



DEPARTMENT OF THE ARMY
HEADQUARTERS, 1ST BRIGADE, 3RD INFANTRY DIVISION (FORWARD)
TASK FORCE BAND OF BROTHERS, OPERATION IRAQI FREEDOM
FORWARD OPERATING BASE SPEICHER
APO AE 09393

AFZP-VA-HQ

21 January 2006

MEMORANDUM FOR RECORD

SUBJECT: Commander's Emergency Response Program payment to [REDACTED]
(Claim Number 06-IA3-096)

1. On 4 Oct 05, A [REDACTED]'s mother was shot and killed by U.S. Forces.
2. I certify that funds are available from the CERP 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]
CPT, EN
Project Purchasing Officer

001355



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

REPLY TO
ATTENTION OF

AFZB-JA-C

19 January 2006

MEMORANDUM OF OPINION

SUBJECT: [REDACTED] 06-IR8-096

1. **Identifying Data:** [REDACTED]
2. **Date and place the incident occurred giving rise to the claim:** The claim occurred on 4 October 2005, in Tikrit, Iraq.
3. **Amount of claim and date it was filed:** Claimant filed a claim for \$2,500 on 17 January 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 his mother was shot by CF while she was a passenger in a motor vehicle while heading home from Tikrit University. The Claimant alleges that the driver, who had poor vision, did not see a CF convoy that was pulled over and CF started firing at the vehicle because the vehicle came too close. A SIGACTS investigation confirmed that a vehicle drove through a check point despite CF firing warning shots.
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, CF actions constitute combat activity and thus precludes compensation.
7. **Recommendation:** The claim is denied.

[REDACTED]
CPT, JA
Chief of Claims

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Claims Form

To: United States Army Foreign Claims Commission.

From: Name: [REDACTED]

POA/ATT: Shown Original - kept copy

Power of Attorney provided and interpreter approved: [REDACTED]

Decedents: [REDACTED]

Hometown: _____

Iraqi Resident: _____

My claim arose at: Tikrit

(Town)

(City)

(Country)

My claim arose on: Oct

Month

4~~0~~

2005

Day

Year

Proof of Ownership: _____

Interpreter Approved: _____

Death Certificates (Name, Cause of Death, Age, and Time of Death Consistent with Claimant allegations): Yes - had ^{certified} copy (6640)

Interpreter Approved: _____

medical Report: Tikrit hospital / states decedent was shot multiple times (don't say where)

Legal Expert Opinion: DDA at hospital

Interpreter Approved: _____

Witness Statement (Consistent?): NA

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.)

Wrongful Death

Claimants mother was shot by CF while ^{convey} a passenger ^{in a motor vehicle} ~~in a motor vehicle~~ ^{heading} ~~to~~ ^{home} ~~to~~ ^{University} ~~University~~ of Tikrit. CF convey ^{was pulled over} ~~was pulled over~~ ~~to~~ ^{the front} ~~the front~~ and began to shoot b/c Driver had poor vision & got too close to convey who pulling over

(Check print?)

Evidence: Death Certificates / Police Statements / Medical Report / Diagram

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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.)

<u>Item</u>	<u>Amount</u>
Wrongful Death	

Total: \$2500

I was insured to the following extent against the damage or injuries I have sustained:

NA

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)

\$ 2500

local


(Signature of Claimant)

Subscribed before me this 17 day of Jan, 2006


(Print)

(Signature)

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