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Patrick Clark 05/18/2005 12:06:27 PM From DB/Inbox: DS Shared InBox

Cable Text:
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TELEGRAM

May 18, 2005

To: SECSTATE WASHDC - PRIORITY
Action: DS
From: AMEMBASSY BAGHDAD (BAGHDAD 2086 - PRIORITY)
TAGS: ASEC
Captions: DS CHANNEL, SENSITIVE
Subject: FINAL REPORT AND RECOMMENDATIONS: PSD QRF LETHAL FORCE INCIDENT
Ref: A. BAGHDAD 2016 B. STATE 73925

(U) SENSITIVE BUT UNCLASSIFIED. PROTECT ACCORDINGLY.

1. (U) This is an action request for DS/OPO/HTP. Please see paragraph 11.

2. (SBU) SUMMARY AND RECOMMENDATIONS: As initially reported in ref A, on 12 May 2005 at approximately 1400 hours a Blackwater Security-operated quick reaction force (QRF) fired on an Iraqi vehicle while escorting a protective security detail from the ABC News building in Baghdad. Subsequent investigation determined that the shooting resulted in the death of one Iraqi national and the wounding of two others. Available evidence fails to establish that this use of lethal force was reasonable and consistent with RSO Baghdad or DS policy for the employment of such measures. Lethal force was used prior to the exhaustion of all available options dictated by prudence and DS-standard responses. Statements from the involved PSD members failed to articulate a perception of imminent threat consistent with that of a reasonable individual under similar circumstances and sufficient to warrant the use of lethal force. No information that suggests deliberate or willful misconduct, or malicious intent in the use of deadly force was revealed. Based on these conclusions, RSO Baghdad recommends that the two PSD members who fired on the vehicle, [redacted] and [redacted] be dismissed from the WPPS contract and barred from further work under WPPS. END SUMMARY C-6

3. (SBU) On May 12, 2005 at approximately 1500 hours, the

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Regional Security Office Tactical Operations Center (RSO TOC) received notification from an outside source that a Chief of Mission protective security detail (PSD) may have been involved in a fatal shooting in the vicinity of the ABC News building in Baghdad. The source stated that two Iraqi nationals had been killed and one injured in the incident. At nearly the same time, Blackwater Security in-country management formally informed the RSO TOC that a Blackwater-operated quick reaction force (QRF), designated Templar 2, had been involved in a shooting in the vicinity of the ABC News Building in Baghdad. Based on these reports, RSO Baghdad determined that a full investigation into the circumstances surrounding the use of lethal force was warranted.

4. (SBU) On 12 May 2005, ARSOs interviewed [redacted] identified as one of the PSD members who employed lethal force. [redacted] was advised of the administrative nature of the investigation and of his obligation to cooperate. [redacted] was further advised that no statement given under administrative compulsion could be used criminally against him, but that failure to provide true and full answers might constitute a violation of 18 USC 1001. [redacted] stated that Templar 2, consisting of two HMMVVs and a Chevrolet Suburban ambulance, was operating in support of another protective detail, Templar 22. [redacted] further stated that, at the time of the incident, he was the turret gunner on the lead HMMVV. [redacted] recalled that he was armed with a Colt M4 carbine on his person and an M240B medium machine gun mounted in the turret. [redacted] stated that he last qualified with his assigned M4 in January 2005. [redacted] alleged that he had never received formal instruction regarding RSO Baghdad and/or DS rules of engagement, instead gleaning his understanding from conversations with other members of Templar 2.

[redacted] stated that as the combined Templar 2 and Templar 22 motorcade departed the ABC News Building it turned left onto a small side street and approached a larger thoroughfare. According to [redacted] as his lead HMMVV approached the intersection in order to turn right, he noticed a white vehicle approaching from the left on the main road. [redacted] estimated that the white vehicle was 50) 75 meters from the intersection and traveling at approximately 45) 50 miles per hour. [redacted] confirmed that he first saw the white vehicle before the lead HMMVV had entered the intersection. [redacted] admitted that he made no attempt to communicate the presence of the vehicle to the HMMVV driver or right front.

[redacted] recalled that his HMMVV continued into the intersection and began its right turn, maintaining a speed of approximately 10 miles per hour. [redacted] stated that he began to give a visual hand signal to the white vehicle;

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instructing it to stop, while simultaneously whistling. C-6
[] admitted that it was unlikely the driver of the white vehicle heard the whistling over the intermittent siren being operated by the HMMVV, s right front. [] claimed that C-6

the white vehicle failed to respond to these signals and continued at a constant rate of speed and on a constant path toward the HMMVV.

[] stated that he then raised his Colt M4 carbine, waited C-6 approximately two seconds, and when the white vehicle failed to yield, fired two rounds. [] claimed that the vehicle C-6 was approximately 30 feet from the HMMVV when he fired. C-6
[] did not see his rounds impact, but stated that his aiming point was the hood. [] recalled that immediately C-6 after he fired, the white vehicle came to an abrupt stop just short of the HMMVV. [] claimed that he could not see the C-6 condition of the driver and any occupants due to glare from the white vehicle, s windshield. [] approximated that C-6 the entire incident, from his first warning until the firing of shots, lasted five seconds.

In response to direct questioning, [] stated that his C-6 HMMVV never stopped during the engagement, but continued to roll into and through the intersection at a constant rate of speed. [] did not recall hearing any other shots fired C-6 during the incident.

According to his written statement, confirmed by information given during his interview, [] claimed that he perceived C-6 the vehicle as an imminent threat of serious injury or death because of its high rate of speed and failure to comply with his signals.

[] stated that when Templar 2 returned to the Embassy C-6 Annex a debriefing was conducted with all the team members. [] claimed that it was during this debriefing that he C-6 learned [] had also fired on the white vehicle. [] C-6 denied that any member of Blackwater management was present during this meeting, or having been asked to alter, omit, or fabricate any information when describing the incident to investigators.

5. (SBU) On 12 May 2005, ARSO investigators interviewed Michael [] identified as one of the PSD members who C-6 employed lethal force. [] was advised of the C-6 administrative nature of the investigation and of his obligation to cooperate. [] was further advised that no C-6 statement given under administrative compulsion could be used criminally against him, but that failure to provide true and full answers might constitute a violation of 18 USC 1001. [] confirmed that Templar 2, consisting of two HMMVVs C-6

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and a Chevrolet Suburban ambulance, was operating in support of another protective detail, Templar 22. [] further stated that, at the time of the incident, he was the left door gunner on the lead HMMVV. [] recalled that he was armed with a Colt M4 carbine. [] stated that he last qualified with his assigned M4 approximately 10 months ago while in pre-deployment training. [] could not recall ever having received formal training in RSO Baghdad and/or DS rules of engagement. [] stated that, as he understood them, his rules of engagement required only that he perceive a threat in order to justify the use of lethal force.

[] explained that at approximately 1400 hours Templar 2, in support of Templar 22, departed the ABC News Building in Baghdad. [] described the motorcade as his lead HMMVV followed by the four Chevrolet Suburbans belong to Templar 22, followed by the Templar 2 Chevrolet Suburban ambulance, followed by the Templar 2 rear HMMVV. [] recalled turning left out of the ABC compound onto a small alley which dead-ended into a larger road. [] described the alley as a two-lane road with bi-directional traffic and cars parked along both sides. [] recalled that the larger road was a four-lane bi-directional street, with cars parked along both sides and a median divider. [] stated that at the intersection of the alley and the street, there were multi-story buildings to the left and right fronting a standard-width sidewalk.

[] stated that as his HMMVV approached the intersection and his line-of-sight cleared the buildings at the corner, he observed a white Opel sedan approaching from the left side in the left, oncoming lane of the larger street. [] further stated that he noticed the sedan prior to his HMMVV entering the intersection when it was approximately 20 meters from him, and that it appeared to be traveling in excess of 45 miles per hour. He admitted that he made no attempt to communicate the approach of the vehicle to his driver or right front. [] recalled that as his HMMVV continued into a right turn at the intersection, he raised his arm and gave an indigenous hand signal meaning wait. [] admitted that, while giving this signal, he kept his hand and arm within the HMMVV, holding them up to the open left

window, but not breaking the plane of the window with either hand or arm.

[] continued that when this signal failed to stop the vehicle, he raised his M4 and placed the muzzle outside the window, aiming at the vehicle. [] estimated that the time between his use of the hand signal and the raising of his weapon was .5 to one second. [] stated that he then

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waited an additional .5 to one second, and when the sedan failed to yield, he fired two shots. [redacted] stated that these shots were fired when the sedan was 10) 15 meters from his HMMVV and that they were aimed at the center of the junction between the hood and the grill. [redacted] recalled that immediately after he ceased fire, the sedan came to an abrupt halt at the edge of the intersection. C-6

In response to direct questioning, [redacted] stated that his HMMVV never stopped during the engagement, but continued to roll into and through the intersection at approximately 15) 20 miles per hour. [redacted] claimed that he did not see his rounds impact the sedan and was unable to see the occupants of the sedan prior to, during, or subsequent to the engagement due to glare from the sedan,s windshield. [redacted] did not recall hearing any other shots fired during the incident. C-6

[redacted] written and verbal statements claimed that he assessed the sedan as an imminent threat of serious injury or death based on its high rate of speed and on a Be On the Lookout, (BOLO) for a white Opel sedan vehicle-borne improvised explosive device given to him the morning of the mission by Templar 2 Intelligence Officer Dominic JU. Additionally, [redacted] explained that he ordinarily does not consider vehicles in which the driver is clearly not paying attention to hand and arm signals as a threat, but he found the sedan,s lack of response to his signals to be aggressive behavior. [redacted] was unable to provide further specific information regarding the BOLO with which he identified the sedan, but stressed that the information came from JU in a briefing prior to his team,s mission that day. C-6

[redacted] stated that a debriefing was conducted when Templar 2 returned to the Embassy Annex, and that it was at this time he first learned that [redacted] had also fired on the sedan. [redacted] denied that any member of Blackwater management was present at the meeting, or having been asked to alter, omit, or fabricate any information when describing the incident to investigators. C-6

6. (SBU) ARSO investigators also interviewed the driver and right front of the lead HMMVV, [redacted] and [redacted], and the driver and right front of the Templar 22 lead Suburban, [redacted] and [redacted]. [redacted] and [redacted] corroborated information already given by [redacted] and confirmed that they were not provided any information regarding the approach of the vehicle prior to hearing shots fired. [redacted] denied observing the white vehicle when he checked to his left prior to entering the intersection. [redacted] stated that, after the shooting, he attempted to inform the RSO TOC by radio of the incident but was unable to establish contact. [redacted] recalled that the C-6

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Templar 22 shift leader tried to raise the TOC as well but was likewise unsuccessful.

██████ and ██████ confirmed those parts of ██████ statements which they personally witnessed. C-6
However, both individuals claimed that the lead HMMVV stopped in the intersection during the engagement and did not proceed forward again until after the white vehicle came to a stop. ██████ related that at the time of the engagement his vehicle, the first behind the lead HMMVV, was approximately 50) 100 meters to the HMMVV,s rear on the side alley. ██████ also related that, as he passed the white vehicle, he noted what appeared to be a bullet impact in the left lower portion of the hood. ██████ recalled seeing three occupants in the vehicle but was unable to determine their condition after the shooting. ██████ stated that the white vehicle came to a stop within five feet of rear bumper of the HMMVV and that the remainder of the motorcade passed within a similar distance while turning onto the main road. ██████ further stated that, as his vehicle passed, he noted two bullet impacts in the lower left (passenger) portion of the windshield and two occupants raising their hands.

7. (SBU) On 14 May 2005, RSO Baghdad received a report from INL-contracted International Police Liaison Officers (IPLOs) assigned to the Iraqi police station which responded to the shooting incident. This report confirmed that Templar 2 had fired on a white, 1985 Opel Senator containing three Iraqi males. The driver, a 32-year-old Iraq male, was wounded in

the left arm, treated and released from a local hospital. The front passenger, a 45 year old Iraqi male, was wounded in the left arm, treated at a local hospital and, as of 14 May, was still hospitalized. The passenger in the rear seat, a 23-year-old Iraqi male, was killed. He suffered two gunshot wounds to the sternum area. According to a statement given to the investigating Iraqi police officer, the driver of the Opel was surprised by the sudden appearance of an American convoy. Before he had an opportunity to react, shots were fired into the vehicle. The spouse of the deceased subject has filed a complaint related to the incident with the Iraqi police. RSO Baghdad has requested further IPLO assistance in obtaining photographs of the damage done to the Opel, and full statements from the two surviving occupants, as well as a witness identified by the Iraqi police investigator. This information is currently pending and any significant evidence developed will be related septel.

8. (SBU) On 15 May 2005, ARSO investigators interviewed Dominic JU, the Intelligence Officer for Templar 2, in order to confirm ██████ statements regarding a BOLO on a white Opel. JU was advised of the administrative nature of the C-6

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investigation and of his obligation to cooperate. JU was further advised that no statement given under administrative compulsion could be used criminally against him, but that failure to provide true and full answers might constitute a violation of 18 USC 1001. JU provided investigators with a photocopy of the notes which formed the basis for his briefing on the day of the incident. The notes contained only one BOLO, for a white Mitsubishi with a black front driver's side fender, which was reported to be a VBIED targeting the International Zone. JU averred that this was the only BOLO he briefed to Templar 2 on the day of the incident. In response to a direct question, JU stated that he had not provided any information regarding a white Opel sedan as a threat vehicle on the day of the incident.

9. (SBU) ARSO investigators reviewed the information on which the BOLO for the white Mitsubishi was based and determined that its specificity on a number of points was such that the white Opel sedan could not reasonably have been mistaken for this possible VBIED. A review of all cumulative BOLO lists currently available to PSDs failed to reveal a single lookout for a white Opel sedan.

10. (SBU) COMMENT: RSO Baghdad's investigation determined that the PSD members who fired on the white vehicle failed to avail themselves of reasonable and prudent options to prevent the use of lethal force. They failed to communicate critical information to the driver and right front of the vehicle and by so doing precluded any possibility of holding the motorcade on the side alley until the white vehicle had passed, clearing the road. By their own descriptions, both individuals provided signals to the white vehicle which were perfunctory and which a reasonable person, in the same circumstances, would foresee to be ineffective. As articulated by both shooters, the alleged imminent threat posed by the white vehicle is one which a reasonable person, under the same circumstances, would not perceive. claim that the vehicle matched a BOLO description appears baseless. Thus, both individuals perceived an imminent threat based solely on the fact that the vehicle was traveling at a moderate rate of speed on an open road, displaying no aggressive behavior such as rapid acceleration or change in direction. The failure to exhaust all reasonable and prudent non-lethal measures, as well as the lack of a reasonable imminent threat of serious injury or death, leads RSO Baghdad to conclude that the use of lethal force violated DS policy.

11. (U) ACTION REQUEST: Per ref B, RSO Baghdad requests that DS/OPO/HTP COR coordinate with Blackwater regarding the dismissal of [redacted] Coordination with the in-country project manager is already on going. RSO Baghdad also recommends that both individuals be barred from any

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future employment under WPPS.

12. (U) POCs for further information are RSO [REDACTED] (Tel: [REDACTED] email: [REDACTED]@state.gov) or ARSO [REDACTED] (Tel: [REDACTED], email: [REDACTED]@state.gov).
[REDACTED]