



DEPARTMENT OF THE ARMY
HEADQUARTERS, 1ST BATTALION, 87TH INFANTRY
10TH MOUNTAIN DIVISION (LIGHT INFANTRY)
FORT DRUM, NEW YORK 13602-5000

(b)(2)Low

27 March 2006

MEMORANDUM THRU

Commander, 1st BCT, 10th MTN DIV (LI), Multinational Division Baghdad
Iraq APO AE 09376

Commander, 4th Infantry DIV, Multinational Division Baghdad
Iraq APO AE 09523

SUBJECT: Review of and Recommendations for AR 15-6 Investigation of the Sniper Engagement of Local National

1. I have reviewed the findings and recommendations of CPT [REDACTED] AR 15-6 Investigation of the sniper engagement resulting in the death of a local national and I concur with his findings and recommendations.
2. Given the fact that SSG [REDACTED] and his squad were overwatching a known IED [REDACTED] site on an MSR, the actions of the local national were that of an IED emplacer, and the time of the incident; SSG [REDACTED] acted within my expectations and IAW the ROE. [REDACTED] SSG [REDACTED] or any member of his squad.
3. The Sniper platoon will continue to conduct detailed planning for each mission and NAI, study IED emplacement TTPs, and receive briefings on the ROE prior to each mission.
3. The point of contact for this memorandum is the undersigned at VOIP [REDACTED]

[REDACTED]
LTC, IN
Commanding

REPORT OF PROCEEDINGS BY INVESTIGATING OFFICER/BOARD OF OFFICERS

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

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

SECTION I - APPOINTMENT

Appointed by LTC (b)(6) 1-87 IN Battalion Commander
(Appointing authority)

on 25 March 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 Liberty, Iraq at 1700
(Place) (Time)

on 26 December 2005 (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.)

CPT (b)(6)

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 1600 on 26 March 2006
(Time) (Date)
and completed findings and recommendations at 2300 on 26 March 2006
(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.

2	Exhibits (para 3-16, AR 15-6)	YES	NO	NA ²
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 5-4e, 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 ☐)			
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:

I find that a local national was killed on 23 March 2006 by shots fired from the weapon of SSG (b)(6) a team leader for the Scout PLT of HHC/1-87 IN 1/10 MTN. SSG (b)(6) acted within the rules of engagement when he fired on the local national.

On 23 March 2006, SSG (b)(6) scout/sniper team was inserted into western Baghdad along with another team from his platoon. Before his team was infilled SSG (b)(6) was briefed the rules of engagement by his platoon Leader, 1LT (b)(6). The ROE that was given was that lethal force was authorized for any of the following: PID on an individual emplacing an IED, any drive by attack on the MSR, any threat or lethal force used against his team, and any individual digging or emplacing objects that could be IEDs after curfew hours on Route (b)(4). After receiving the brief from his PL, SSG (b)(6) briefed the members of his team on the ROE. His team was then infilled to grid (b)(1) which is a building along Route (b)(4) in an area of high IED concentration. On that evening illumination was 49% but at the time of the shooting the moon had already set below the horizon.

Around 2230, after curfew hours of Baghdad, SSG (b)(6) team spotted an individual walking west along Route (b)(4) approximately 200m east of their location. The individual appeared to be carrying something in his hands. As the individual continued west down route (b)(4) SSG (b)(6) lost sight of him because of bars on the window of his hide site. SSG (b)(6) moved to the roof of his hide site to regain visual contact with the individual. The individual was now approximately 100m from their location and was crouching in the median of Route (b)(4) in between the guard rails. The individual stayed crouched for approximately 45 seconds to a minute and appeared to be digging or setting something up in the median. SSG (b)(6) position on the roof gave him a clear view of the individual's position. The individual then stood upright and began to leave the median of the road. The individual no longer appeared to be carrying what he previously was. SSG (b)(6) who believed the individual had just emplaced an IED fired on him with his M4 with an ACOG sight, killing the individual.

SSG (b)(6) reported into the BN TOC and coordinated to have a ground unit cordon off the area. EOD was called to search the area. EOD did not find an IED on the site. A further investigation of the sight did not find anything significant. The object that the individual was carrying could not be positively identified. The body of the local national was turned over to the IPs. SSG (b)(6) and his scout/sniper team were then exfilled back to the 1-87 BN TOC for debriefing.

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

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

(b)(1), (b)(6), (b)(5), (b)(2) Low

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)

(b)(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.)

(b)(5)

(b)(6)

James D. Thwman
Major General, USA
Commanding

(b)(6)

(b)(6)

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 (b)(1) Iraq	2. DATE (YYYYMMDD) 2006/03/25	3. TIME 1450	4. FILE NUMBER
5. LAST NAME, FIRST NAME, MIDDLE NAME (b)(6)	6. SSN (b)(6)	7. GRADE/STATUS O2	
8. ORGANIZATION OR ADDRESS Scout PLT, HHC, 1/87, 1st BCT, 10th MTN DIV			

9. I, (b)(6), WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

On 230100MAR06 I sent two Scout/Sniper Teams out into Western Baghdad to conduct counter-IED sniper missions on RTE (b)(1). Before any mission that I send my teams on I am briefed on the Scout PLT's ROE by MAJ (b)(6). One of the teams that went out was led by my squad leader, SSG (b)(6) and he had 5 other guys on his team. Before he left for the mission, as I do with every mission, I briefed him on his ROE once out in sector. I briefed him that he is allowed to use lethal force and any of these actions: PID on individual placing and IED, any drive by that occurs on the MSR, any lethal force used against him and his team in their hide site, use lethal force on individuals acting out of the ordinary on the MSR (digging on MSR's, placing objects on MSR's that could be IED's, individuals out past curfew on MSR's digging/throwing objects onto MSR's). The Squad leader then briefs his team on their ROE prior to moving out into the city. The team was infilled on MSR (b)(1) and their hide site was at grid (b)(1). At around 232230MAR, SSG (b)(6) spotted an individual walking on the MSR. He was in the median and it looked as if he was carrying something in his hands. He would stop periodically and look around the median and the road. He then made it to some of the guard rails on the MSR that are in the median, bent over for about 45 seconds to a minute, and then stood up. SSG (b)(6) said it looked as if he placed whatever he was carrying next to the guard rail and it was then that he had PID for using lethal force. It was SSG (b)(6) that took the only shots at the individual. The individual was 75-100 meters away from the hide site when the shots were taken. He gave the individual plenty of time to get off the road if he was not doing anything, but he had the right to take the shot when he did once the individual dropped down to his knees, stayed there and then came back up with nothing in his hands. EOD did a search of the area and found nothing. The next day it was reported to us that it was a 12-13 year old kid that was walking the MSR that night. If I would have been with the team that night, I would have ordered him to take the shot and I know that any other team that I have in my platoon would have done the same thing. We are out to protect the MSR's from IED's and have done so for several months now, and SSG (b)(6) said that this was the first time that he has seen anyone walk the MSR like this at such a late hour.

10. EXHIBIT **A** 11. INITIALS **[Signature]** ON MAKING STATEMENT PAGE 1 OF **12** 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 INDICATED.

STATEMENT OF

(b)(6)

TAKEN AT

(b)(1)

DATED 2006/03/25

9. STATEMENT (Continued)

Nothing Follows

AFFIDAVIT

I, (b)(6), HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE 0. 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.

(b)(6)

Statement)

WITNESSES:

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 25 day of March, 2006 at (b)(1) Iraq.

(b)(6)

Oath)

(b)(6)

Oath)

ORGANIZATION OR ADDRESS

ORGANIZATION OR ADDRESS

(Authority To Administer Oaths)

INITIALS OF PERSON MAKING

(b)(6)

PAGE 2 OF 2 PAGES

For use of this form, see AR 190-45; the proponent agency is ODCSOPS

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.

9. I, (b)(6), WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

ON 23 Mar 06 my team was conducting a counter IED mission on MSR (b)(6) at (b)(1) at Spid (b)(1). Began going out my pl Lt (b)(6) briefed me on the ROE for the mission. I then as always briefed my men on the ROE. At 2200 I took over overwatch from SGT (b)(6) and started looking down MSR toward to the E. At 2209 or so I saw a man walking in the median at (b)(1) moving W, with what looked like something in his hands. When I first saw him he was about 200m or down (b)(1). I saw him for only a few seconds before I lost him because of the bars in my window. So I then moved to the left with SGT (b)(6). Saw I could see him again when I got to the curb I put SGT Alime on rear guard so I could look for the man on the MSR. After looking for him for about 30 seconds I find him. Now he was 100 or so meters in front of my hide. But this time he was in the median inside the guard rails where I saw him. This time he had already bent over and hid the sound rails and was doing or what looked like placing something in the median. After 45 seconds he stood up and started to leave the median without whatever he was messing with. So at that time I thought he had already put something in. And when he cleared the guard rails I took the shot. I was the only one who fired at him. In the 1 month of working in the city I have never seen anyone on the MSR at night. Member in the median Beat over. He met all the criteria for PIR at that time.

~~Nothing~~

~~follows~~

Fellow

10. EXHIBIT <u>B</u>	11. INITIALS OF PERSON MAKING STATEMENT (b)(6)	PAGE 1 OF <u>2</u> 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.