with SGT [REDACTED] and SGT [REDACTED]
- 201200MAY06 Completed Report and findings memorandum

5. The point of contact is [REDACTED] e-mail: [REDACTED]

[REDACTED]

Investigating Officer

10-11-2006

LIST OF EXHIBITS
Investigation #06-163 (escalation of force)

<u>TAB</u>	<u>EXHIBIT</u>
A.....	Story Board
B.....	DA 2823 [REDACTED]
C.....	DA 2823 [REDACTED]
D.....	DA 2823 [REDACTED]
E.....	SIR

6

EXHIBIT A

EXHIBIT B

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: To provide commanders and law enforcement officials with means by which information may be accurately identified.
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 Camp Striker	2. DATE (YYYYMMDD) 2006/05/18	3. TIME 2200	4. FILE NUMBER
5. LAST NAME, FIRST NAME, MIDDLE NAME [REDACTED]	6. SSN [REDACTED]	7. GRADE/STATUS [REDACTED]	
8. ORGANIZATION OR ADDRESS Alpha TRP, 1-75 CAV, 2BCT, 101st ABN DIV (AASLT)			

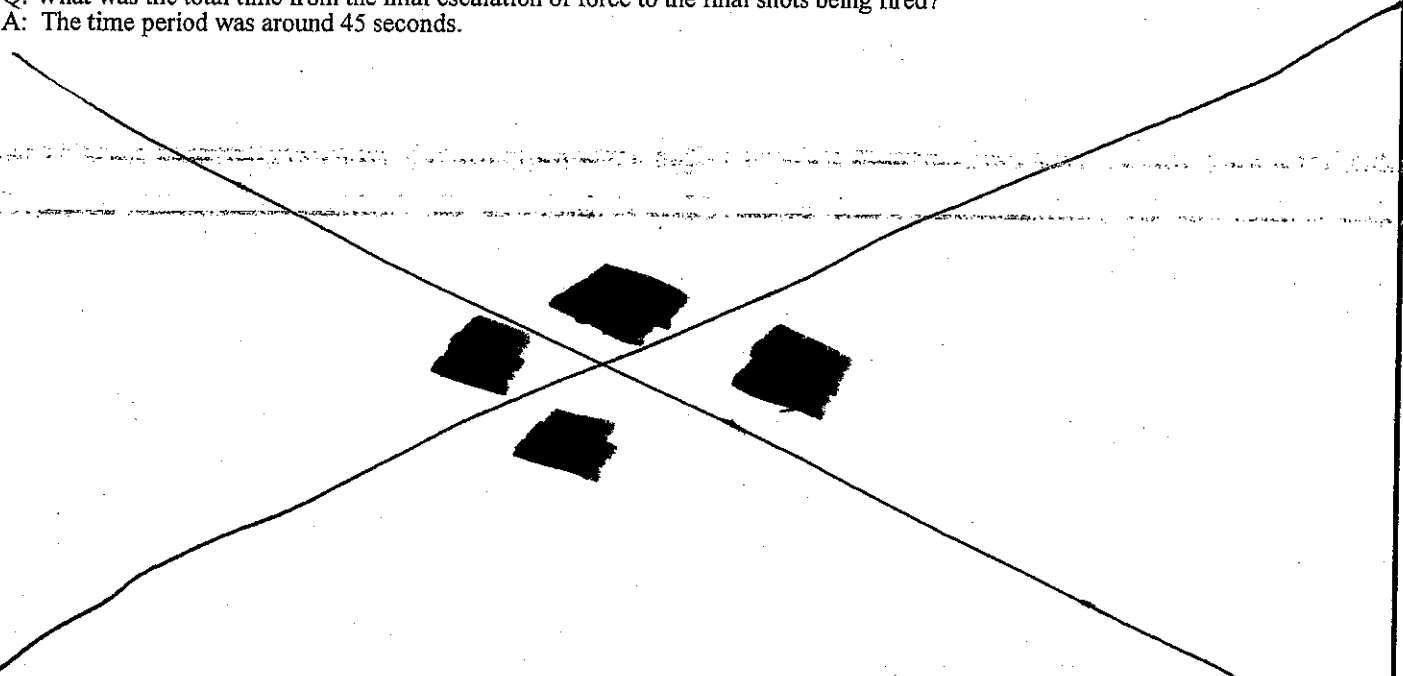
9. I, [REDACTED], WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

On 17 MAY at approximately 1930 Alpha section of 1st Platoon was set in a monted OP vicinity [REDACTED]. Our road cones were set 150 meters from the trucks. My gunner noticed a semi truck approaching our cones. At that time he performed hand and arm signals waving for the driver to stop. I also used the siren on our vehicle to try and get the driver's attention. The driver was unresponsive and continued toward our section at a moderate rate of speed. As he passed through the cones [REDACTED] simultaneously fired 2 warning shots to the right of the vehicle in the median. The semi truck still continued toward our section. [REDACTED] then fired 2 rounds into the engine block to disable the truck. This caused the truck to stop. The driver fell out of the cab and stumbled to the ground. I moved my truck up to the LN and assessed his condition. Upon seeing his wounds [REDACTED] and myself began to administer first aid. The LN was suffering from a sucking chest wound and died three minutes later. [REDACTED] confirmed this one minute later. My dismount team performed a search of the LN's truck and found two different forms of ID with two different names on them. We also found 2 cases of beer, one case of gin and two empty bottles of gin in the front driver seat.

Q: How fast was the vehicle approaching the convoy after passing through the cones?
A: The vehicle was moving at about 35MPH and showing no signs of slowing down inspite of the initial escalation of force.

Q: After the LN exited the vehicle severely wounded was any alcohol initially smelled on him?
A: There was not an aroma of alcohol until the cab of the vehicle was inspected.

Q: What was the total time from the inial escalation of force to the final shots being fired?
A: The time period was around 45 seconds.



10. EXHIBIT	11. INITIALS OF PERSON MAKING STATEMENT [REDACTED]	PAGE 1 OF 2 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 BE INDICATED.

6

2
6

6

STATEMENT OF

[REDACTED]

TAKEN AT

Camp Strike

DATED

18 May 06

9. STATEMENT (Continued)

[REDACTED STATEMENT CONTENT]

6

AFFIDAVIT

I, [REDACTED], HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1 AND ENDS ON PAGE 1 FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

[REDACTED SIGNATURE]
(Signature of Person Making Statement)

WITNESSES:

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 18 day of MAY, 2006 at CAMP STRIKE

[REDACTED]
ATTP 1175 CAV 1st PLT
ORGANIZATION OR ADDRESS

[REDACTED SIGNATURE]
(Signature of Person Administering Oath)

[REDACTED NAME]
(Typed Name of Person Administering Oath)

ORGANIZATION OR ADDRESS

[REDACTED] USA
(Authority To Administer Oaths)

6

INITIALS OF PERSON MAKING STATEMENT

PAGE 2 OF 2 PAGES

EXHIBIT C

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).
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DISCLOSURE: Disclosure of your social security number is voluntary.

1. LOCATION Camp Strike Iraq	2. DATE (YYYYMMDD) 20060518	3. TIME 2200	4. FILE NUMBER
5. LAST NAME, FIRST NAME, MIDDLE NAME [REDACTED]	6. SSN [REDACTED]	7. GRADE/STATUS [REDACTED]	
8. ORGANIZATION OR ADDRESS A 1st Cav 101st ABN DIV			

9. I, [REDACTED], WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:
at [REDACTED]
On wed. 17 May 06 @ approx. 1930, a Local National was mortally wounded by a member of my section vic [REDACTED]. These are the facts:
We were established in our mounted op in the south bound lane of [REDACTED]. My vehicle was 100 mts south of the overpass and my wingman 100 mts to the north. Additionally, our safety cones were placed 150 mts to the front of each vehicle.
At approx. 1930, [REDACTED] noticed a semi-truck advancing toward our position. He initiated escalation of force. He used the vehicle mounted system initially while [REDACTED] simultaneously used hand and arm signals to alert the driver. The vehicle continued forward. Once he crossed the "cone line" [REDACTED] fired two warning shots into the median. After no response from the vehicle or driver, [REDACTED] fired to disable the truck.

10. EXHIBIT	11. INITIALS OF PERSON MAKING STATEMENT [REDACTED]	PAGE 1 OF 2 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.

STATEMENT OF

TAKEN AT

Camp Striker

DATED

18 MAY 06

6

9. STATEMENT (Continued)

[REDACTED] fired two shots into the front of the vehicle. The truck stopped and the occupant opened the door and fell to the ground. He stood for a moment, and then fell again. [REDACTED] and [REDACTED] proceeded to the vehicle to perform first aid. I arrived about 2 mins after the last 2 shots and saw that the LU was dead. I then reported to higher. We then conducted a search of the vehicle to find the following:

- 2 forms of ID with different names.
- 2 Empty Bottles of Gin under the seat.
- Nothing Follows

AFFIDAVIT

I, [REDACTED], HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE 2. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL

(Signature of Person Making Statement)

WITNESSES:

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 18 day of MAY 2006 at CAMP STRIKER

A Top 1-75 Cav 1st PLT
 ORGANIZATION OR ADDRESS

(Signature of Person Administering Oath)

(Typed Name of Person Administering Oath)

ORGANIZATION OR ADDRESS

USA
(Authority To Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT

PAGE 2 OF 2 PAGES

EXHIBIT D

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: To provide commanders and law enforcement officials with means by which information may be accurately identified.
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: Camp Striker, IRAQ
2. DATE (YYYYMMDD): 20060518
3. TIME
4. FILE NUMBER
5. LAST NAME, FIRST NAME, MIDDLE NAME
6. SSN
7. GRADE/STATUS

8. ORGANIZATION OR ADDRESS: A TRP 1-75 Cav (BSTA) WLABIN ABST

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

At approximately 1925 a cargo truck traveling south in the south bound lane of [redacted] VTC [redacted] drove past All trigger line (Traffic cones) that were placed 150 meters from the truck. Before the cargo truck past the trigger line I used hand and arm signals to get the vehicle to stop and change lanes. Also the truck commander used the audio siren to stop the truck. When the truck drove past the traffic cones in the middle of the road further escalation of force was utalized. I fired 2, 5.56 round into the median of the north and south bound lanes. The truck continued to move further forward and then I shot 2, 5.56 rounds into the vehicle in an attempt to disable it. 2, 5.56 round struck the driver and brought the vehicle to a halt. The driver got out of the vehicle and fell to the ground. He then got back up for approximately 5 sec and fell to the ground again. Upon realizing the driver was wounded A-11 vehicle moved forward and the driver and TC got out and ran to administer first aid to the casualty. I notified the A-12 vehicle of the situation and they moved up to assist. Approximately 3 minutes later SSG Hill arrived at the side of the casualty and pronounced he was dead. SSG Hill, SGT Sirko, and PFC Frogner then searched the vehicle.

Nothing Follows

10. EXHIBIT
11. INITIALS OF PERSON MAKING STATEMENT
PAGE 1 OF 2 PAGES

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 BE INDICATED.

STATEMENT OF

[REDACTED]

TAKEN AT

Camp Striker

DATED

20060518

9. STATEMENT (Continued)

[REDACTED STATEMENT CONTENT]

6

AFFIDAVIT

I, [REDACTED], HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE 2. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

[REDACTED SIGNATURE]
(Signature of Person Making Statement)

6

WITNESSES:

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 18 day of MAY, 2006 at CAMP STRIKER

[REDACTED]
ATD 1175 CAV 1st PLT
ORGANIZATION OR ADDRESS

[REDACTED SIGNATURE]
(Signature of Person Administering Oath)

ORGANIZATION OR ADDRESS

[REDACTED]
(Type Name of Person Administering Oath)

USA
(Authority To Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT

[REDACTED INITIALS]

PAGE 2 OF 2 PAGES

EXHIBIT E

SIR

From: COMMANDER 1-75 CAV

Thru: 2nd BCT

To: 4th ID / Division Operation Center

Subject: Escalation of Force resulting in the death of 1x LN

1. Category: 1

2. Type of incident: Escalation of Force; cargo truck failed to stop approaching a CF TCP when the driver was engaged with deadly force

3. DTG:

- A. DTG of Incident: 17 1945 MAY 06
- B. DTG Unit was notified of Incident: 17 1948 MAY 06
- C. DTG received by DOC:

4. Location: [REDACTED], IVO CP 21A on [REDACTED]

5. Personnel involved:

A. Subject:

- 1. Name: [REDACTED]
- 2. Rank or grade: [REDACTED]
- 3. Social Security Number: [REDACTED]
- 4. Race: Caucasian
- 5. Sex: Male
- 6. Age: 23
- 7. Position: Gunner
- 8. Security clearance: SECRET
- 9. Unit and station of assignment: A TRP 1-75 CAV 2nd BCT 101st ABN(AASLT)
- 10. Duty status: AD
- 11. Marital Status: Single

B. Additional personnel involved: None

Summary of incident:

On 17 MAY 06, 1/A/1-75 carried out an Escalation of Force (EOF) resulting in death of one Local National. At 1945, the unit observed a cargo truck approaching their position in the southbound lane of [REDACTED] at Grid [REDACTED]. The driver showed no indication of changing lanes or slowing down. The unit displayed proper EOF procedures utilizing sirens, lights and hand/arm gestures signaling the driver to stop. When all signaling attempts failed, two rounds 5.56mm were fired by the gunner of the lead vehicle, [REDACTED], into the median of the MSR as warning shots. The truck passed through the traffic cones established by 1/A/1-75 approximately 100 meters from their TCP and proceeded toward their position, displaying no signs of slowing. [REDACTED] fired two rounds 5.56mm into the engine block attempting to disable the vehicle. The truck continued forward, so [REDACTED] utilized deadly force and fired two rounds 5.56mm into the windshield. The driver was struck in the chest with one round and stopped the vehicle. After the truck came to a halt, the driver exited and fell to his knees on the

MSR. He attempted to stand and then collapsed. Immediate first aid was administered to the Local National followed by resuscitation techniques to no avail. He was pronounced dead at 1951.

Upon further investigation of the vehicle, multiple cases of alcoholic beverages were discovered in addition to several open bottles in and around the driver's seat. 1/A/1-75 determined that the Local National driver was intoxicated at the time of the incident. The lack of reaction during the EOF is attributed to his impairment. The body and vehicle were transported to CP 22A and transferred to 2nd Co, 3/4/6 IA for over watch until the morning of 18 MAY 06 due to the fact that the Iraqi Police will not respond during hours of darkness.

6. Other Information:

- A. Racial: N/A
- B. Alcohol Involvement: None
- C. Last Deployment to OIF/OEF: 02 APR 2004
- D. Is Soldier on Rear "D"? No

7. Remarks: None

8. Commander reporting: [REDACTED]

9. Point of contact: 1-75 Battle Captain, VOIP #: [REDACTED]

10. Report originated by: [REDACTED]

11. Released by: [REDACTED]

12. Unit Notifications: 2ND BDE

<u>Position</u>	<u>Name</u>	<u>Time</u>	<u>Inst</u>
SQD CDR	[REDACTED]		COMPLETE AND SEND SIR TO BDE
BDE TOC	[REDACTED]		SEND COPY OF SIR

B. Email: N/A

FOD / DOC NCO ONLY:

Current FOD & DOC NCOIC:

FOD / DOC NCO Actions:

FOD Notifications:

A. Telephone

<u>Position</u>	<u>Name</u>	<u>Time</u>	<u>Instructions</u>
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B. Email

<u>Position</u>	<u>Name</u>	<u>Time</u>	<u>Instructions</u>
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