### AETV-THH

06 Sep 2003

MEMORANDUM FOR BG Martin E. Dempsey, Commander, 1<sup>st</sup> Armored Division

SUBJECT: Legal Review of AR 15-6 into Death of Ziad Muhammed Tariq, Iraqi Detainee

1. On 29 August 2003, you initiated an informal investigation into the circumstances surrounding the death of Mr. Ziad Muhammed Tariq, an Iraqi detainee, on 22 August 2003. The investigating officer (IO) completed the investigation on 03 September 2003.

2. I have reviewed the investigation in accordance with AR 15-6, paragraph 2-3b and make the following determinations:

- a. The investigation substantially complies with legal requirements.
- b. There are no procedural errors or irregularities that invalidate the investigation.
- c. Sufficient evidence supports the IO's findings.
- d. The IO's findings are consistent with his recommendations.

3. In accordance with AR 15-6, paragraph 2-3, the appointing authority is neither bound nor limited by the IO's findings or recommendations.

4. The point of contact for this memorandum is the undersigned at DNVT 551-@us.army.smil.mil.



CPT, JA Reviewing Attorney

REPORT OF PROCEEDINGS BY INVESTIGATING OFFICER/BOARD OF OFFICERS         For use of these horis, are An Deck, the proposent space, in critato.         IF MORE SPACE IS REQUIRED IN FILLING OUT, ATTACH ADDITIONAL SHEETS         Section 1: APPOINTMENT         Appointed by BC Martin E. Dempsey         (Appointing adducting)         and	REPORT OF PROCEED	DINGS BY INVESTIGATING OFFICER	BOARD OF OFFICE		
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DTNOTES:         J Explain all negative answers on an attached sheet.           3/ Use of the N/A column constitutes a positive representation that the circumstances described in the dimension.	h. Any other significant papers (other than evidence) entry	page 1 of this report?		++	+
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2 Exhibits (para 3-16, AR 15-6)		
c. Are all items offered (whether or not received) or considered as evidence individually numbered or lettered as exhibits and attached to this report?	Īv	ES I
exhibits and attached to this report?		
<ul> <li>b Is an index of all exhibits offered to or considered by investigating officer or board attached before the first exhibit?</li> <li>c. Has the testimony/statement of each witness been recorded verbating officer or board attached before the first exhibit?</li> </ul>		X
all childred to written form and the second of the second	>	K
d. Are copies, descriptions, or depictions <i>(if substituted for real or documentary evidence)</i> properly authenticated and is	×	<
the location of the original evidence indicated?		
e. Are descriptions or diagrams included of locations visited by the investigating officer or board (para 3-6b, AR 15-6)? f. Is each written stipulation attached as an exhibit and is each oral tripulation with	×	
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	<u> </u>
g. If official notice of any matter was released		1
<ul> <li>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)?</li> <li>3. Was a quorum concernation.</li> </ul>		+
3 Was a quorum present when the board voted on findings and seesant is in the board voted on findings and seesant is in the board voted on findings and seesant is in the board voted on findings and seesant is in the board voted on findings and seesant is in the board voted on findings and seesant is in the board voted on findings and seesant is in the board voted on findings and seesant is in the board voted on findings and seesant is in the board voted on findings and seesant is in the board voted on findings and seesant is in the board voted on findings and seesant is in the board voted on findings and seesant is in the board voted on findings and seesant is in the board voted on findings are seen to be a set of the board voted on findings are set		
B. COMPLETE ONLY FOR FORMAL BOARD PROCEEDINGS ( <i>Chapter 5, AR 15-6</i> )? 4 At the initial session, did the recorder read or determine the U		+
5 Was a quorum present at every session of the board (para 5-2b, AR 15-6)?		
and the ansence of any member property excused (news 6.2. ) in the		T
interioris, withesses, reporter and interpreter succession if		
		+
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):		i.
a. Is the method and date of delivery to the responsibility of the second		
(1) the date, hour, and place of the first session of the based	-++	
and an and anglated, including specific allegations and and		
enterna with regard to counsely		
and address of each witness expected to be called bush		
structure a light of present present in	++	
<ul> <li>e. If there were relevant classified materials, were the respondent and his counsel given access and an opportunity to examine them?</li> <li>If any respondent was designated after the proceedings began (or otherwise was abread during the second d</li></ul>	╉╼╌┼╸	
a. Was he properly notified (para 5.5 AP 15 c)?		
b. Was record of proceedings and evidence received in his above		<b>.</b>
<ul> <li>b. Was record of proceedings and evidence received in his absence made available for examination by him and his counsel (para 5-6, AR 15-6);</li> <li>c. W(max)</li> </ul>	╉╼╾╋╸	-+
a. was each respondent represented by coursel?		
Name and business address of counsel:		
(If counsel is a lawyer, check here )		
<ul> <li>b Was respondent's counsel present at all open sessions of the board relating to that respondent?</li> <li>c. If military counsel was requested but not made within</li> </ul>		
c. If military coursel 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)?	<b>├</b> ── <b>├</b> ─	
If the respondent challenged the lengt advisor		
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 encounter international and the successfullenged encounter international and the successfullenged e		-
the state of the section of the sect		
b. Examine and object to the introduction of real and documentary evidence, including written statements?     Object to the testimony of witnesses and cross events		
Cobject to the testimony of witnesses and cross-examine witnesses other than his own?	1	
<ul> <li>d. Call witnesses and otherwise introduce evidence?</li> <li>e. Testify as a witness?</li> </ul>		
f. Make or have his coursel make a fact		_
f. Make or have his counsel make a final statement or argument (para 5-9, AR 15-6)? If requested, did the recorder assist the answer in the second statement of the second sta		_
arranging for the presence of witnesses ( $\mu qra 5-8b AR / 5-6b 2$		
Are all of the respondent's requests and the	t	
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)?		+
DTNOTES: U Explain all negative annual		
or board or board discussion of the constitutes a positive representation that the circumstances described in the question did not occurs in this investigation of the		- <b>h</b>
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2 of 4 pages, DA Form 1574, Mar 83

USAPA VI.:

1		SECTION IV - FINDINGS (pr	ara 3-10, AR 15-6)	
ne (investigating office)	r) (bound), having carefull	y considered the evidence, finds	:	· · ·
		See Attached Memora	adum	
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	-			
				,
	SECT	TION V - RECOMMENDATIONS	(para 3-11 AR 15-6)	
view of the above finding	s, the (investigating offici	er) (heard) recommends:	(And 5-11; AK 15-0)	
		See Attached Memorand		
		See Attached Memoralie		
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Page 3 of 4 pages. DA Form 1574, Mar 83

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SECTION VI - AUTHENT	CATION (para 3-17, AR 15-6)
THIS REPORT OF PROCEEDINGS IS COMPLETE AND ACCURATE. below, indicate the reason in the space where his signature should appear.)	(If any voting member or the recorder fails to sign here or in Section
(Recorder)	(Investigating Officer) (President)
(Member)	(Member)
(Member)	(Meniber)
	REPORT (para 3-13, AR 15-6)
To the extent indicated in Inclosure, the undersigned do(es) (In the inclosure, identify by number each finding and/or recommendation in reasons for disagreement. Additional/substitute findings and/or recommendation and the inclosure of the indicated of	not concur in the findings and recommendations of the board. which the dissenting member(s) do(es) not concur. State the tions may be included in the inclosure.)
(Member)	(Member)
(member)	(Meniber)
SECTION VIII - ACTION BY APPOIN	TING AUTHORITY (para 2-3, AR 15-6)
The findings and recommendations of the <i>Anvestigating officer</i> (board) are substitutions). (If the appointing authority returns the proceedings to the invector corrective action, attach that correspondence (or a summary, if oral) as a nu	(approved) (disapproved) (approved with following exceptions/ stigating officer or board for further proceedings or mbered inclosure.)
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#### DEPARTMENT OF THE ARMY HEADQUARTERS, 1<sup>ST</sup> ARMORED DIVISION ARTILLERY Unit 92851 APO AE 09324-2851

REPLY TO ATTENTION OF

AETV-THT-XO

03 SEP 03

## MEMORANDUM FOR COMMANDER, 1<sup>st</sup> Armored Division

# SUBJECT: Results of AR 15-6 Investigation on Death of Iraqi National Detainee

1. Summary of Facts. At 221600 AUG 03, SGT conducted a changeover inspection of the 1-13 AR (Dakota) Detention Facility and assumed duties as the Commander of the Relief (COR). His guard detail consisted of three additional personnel: PFC and PFC During his inspection he counted/checked each detainee and inventoried the evidence room. During his check, SGT stated he observed Tariq, Zaid Muhammed (Iraqi Detainee) lying on the floor on his back fanning himself with an MRE box. He also stated Tariq looked up at him and waved. At that time, SGT saw no reason to suspect Tariq was becoming a heat casualty or suffering from any medical emergency. Approximately 221700 AUG 03, SGT departed the detention facility to pick up Class I for the detail. During this time, and PV2 and PFC started letting the detainees out of their cells to get water, use the latrine, and take a bath. PV2 opened the cells while PFC security from the end of the hall. During this process PV2 found Tariq provided uncontrollably kicking and rolling around on the floor. He opened the door and had two other detainees carry Tariq to the courtyard. They began to pour and rub water on Tariq in an attempt to cool him down. PV2 directed PFC directed to call the Battalion Aid Station (Dakota Bandaid) and within five minutes the medics were on site. The medics, led diagnosed the situation and determined Tariq was not sweating and had a shortness of breath. They immediately attempted to administer an IV to Tariq, but could not find a vein suitable enough to get the needle in. After a few attempts, they decided to transport Tariq to the Battalion Aid Station for further treatment. Approximately 221750 AUG 03, the medics arrived at the aid station and CPT (MD) and CPT (PA) assessed Tariq as unresponsive, weak shallow breaths, weak rapid pulse, and pupils fixed and dilated. CPT diagnosed Tariq as a possible heat stoke victim. They attempted to administer an IV and could not find a vein. After a few attempts, they decided to give the IV rectally. At the same time they intubated Tariq and placed him on 100 % oxygen. Tariq's axillary temperature was 102 degrees so they removed his clothes and attempted to cool him down with fans and water. Approximately 221815 AUG 03, the aid station transported Tariq to the Kadamiya University Hospital for further treatment. Enroute to the hospital Tariq went into cardiac arrest and CPT began administering CPR. Upon arriving to the hospital, Tariq had no heartbeat, no pulse, and was not breathing. He was pronounced dead and placed in the hospital morgue. Approximately 231700 AUG 03, Special Agent witnessed the autopsy of Tario and provided an Agent's Investigation Report. SA observed Dr. from the Armed Forces Institute of Pathology conduct the autopsy. There were no

apparent signs of trauma, bruising, cuts, or ligature marks. After the full autopsy, Dr. stated the death was a natural death, with no indications of physical abuse, and consistent with a heat stroke. SA stated the final autopsy results could take up to three months to be completed. Based on the preliminary autopsy results he determined there was no criminal intention or misconduct and closed the CID investigation.

#### 2. Findings,

a. Standing Operating Procedures at the Detention Facility.

<ol> <li>Guard Detail and shift.</li> <li>of Non-Commissioned Officer</li> </ol>	The guard detail comes from A as the COR and soldiers	√70 ENG per shift.	BN and consists
shift they have	off before the next shift.	After the	guards work a

2) Procedures at the Detention Facility. When a detainee is brought to the detention facility, the unit and/or the detainee is required to complete an inprocessing checklist and turn over any physical evidence. This includes name, address, offense, and any medical condition. The severity of the offense determines how the detainees are handled.

a) Curfew violators and minor offenses. These detainees are kept in the courtyard of the facility and have full access to water and a latrine. Normally after 24 hours they are released after completing some manual labor task such as policing a portion of the Battalion FOB.

b) Serious offenses. After inprocessing, these detainees

to one another before the Military Investigation Team (MIT) has a chance to interrogate them.

3) Class I for detainees. The detainees are given two humanitarian MREs daily. One is given for breakfast between 0700-0800 hours and the other is given for dinner between 1700-1900 hours. Water is usually given every three hours, but is available upon request.

4) Procedures conducted due to the extreme temperature. The detainees in the cells are let out at least every three hours to get water, use the latrine, and take a bath. On the hotter days water is given upon request and the guards attempt to let the detainees out of the cells more often. The influx of new detainees sometimes prevents letting them out more often than every three hours.

b. SOP within directed 1AD Policy. 1AD FRAGO 383A (General Order – Civilian and Detainee Maltreatment) outlines the proper procedures to be followed by all 1AD personnel when dealing with Iraqi civilians and/or detainees. Based on my interviews and observations of the detention facility there is no maltreatment of detainees evident. The guards are doing everything within their power to ensure the detainees are well cared for.

AETV-THT-XO

### SUBJECT: Results of AR 15-6 Investigation

c. Detention Facility. The detention facility was an Iraqi jail before the war. It has latrines with showers and toilets, but has no type of environmental control units. The lack of ventilation within the one and two man cells causes the temperature within the cells to be higher than the outside temperature. The cells looked like they had exhaust fans attached to the windows to help remove some of the heat. After the war the facility was heavily looted and upon U.S. occupation of the facility the electricity/water did not work and most of the fixtures were stolen. 1-13 AR has brought running water and electricity back into the facility. The electricity is limited to lights in every cell and only a few outlets. The Battalion currently has a contractor who is remodeling and upgrading the facility in preparation to turn it over to the 18<sup>th</sup> MP BN.

d. Medical Treatment of detainees. The Battalion Aid Station responds to all medical requests/emergencies from the detention facility. The BN PA stated they have to respond to a request at least once during every shift. The doctor and PA also stated they have treated numerous types of ailments, including dehydration, but never have had to treat someone with a heat injury.

### 3. Recommendations.

a. On days when the temperature is extremely high, consider removing the detainees from the cells and letting them into the courtyard. The consideration of intelligence lost due the detainees being able to talk to one another before the MIT can interrogate them has to weighed against the threat of loss of life due to the extreme heat in the cells. Recommend this be considered until the daily temperature decreases to a suitable level. If this is not feasible, then continue the current procedures.

b. Continue and if possible accelerate the remodeling of the facility. If the contract does not specify the installation of exhaust fans in the cells either modify the contract or authorize FOO/CERP money to purchase and install the fans.

c. Consider increasing the guard detail from four to six personnel to allow for simultaneous operations of inprocessing new detainees and supporting the ones already in the cells.

d. Ensure the guards working at the facility are properly trained on first aid and know how to identify the characteristics of heat injuries.

4. Conclusion. It is my belief that no one at the Detention Facility was the cause of and should not be held liable for the death of Zaid Tariq. This belief is supported by the fact that the CID investigator found no evidence of mistreatment and closed his case. Based on the situation and circumstances at the facility the guards took every precaution to prevent Tariq's death. During my visit to the facility there was no mistreatment of detainees evident in the facility. Water and food is readily available and precautions are taken to reduce the threat of heat injuries. Based on the statements of the 3<sup>rd</sup> BDE Surgeon, MAJ (MD)

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victim. This is clearly speculation on their part, but there could have been some other medical condition, coupled with the heat, that brought on the death of Tariq. The cause of his death will not be fully determined until the final results of the autopsy is received in three to four months.



MAJ(P), FA Executive Officer

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#### DEPARTMENT OF THE ARMY HEADQUARTERS, 1ST ARMORED DIVISION BAGHDAD INTERNATIONAL AIRPORT APO AE 09324

AETV-THZ

S: 30 Aug 2003 27 Aug 2003

MEMORANDUM FOR MAJ(P) Baghdad, Iraq

Headquarters, DIVARTY, 1st Armored Division,

SUBJECT: AR 15-6 Investigation Officer Appointment

1. <u>Appointment.</u> You are appointed as an investigating officer under AR 15-6 (Procedure for Investigation Officers and Boards of Officers). You will investigate the death of an Iraqi detainee, Ziad Al-Hashim Tariq. During a routine check, guards noticed the detainee was in medical distress at approximately 1730 hours on or about 22 August 2003. A preliminary investigation into these events has already begun. You should contact MAJ **Example 1** the 3 BCT Judge Advocate, at 551-**1** to obtain the information already gathered. This investigation is your primary duty and takes precedence over all other assigned duties.

2. <u>Legal Orientation</u>. Before you begin your investigation, you must receive a briefing from CPT with a lAD Administrative Law Attorney, your legal advisor (DNVT 551 and ). You must complete your legal briefing no later than 28 Aug 2003. You will consult with CPT with regarding all aspects of this investigation. CPT will brief you in the following areas: developing an investigation plan; determining whether you should advise witnesses of their rights under Article 31, UCMJ, or the Fifth Amendment of the Constitution; and preparing findings and recommendations. He will also direct you to the forms and regulations you will need to complete your investigation.

3. <u>Procedures.</u> You will conduct this investigation using the informal procedures outlined in AR 15-6, chapter 4. No individual has been named as the respondent at this time. All witnesses will be sworn before being interviewed by you. If practical, you will interview all witnesses in person, and thoroughly document all interviews in writing on a DA Form 2823 (Sworn Statement). If you come to suspect any person of committing criminal conduct during the course of this investigation, you must advise that person of their Article 31 or Fifth Amendment rights, as appropriate. Document rights waivers by witnesses on a DA Form 3881 (Rights Warning Procedures/Waiver Certificate). You may also need to provide certain witnesses with Privacy Act statements before you solicit any information from them. You will maintain a written chronology of your actions on this investigation. I strongly encourage you to consult your legal advisor if you have any questions regarding this procedure.

4. <u>Conduct of Investigation</u>. The report of investigation must include, but is not limited to, findings on the following issues:

a. The cause of death as determined by an Armed Forces Institute of Pathology autopsy or forensic examination performed on or about 23 August 2003.

b. Identify any other pertinent duties, responsibilities, and standards in Department of Defense, U.S. Central Command, Army, Combined Forces Land Component Command, ARCENT, V Corps, and 1<sup>st</sup> Armored Division directives, regulations, policies, standing operating procedures, and other authoritative sources that may be relevant to the allegations, and determine the extent to which individuals involved discharged these duties and responsibilities or upheld these standards.



### AETV-THZ

### SUBJECT: AR 15-6 Investigation Officer Appointment

c. Report any other findings and recommendation you deem relevant, to include administrative and/or disciplinary action you determine may be appropriate.

d. Maintain a written chronology of your actions on this investigation.

5. <u>Report of Investigation</u>. Submit your findings and recommendations on DA Form 1574 (Report of Proceedings by an Investigation Officer/Board of Officers) to CPT no later than 29 Aug 2003. Submit any requests to change this suspense or the scope of investigation to me in writing through your legal advisor. Submit your investigation in the following order:

a. DA Form 1574 with sufficient findings and recommendations;

b. This letter of appointment as Enclosure 1;

c. Your chronology as Enclosure 2;

d. Any Privacy Act statements as subsequent Enclosures;

e. An index of exhibits as the final numbered Enclosure; and

f. All exhibits labelled in successive order (A, B, C, etc.)

6. <u>Criminal Misconduct</u>. If in the process of this investigation you determine that someone senior to you has engaged in misconduct or that any other factors exist that could raise the appearance of a conflict of interest, report this fact immediately to your legal advisor. If you discover evidence of criminal misconduct during the course of your investigation, immediately notify your legal advisor before proceeding further.

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MARTIN E. DEMPSE Brigadier General Commanding

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# **CHRONOLOGY OF INVESTIGATION**

### <u>DTG</u>

**EVENT** 

291600AUG03	Conducted Inbrief with CPT
291800AUG03	
	Contacted 3 <sup>rd</sup> Bde SJA, MAJ <b>Contacted</b> to get copies of statements collected during Commander's Inquiry.
291900AUG03	
	statements.
292100AUG03	Received and reviewed Statements from DIV SJA
292200AUG03	Downloaded and reviewed DIV FRAGO 383A (General Order – Civilian
	of Detainee Maltreatment).
301530AUG03	Reviewed statements again and developed questions for the soldiers
010000000000	involved in the incident.
010900SEP03	Contacted DIV SJA for information on how to acquire the autopsy.
011100SEP03	Contacted CID Special Agent (SA) for autonsy report
011130SEP03	Contacted MAJ Holycross to get digital photos of detainee and facility
011200SEP03	Contacted 1-13 AK to coordinate appointment time to interview the
01122005002	officers and soldiers involved in the incident
011320SEP03	Received call from SA and set up appointment.
011330SEP03	Conducted interview with SA and received an Agent's
021200SEP03	Investigation Report.
0212003EF03	Conducted interviews at the 3 <sup>rd</sup> BDE TOC with SGT and CPT
	(MD) Also, received a Medical Summary from CPT
	digital photos of the detainee and the detention facility from MAJ
021400SEP03	Conducted interview and that to the man a state of the
	Conducted interviews at the 1-13 AR TOC with CPT (MD) CPT (PA) and SGT
021500SEP03	
:	
021730SEP03	
	Conducted walk through with SGT <b>and took digital photos of</b> detention facility.
022000SEP03	Organized statements/reports and began compiling final AR 15-6 informal
	report
031400SEP03	Completed AR15-6.
031500SEP03	Turned in final AR 15-6 Investigation Report to CPT

# **INDEX**

<b>EXHIBITS</b>	<u>SUBJECT</u>
А	DIV FRAGO 383A (General Order – Civilian or Detainee Maltreatment),
B	TF 1-13 AR SIR to 3 <sup>rd</sup> BDE, no date
C D	Summary of Incident by 3 <sup>rd</sup> BDE Surgeon, CPT no date
E	Sworn Statement of SGT dated 22 AUG 03
E F	Sworn Statement of SGT dated 02 SEP 03
G	Sworn Statement of PV2 Sworn Statement of PFC
Н	
1	Sulom States of COOM
J	Sworn Statement of CPT dated 22 AUG 03
K	Sworn Statement of CPT
L	CPT Standard Form 600 – Chronological Record of Medical Care
М	To realment to Zaid Tariq, dated 22 AUG 03
N	SA Investigation Report, dated 01 SEP 03
0	Sworn Statement of MAJ dated 02 SEP 03 Sworn Statement of SGT dated 02 SEP 03
Р	
Q	Sworn Statement of SPO
R	Digital Photos of Zaid Tariq (Post Mortem) and the Detention Facility

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