

Morrison

DEPARTMENT OF THE ARMY
HEADQUARTERS, 5TH BATTALION, 20TH INFANTRY REGIMENT
1ST BRIGADE, 25TH INFANTRY DIVISION (LIGHT)
Fort Lewis, WA 98433-9514

AFZH-BAG

31 October _____

MEMORANDUM FOR LT _____, Headquarters and Headquarters Company, 5th Battalion,
20th Infantry Regiment, 1st Brigade, 25th Infantry Division (Light), Fort Lewis, Washington, 98433

SUBJECT: Appointment as an Investigating Officer

1. Effective immediately, you are appointed as an Investigating Officer pursuant to AR 15-6 to conduct an investigation of the facts and circumstances surrounding the injury of PV2 Smith at Kudun Rail Station, Republic of Korea. You will investigate the personnel who were involved in rail load operations between Pier 8 and Kudun Station. You will also investigate any other relevant facts and information, which may pertain to this incident.
2. You will contact the Brigade Staff Judge Advocate, at 967-0722 for advice prior to commencing your investigation. You will follow the informal procedures outlined in AR 15-6. All witness statements taken will be sworn. You will provide a written report containing your findings and recommendations to me not later than twenty-one days from the date of this memorandum. Your recommendations will include whether or not judicial or non-judicial punishment is appropriate in this situation.
3. If, in the course of your investigation, you come to suspect that certain people may have committed a crime, you must advise them of their rights under the UCMJ, Article 31, or the Fifth Amendment, as appropriate. You should also have them fill out a DA Form 3881 before questioning them further. In addition, you must provide them a Privacy Act Statement before you solicit any (further) personal information.

ALEXANDER D. PERWICH II
LTC, IN
Commanding

DA 15-74 / line through all
Blk (A) board procedure

ENCL I, AR 15-6 Investigation, 24 JUL 98

NARRATIVE OF EVENTS

The morning of 30 October, [REDACTED] the rail team ate breakfast at the messhall at Camp Hialeah. At 0800 they left for the rail head at Pier 8 in Pusan. Upon arrival at Pier 8, SFC [REDACTED] gave a quick safety brief, and the soldiers began to load the tracked vehicles onto the train.

The soldiers drove the tracked vehicles onto the rail cars and assisted the Korean stevedores with tiedown. Around noon, the unit brought MREs for lunch at the railhead. It seems that not enough were brought since some of the soldiers ate one of the 3 MREs issued for the trip as lunch on 30 October.

After lunch, the soldiers continued with rail load operations. At about 1530 the crew broke for a hot dinner. The SFC who brought the meal was concerned about traffic and rushed the meal. As a result, some soldiers did not finish their meals.

When rail loading was complete, SSG [REDACTED] from the [REDACTED] BN, gave a safety brief for the ride north in the rail car. He briefed that:

The soldier should not stick arms out of the windows of the train;

They should hold on to the seats when walking down the aisle;

They should brace themselves when the train was coupling;

There was a latrine in the back of the car that looked like a sink, so there was not need to urinate out the windows;

Their car would be moved from the front to the rear of the train; and

The estimated time of arrival was [REDACTED], but no later than [REDACTED].

THERE WAS NOT MENTION WHAT-SO-EVER OF PROCEDURES AT STOPS, OR CAUTION REGARDING ELECTRICAL WIRES.

The soldiers loaded their personal gear on the passenger car and boarded the train. The rail car was crowded, so many of the soldiers put their bags in their

Report of Investigation: PV2 [REDACTED]

tracked vehicles instead of in the train passenger car as planned. Many of the soldiers had packed MREs in their bags. The combination of soldiers eating MREs for lunch on 30 October and storing bags with MREs in tracked vehicles meant that there were less than two MREs per soldier in the passenger car of the train for a twenty-one hour trip.

While in transit, there were Korean rail workers on the train. This surprised 2LT [REDACTED], the train OIC. These workers switched out several times during the trip. One was caught trying to steal an MRE from a sleeping soldier. Another came on drunk in the middle of the night and was trying to buy pornographic magazines from soldiers on the train.

The train stopped ten to twelve times for periods from ten minutes to several hours. At each stop, the Korean rail workers indicated the duration of each stop, and left the rail car. At most of the stops, all of the soldiers stayed on the rail car. Some of the soldiers would stand on the back steps to smoke.

One or two stops before the accident, 2LT [REDACTED], SFC [REDACTED] and several other soldiers left the rail car when it stopped for an extended period. The train was pulled off onto a side track without overhead wires. Some of the soldiers who were out of food were allowed to go onto their vehicles to get MREs.

By the time the train got to Kudun, nearly all of the soldiers were out of food and water. 2LT [REDACTED] said that soldiers could go get MREs. He had not been outside, and had not seen the overhead wires.

At approximately [REDACTED] PV2 [REDACTED] climbed on top of his Armored Combat Excavator (ACE) to get an MRE. When he got out of his ACE, he tried to close the driver's hatch with his foot. As he lifted his foot, his head went back, bumping into an electric rail cable carrying 25,000 volts of electricity. Witnesses report seeing a bright flash and hearing a low sound like the sound of a mortar firing. PV2 [REDACTED] immediately collapsed--unconscious.

The shock burned two holes in PV2 [REDACTED] soft cap as it entered his body. It exited through his right hand, and pelvic area. It burnt all of the hair off of his body. The summer weight BDU he wore burnt in the exit areas. All of his pubic hair was burnt off, and his groin was badly charred.

Report of Investigation: PV2 [REDACTED]

When the soldiers heard the noise, they rushed to help PV2 [REDACTED]. Before they could climb aboard the train, the Korean railroad workers stopped the soldiers from climbing the train to help PV2 [REDACTED]. They said that he was dead and they should wait until the power was turned off before they boarded the train. SFC [REDACTED] was initially afraid that a hot wire was still touching the ACE, so he told the troops to stay back until he could see that it was safe.

PV2 [REDACTED] lay unconscious on the ACE, burning, for approximately two minutes. When the Koreans left, SSG [REDACTED] said, "I am not going to let him burn," and climbed onto the ACE. SGT [REDACTED], SGT [REDACTED], and SPC [REDACTED] rushed to the train following SSG [REDACTED]. SSG [REDACTED] discovered that PV2 [REDACTED] was alive. SGT [REDACTED] and SGT [REDACTED] patted out the flames and called for a body bag to carry him off the ACE.

As they moved him off of the train, his smoldering BDU reignited. The soldiers on the ACE again extinguished the flames. By this time, PV2 [REDACTED] was conscience. He was in extreme pain and did not know what happened to him. PV2 [REDACTED] said, "help me, help me SGT [REDACTED]." SGT [REDACTED] held PV2 [REDACTED] hand and consoled the injured soldier.

The team got PV2 [REDACTED] into the body bag trying not to disturb the burnt areas. Several other soldiers helped carry him off the ACE and pass him down to the ground.

At the same time 2LT [REDACTED] went to call for Medevac, although he was unable to get through. SFC [REDACTED] controlled the group as they ran around trying to get the needed supplies.

SSG [REDACTED] went to a phone as soon as they got PV2 [REDACTED] off the ACE. He was not able to get through on the number on the SOFA card, but tried to get information at Camp Humphries. When that did not answer, he changed the last four numbers until he reached a unit. He gave the unit the information (i.e. grid coordinate, Soldier's name, his own name, unit) and got confirmation that a helicopter was on the way.

At the same time, SGT [REDACTED] called for combat lifesavers. PFC [REDACTED], SPC [REDACTED], SGT [REDACTED], SGT [REDACTED] and SGT [REDACTED] responded. They got him to a proposed landing zone (LZ) and started to administer treatment. They also comforted PV2 [REDACTED] and kept him breathing. Other soldiers were runners, getting the needed supplies for the

TIME LINE

30 October 96

- 0500 Rail team wakes up at Camp Hialia
- 0530 Hot A's at Camp Hialia
- 0600 Rail team moves to Pier 8
- 0800 Arrive at Pier 8 for upload, SFC [REDACTED] gives safety brief
- 0830 Team loads vehicles on rail
- 1130 Unit delivers MRE lunch
- 1530 Rail load is complete
- 1530 Unit delivers Hot meal
- 1800 Passenger car is loaded
- 1835 SSG [REDACTED], [REDACTED] Trans. gives safety brief
- 1900 Train departs Pier 8

31 October 96

- 1100 Train stops on side rail without overhead lines
- 1530 Train stops at Kudun
- 1600 PVT [REDACTED] gets electrocuted while getting an MRE
- 1602 Soldiers board ACE to evaluate the casualty
- 1620 LT [REDACTED], PA arrives on scene
- 1630 Medevac helicopter arrives



DEPARTMENT OF THE ARMY
PLU ARMY ROTC
PACIFIC LUTHERAN UNIVERSITY
TACOMA, WA 98447-0003

ATOD-AWA-PL

7 May 2003

MEMORANDUM FOR Commander, Headquarters and Headquarters Company, 5th Battalion, 20th Infantry Regiment, 1st Brigade, 25th Infantry Division (Light), Fort Lewis, Washington, 98433

SUBJECT: BN XO interview summary statement

1. The following are summary statements made by the BN Executive Officer, MAJ. Horn, concerning battalion policy letters and standards for within the battalion.
2. Stated that there was no existing BN rail load standard operating procedure for electric cable rail lines. There is one now after the incident with PV2 Smedlabb.
3. There is a standard rail load policy for non-electric cable rail lines.
4. There was no assistance from the 196th Transportation Battalion after requested who has conducted electric cable rail load operations previous to the incident.
5. There is a BN policy on keeping all hatches locked and sealed during rail movements with a serial number of the seal and not to be opened until the download phase is to be conducted.
6. Three points of contact while on top of tracked vehicles is the standard in the battalion.
7. Disappointed that there wasn't an adequate food distribution plan and proper storage on the passenger cars of the train and then the lack of supervision of the soldiers during the pauses of rail movement.
8. POC for this memorandum is 2LT Morrison at (253) 535-8740.

AARON E. MORRISON
2LT, IN
Investigating Officer

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 PURPOSE: To provide commanders and law enforcement officials with means by which information may be accurately
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 5th BN, 20th Infantry Regiment	2. DATE (YYYYMMDD) 2003/05/07	3. TIME 1600	4. FILE NUMBER
5. LAST NAME, FIRST NAME, MIDDLE NAME WERNER, HUGH	6. SSN	7. GRADE/STATUS O-1	

8. ORGANIZATION OR ADDRESS

9. I, _____, WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

Q: How long before the rail load operation were you identified as the OIC for the operation?
A: Last minute switch due to an emergency relief.

Q: What specific instructions were you given as the OIC of this operation in regards to safety, coordination with other units, and points of contact for information on the operation?
A: First rail load ever, no formal training, given a quick brief by SFC Underhill (2IC) and basically told to ensure that 3-points of contact was being maintained while on top of the vehicles. Given more instruction on the loading aspect of the vehicles onto the rail cars.

Q: Are you aware of the BN policy on 3-points of contact on tracked vehicles at all times while on top of them?
A: Yes, made aware of that.

Q: Did you lock and seal the hatches of the vehicles prior to departure and record the serial numbers from those locked seals? What is the BN policy on this?
A: Unable to secure serial number stamp seals as they were unavailable at the time according to the rail load NCOIC, but did use series 200 locks on all hatches.

Q: Was there an established chain of command for this operation starting with team leaders and ending with you as the overall in charge? Who was PV2 Smedlabb's leaders?
A: No designated chain of command, SFC Underhill (2IC) informed 2LT Werner that he could handle it, this was NCO business, and that it was only a small amount of operators.

Q: Were you aware of the estimated travel time for the train? What was it?
A: Trip would take about 24 hours to complete.

Q: Did you have measures prior to movement to issue MREs and water? What were they? Was an NCO in charge of supervising the MREs and water?
A: SFC Underhill again stated that he could handle this, don't worry about it.

Q: You reported that during the trip there were Koreans that either tried to steal items from your soldiers or were just annoying, did you have a guard element in place to protect against thieves or annoyments? Did you try to separate your element on the passenger car into one area away from problematic passengers?
A: Not designated by 2LT Werner, no knowledge if SFC Underhill had a guard in place or not. Did not take measures to guard against the Koreans or separate from them.

Q: Did you conduct some kind of advance recon of what the rail cars and train looked like and what they could accommodate as far as people and gear?
A: Refer to question 1

10. EXHIBIT	11. INITIALS OF PERSON MAKING STATEMENT	PAGE 1 OF _____ 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 _____ DATED _____

9. STATEMENT (Continued)

Q: When you left the train with SFC Underhill one or two stops before the incident, who was left in charge of the soldiers on the train?

A: SGT. Smith and a few of the other E-5s.

Q: Did you have an established list of priorities for the time when you reached the Kudun rail station, such as get accountability and prepare for vehicle off-load?

A: Yes, to prepare for download of vehicles, meet up with a POC at the site, and that hot chow would be at the site, but hot chow wasn't present.

Q: What guidance did you issue to your subordinate leadership in respect to keeping an eye on the soldiers and what they could and could not do during the trip? What was it?

A: Again SFC Underhill stated that this was NCO business and that there was little if any need of 2LT Werner, so no guidance was issued to subordinate leadership.

Q: Were you aware of the electric cables above the rail line at Kudun and the proximity of those cables to the vehicles? Were you given any warning whatsoever about electric cables during the trip?

A: Noticed about 3-4 foot distance between top of vehicles and the lines. No warning given about that nor issued.

Told soldiers to stay on train during movement until end of the trip.

Let some soldiers off to get snacks (poggy bait) a few times at local train station stop vendors.

NCOIC (SFC Underhill) said he had plenty of food and water for the trip, and soldiers shouldn't have been complaining of the need for chow.

.....END OF STATEMENT.....

AFFIDAVIT

I, _____, HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE _____. 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.

(Signature of Person Making Statement)

WITNESSES:

Subscribed and sworn to before me, a person authorized by law to administer oaths, this _____ day of _____, _____ at _____

ORGANIZATION OR ADDRESS

(Signature of Person Administering Oath)

ORGANIZATION OR ADDRESS

(Typed Name of Person Administering Oath)

(Authority To Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT

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5. LAST NAME, FIRST NAME, MIDDLE NAME NITTY, SPIKE	6. SSN		7. GRADE/STATUS E-7
8. ORGANIZATION OR ADDRESS			

9.

I, _____, WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

Q: Did the traffic on 30 October end up presenting a problem for your return from delivering hot chow for the rail loading operations for the supported element?
A: Traffic was heavy and did slow down movement to unit and leaving unit. Not all soldiers got hot chow, but SFC Nitty did give NCOIC of the operation extra three extra cases of MREs for emergency rations.

Q: How many MREs were the soldiers on the trip supposed to have with them for the duration?
A: 3 meals per man for emergency purposes only. The ration cycle for the trip was set up to be A-M-A.

Q: Was there any warning to the soldiers about eating their MREs early?
A: The soldiers were told that the MREs were for contingency only, and to save them in case hot chow did not make it to them.

Q: What were your "hard times" for delivering MREs and hot chow to the (ACE) engineer unit?
A: N/A, time was flexible

Q: Did you seek and or get permission to leave early from the rail load operations in order to get ahead of traffic? If so from whom?
A: Given authority to leave as needed as SFC Nitty had other units that he was supporting and he was given this authority from his higher headquarters.

.....END OF STATEMENT.....

10. EXHIBIT	11. INITIALS OF PERSON MAKING STATEMENT <i>SN</i>	PAGE 1 OF <u>1</u> PAGES
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[Handwritten Signature]

(Signature of Person Making Statement)

WITNESSES:

2LT Morrison, Avon

Subscribed and sworn to before me, a person authorized by law to administer oaths, this _____ day of _____, _____ at _____

ORGANIZATION OR ADDRESS

*PLU ROTC, 4th Region
Tacomas, WA. 98844*

(Signature of Person Administering Oath)

(Typed Name of Person Administering Oath)

ORGANIZATION OR ADDRESS

(Authority To Administer Oaths)

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5. LAST NAME, FIRST NAME, MIDDLE NAME JOHANSEN, MARCUS	6. SSN	7. GRADE/STATUS E-6	
8. ORGANIZATION OR ADDRESS			

9. I, _____, WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

Q: Did you include any other items in your safety brief than the statements listed in my survey?
A: SSG Johnansen added the statement about securing equipment for the trip and the need to secure the hatches.

Q: Was your safety Brief recited from memory or scripted?
A: Recited from memory

Q: Were the tracked vehicles locked and any kind of security measure in place prior to movement on the hatches and doors?
A: SSG Johansen did not conduct a spot check and relied instead on the unit being transported to conduct a check of this kind.

Q: How far out had you been given notice to give a safety brief for this specific rail loading operation?
A: 2 days out

Q: Was there any mention by you of the length of the trip and the necessity for food and water to be accessible?
A: SSG Jonansen mentioned the need for food and water storage readily available, that the trip would be a long one, and that the storage space in the passenger compartments was tight therefore reduce as much gear as possible.

Q: How many overhead electric cable rail load operations have you conducted, been a part of, and or have given a safety brief for?
A: Several times in the past

Q: Has your 196th Transportation BN ever suffered a casulaty from the electric cables before this incident with PV2 Smedlabbb?
A: Only the ROK soldiers have had casualties with one happening hours before PV2 Smedlabbb's incident. SSG Johansen assumed that the engineer unit was aware of the overhead cables and did not know that this unit was not from in-country and new to this type of rail loading.

.....END OF STATEMENT.....

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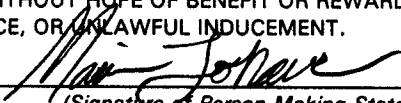
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(Signature of Person Making Statement)

WITNESSES:

ORGANIZATION OR ADDRESS

ORGANIZATION OR ADDRESS

Subscribed and sworn to before me, a person authorized by law to administer oaths, this _____ day of _____, _____ at _____

(Signature of Person Administering Oath)

(Typed Name of Person Administering Oath)

(Authority To Administer Oaths)

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5. LAST NAME, FIRST NAME, MIDDLE NAME UNDERHILL, FRODO	6. SSN	7. GRADE/STATUS E-7	
8. ORGANIZATION OR ADDRESS			

9. I, _____, WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

Q: SFC Underhill did you receive any extra MREs than what was issued to the rest of the soldiers as an emergency basis supply only?

A: 3 cases in pass. compartment, but slept, woke up, and gone, thinks the Koreans might of took them.

Q: Did you have a leadership breakdown for the soldiers on up to yourself for who was in charge and who were the first line supervisors? Who was PV2 Smedlabb's?

A: NO, small element, no detailed tasks to Junior NCO's.

Q: How long before the rail load operation were you notified that you were the NCOIC?

A: normally the guy that does them, he is the rail load expert. knew for awhile. Never with electric wires, no warning from trans BN.

Q: Were the vehicles locked for movement and did you conduct any checks to ensure that they were locked?

A: S=200 / no rail seals / no rail kit footlocker with seals as it was missing when arrived in Korea from states. NO time to request more seals as off-load RO/RO ship to rail was short.

Q: Were you aware that some of the soldiers stowed their gear and MREs in the tracked vehicles?

A: Specific lawful order to not store MREs in vehicles and any needed gear like CUC bag.

Q: Did you have a guard roster in place to protect the soldiers on the 24 hour trip from Koreans while in the passenger car?

A: No, because no identified need for it, nice Koreans

Q: Who gave PV2 Smedlabb permission to retrieve gear from his tracked vehicle?

A: Many of the guys needed MREs, so confirmed w/ 2LT to make sure. Was not outside to notice the electric cables. 2LT allowed soldiers to get Chow, even though SFC Underhill wanted this to be a learning lesson.

10. EXHIBIT

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9. STATEMENT (Continued)

Q: Did you have key control of all the locked hatches keys?

A: No key control, crews kept them, and nobody gets on vehicles until download, 3 guys didn't follow.

Q: Have you ever performed an electric cable rail load operation before?

A: No.

Q: Were you ever aware before the incident of the electric cable lines overhead? Could you approximate the distance of those cables overhead?

A: N/A

Q: Who gave permission for the soldiers to get on and off the train during intermittent stops on the trip? Was permission ever granted to retrieve gear from inside the tracked vehicles?

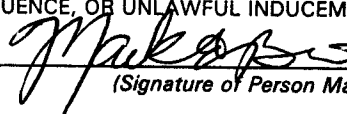
A: -

.....END OF STATEMENT.....

- too late, tried to be nice to them, normally pretty good folks, no guards.
- lag time at Kuden station with no POC, so no download until Rep. showed up.

AFFIDAVIT

I, _____, HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE _____. 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.


(Signature of Person Making Statement)

WITNESSES:

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(Signature of Person Administering Oath)

ORGANIZATION OR ADDRESS

(Typed Name of Person Administering Oath)

ORGANIZATION OR ADDRESS

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PAGE OF PAGES