PART II - RIGHTS WARNING PROCEDURE

THE WARNING

1. WARNING - Inform the suspect/accused of:
   a. Your official position.
   b. Nature of offense(s).
   c. The fact that he/she is a suspect/accused.
2. RIGHTS - Advise the suspect/accused of his/her rights as follows:
   "Before I ask you any questions, you must understand your rights."
   a. "You do not have to answer my questions or say anything."
   b. "Anything you say or do can be used as evidence against you in a criminal trial."
   c. (For personnel subject to the UCMJ) "You have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with you during questioning. This lawyer can be a civilian you arrange for at no expense to the Government or a military lawyer detailed for you at no expense to you, or both."

   - or -

   (For civilians not subject to the UCMJ) You have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with you during questioning. This lawyer can be one you arrange for at your own expense, or if you cannot afford a lawyer and want one, a lawyer will be appointed for you before any questioning begins."
   d. "If you are now willing to discuss the offense(s) under investigation, with or without a lawyer present, you have a right to stop answering questions at any time, or speak privately with a lawyer before answering further, even if you sign a waiver certificate."

Make certain the suspect/accused fully understands his/her rights.

THE WAIVER

"Do you understand your rights?"
(If the suspect/accused says "no," determine what is not understood, and if necessary repeat the appropriate rights advisement. If the suspect/accused says "yes," ask the following question.)

"Have you ever requested a lawyer after being read your rights?"
(If the suspect/accused says "yes," find out when and where. If the request was recent *(i.e., fewer than 30 days ago)*, obtain legal advice whether to continue the interrogation. If the suspect/accused says "no," or if the prior request was not recent, ask him/her the following question.)

"Do you want a lawyer at this time?"
(If the suspect/accused says "yes," stop the questioning until he/she has a lawyer. If the suspect/accused says "no," ask him/her the following question.)

"At this time, are you willing to discuss the offense(s) under investigation and make a statement without talking to a lawyer and without having a lawyer present with you?" *(If the suspect/accused says "no," stop the interview and have him/her read and sign the non-waiver section of the waiver certificate on the other side of this form. If the suspect/accused says "yes," have him/her read and sign the waiver section of the waiver certificate on the other side of this form.)*

SPECIAL INSTRUCTIONS

WHEN SUSPECT/ACCUSED REFUSES TO SIGN WAIVER CERTIFICATE: If the suspect/accused orally waives his/her rights but refuses to sign the waiver certificate, you may proceed with the questioning. Make notations on the waiver certificate to the effect that he/she has stated that he/she understands his/her rights, does not want a lawyer, wants to discuss the offense(s) under investigation, and refuses to sign the waiver certificate.

IF WAIVER CERTIFICATE CANNOT BE COMPLETED IMMEDIATELY: In all cases the waiver certificate must be completed as soon as possible. Every effort should be made to complete the waiver certificate before any questioning begins. If the waiver certificate cannot be completed at once, as in the case of street interrogation, completion may be temporarily postponed. Notes should be kept on the circumstances.

PRIOR INCRIMINATING STATEMENTS:

1. If the supsect/accused has made spontaneous incriminating statements before being properly advised of his/her rights he/she should be told that such statements do not obligate him/her to answer further questions.
2. If the suspect/accused was questioned as such either without being advised of his/her rights or some question exists as to the propriety of the first statement, the accused must be so advised. The office of the serving Staff Judge Advocate should be contacted for assistance in drafting the proper rights advisal.

NOTE: If 1 or 2 applies, the fact that the suspect/accused was advised accordingly should be noted in the comment section on the waiver certificate and initialed by the suspect/accused.

WHEN SUSPECT/ACCUSED DISPLAYS INDECISION ON EXERCISING HIS OR HER RIGHTS DURING THE INTERROGATION PROCESS: If during the interrogation, the suspect displays indecision about requesting counsel (for example, "Maybe I should get a lawyer."), further questioning must cease immediately. At that point, you may question the suspect/accused only concerning whether he or she desires to waive counsel. The questioning may not be utilized to discourage a suspect/accused from exercising his/her rights. (For example, do not make such comments as "If you didn't do anything wrong, you shouldn't need an attorney.")

COMMENTS *(Continued)*

SWORN STATEMENT

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

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 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	2. DATE (YYYYMMDD)	3. TIME	4. FILE NUMBER
Baghdad Iraq	20070409	1839 hrs	

5. LAST NAME, FIRST NAME, MIDDLE NAME	6. SSN	7. GRADE/STATUS
(b)(3), (b)(6)	(b)(3), (b)(6)	E-7/PSG

8. ORGANIZATION OR ADDRESS
A Trp 1-4 CAV

9.
I, (b)(3), (b)(6), WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

On or around 1500 hrs on 9 Apr 07, we were in contact and Area (b)(6) My Platoon SP'd FOB Falcon at 1300 hrs and was given (b)(2)High to move to (b)(2)High where the NP's were incontact, My Platoon moved and along the Patrol we were alerted of a white four door vehicle following over movement. My Platoon linked up with the NP's and they briefed us on where the contact was coming from. My Platoon manuvered to action on the contact. While the enemy was constantly displacing from house to house we found ourselves in a cordon west of a house we were taking fire from and observation of the Southern Portion of the (b)(2)High The cordon was set and the dismounts were preparing to enter when someone came over the radio and said Contact white car moving North. The dismounts yelled Stop + and fired two warning shots. The vehicle kept moving north toward the cordon, the vehicle moved out of the dismounts sector and into the 31 vehicles sector and the Gunner yelled Stop/+ kiff in arabic as well. The vehicle continue and the Gunner fired 2 (b)(2)High The Vehicle then backed up and appeared to be turning around moving South then the young man got out and ran towards the cordon. I yelled Stop he kept coming I then fired a warning shot then he got on the ground. My Platoon developed the situation then there. DU end of Statement

10. EXHIBIT	11. INITIALS OF PERSON MAKING STATEMENT	PAGE 1 OF 2 PAGES
	(b)(3), (b)(6)	

ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF _____ TAKEN AT _____ DATED _____"

THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT, AND PAGE NUMBER MUST BE BE INDICATED.

STATEMENT OF (b)(3), (b)(6) TAKEN AT 1852 DATED 9 APR 07

9. STATEMENT *(Continued)*

(b)(3), (b)(6)

(b)(3), (b)(6)

(b)(3), (b)(6)

(b)(3), (b)(6)

AFFIDAVIT

I, (b)(3), (b)(6), HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE 1. 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 INFLUEN

(b)(3), (b)(6)
(Signature of Person Making Statement)

WITNESSES:

(b)(3), (b)(6)
ORGANIZATION OR ADDRESS

(b)(3), (b)(6)
HHT 1-4 CAV, 4IBCT, 2ID FOB Falcon
ORGANIZATION OR ADDRESS APO AC 09361

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 9 day of April, 2007 at FOB Falcon, Iraq

(b)(3), (b)(6)
(Signature of Person Administering Oath)

(b)(3), (b)(6)
(Typed Name of Person Administering Oath)

Adjutant 1-4CAV
(Authority To Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT (b)(3), (b)(6) PAGE 2 OF 2 PAGES

RIGHTS WARNING PROCEDURE/WAIVER CERTIFICATE

For use of this form, see AR 190-30; the proponent agency is ODCSOPS

DATA REQUIRED BY THE PRIVACY ACT

AUTHORITY: Title 10, United States Code, Section 3012(g)
PRINCIPAL PURPOSE: 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	2. DATE	3. TIME	4. FILE NO.
FOB Falcon	12 APR 07	1400	

5. NAME (Last, First, MI)	8. ORGANIZATION OR ADDRESS
(b)(3), (b)(6)	A, 1-4 CAV FOB Falcon, Iraq APO AE 09361
6. SSN: (b)(3), (b)(6) — 7. GRADE/STATUS: ET/AD	

PART I - RIGHTS WAIVER/NON-WAIVER CERTIFICATE

Section A. Rights

The investigator whose name appears below told me that he/she is with the United States Army _____ and wanted to question me about the following offense(s) of which I am ~~suspected/accused~~: accidental shooting of civilian

Before he/she asked me any questions about the offense(s), however, he/she made it clear to me that I have the following rights:

1. I do not have to answer any question or say anything.
2. Anything I say or do can be used as evidence against me in a criminal trial.
3. *(For personnel subject to the UCMJ)* I have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with me during questioning. This lawyer can be a civilian lawyer I arrange for at no expense to the Government or a military lawyer detailed for me at no expense to me, or both.

   - or -

   (For civilians not subject to the UCMJ) I have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with me during questioning. I understand that this lawyer can be one that I arrange for at my own expense, or if I cannot afford a lawyer and want one, a lawyer will be appointed for me before any questioning begins.
4. If I am now willing to discuss the offense(s) under investigation, with or without a lawyer present, I have a right to stop answering questions at any time, or speak privately with a lawyer before answering further, even if I sign the waiver below.

5. COMMENTS *(Continue on reverse side)*

Section B. Waiver

I understand my rights as stated above. I am now willing to discuss the offense(s) under investigation and make a statement without talking to a lawyer first and without having a lawyer present with me.

WITNESSES *(If available)*	(b)(3), (b)(6)
1a. NAME *(Type or Print)* (b)(3), (b)(6)	
b. ORGANIZATION OR ADDRESS AND PHONE A TRP 1-4 CAV, 4 IBCT FOB Falcon Iraq APO AE 09361	4. SIGNATURE OF INVESTIGATOR (b)(3), (b)(6)
2a. NAME *(Type or Print)* (3), (b)	5. TYPED NAME OF INVESTIGATOR (b)(3), (b)(6)
b. ORGANIZATION OR ADDRESS AND PHONE A Trp, 1-4 CAV, 4 IBCT FOB Falcon, Iraq APO AE 09361	6. ORGANIZATION OF INVESTIGATOR HHT 1-4 CAV Fob Falcon Iraq

Section C. Non-waiver

1. I do not want to give up my rights
   - ☐ I want a lawyer
   - ☐ I do not want to be questioned or say anything
2. SIGNATURE OF INTERVIEWEE

ATTACH THIS WAIVER CERTIFICATE TO ANY SWORN STATEMENT *(DA FORM 2823)* SUBSEQUENTLY EXECUTED BY THE SUSPECT/ACCUSED

PART II - RIGHTS WARNING PROCEDURE

THE WARNING

1. WARNING - Inform the suspect/accused of:
   a. Your official position.
   b. Nature of offense(s).
   c. The fact that he/she is a suspect/accused.
2. RIGHTS - Advise the suspect/accused of his/her rights as follows:
   "Before I ask you any questions, you must understand your rights."
   a. "You do not have to answer my questions or say anything."
   b. "Anything you say or do can be used as evidence against you in a criminal trial."
   c. (For personnel subject to the UCMJ) "You have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with you during questioning. This lawyer can be a civilian you arrange for at no expense to the Government or a military lawyer detailed for you at no expense to you, or both."

   - or -

   (For civilians not subject to the UCMJ) You have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with you during questioning. This lawyer can be one you arrange for at your own expense, or if you cannot afford a lawyer and want one, a lawyer will be appointed for you before any questioning begins."
   d. "If you are now willing to discuss the offense(s) under investigation, with or without a lawyer present, you have a right to stop answering questions at any time, or speak privately with a lawyer before answering further, even if you sign a waiver certificate."

Make certain the suspect/accused fully understands his/her rights.

THE WAIVER

"Do you understand your rights?"
(If the suspect/accused says "no," determine what is not understood, and if necessary repeat the appropriate rights advisement. If the suspect/accused says "yes," ask the following question.)

"Have you ever requested a lawyer after being read your rights?"
(If the suspect/accused says "yes," find out when and where. If the request was recent *(i.e., fewer than 30 days ago)*, obtain legal advice whether to continue the interrogation. If the suspect/accused says "no," or if the prior request was not recent, ask him/her the following question.)

"Do you want a lawyer at this time?"
(If the suspect/accused says "yes," stop the questioning until he/she has a lawyer. If the suspect/accused says "no," ask him/her the following question.)

"At this time, are you willing to discuss the offense(s) under investigation and make a statement without talking to a lawyer and without having a lawyer present with you?" *(If the suspect/accused says "no," stop the interview and have him/her read and sign the non-waiver section of the waiver certificate on the other side of this form. If the suspect/accused says "yes," have him/her read and sign the waiver section of the waiver certificate on the other side of this form.)*

SPECIAL INSTRUCTIONS

WHEN SUSPECT/ACCUSED REFUSES TO SIGN WAIVER CERTIFICATE: If the suspect/accused orally waives his/her rights but refuses to sign the waiver certificate, you may proceed with the questioning. Make notations on the waiver certificate to the effect that he/she has stated that he/she understands his/her rights, does not want a lawyer, wants to discuss the offense(s) under investigation, and refuses to sign the waiver certificate.

IF WAIVER CERTIFICATE CANNOT BE COMPLETED IMMEDIATELY: In all cases the waiver certificate must be completed as soon as possible. Every effort should be made to complete the waiver certificate before any questioning begins. If the waiver certificate cannot be completed at once, as in the case of street interrogation, completion may be temporarily postponed. Notes should be kept on the circumstances.

PRIOR INCRIMINATING STATEMENTS:

1. If the supsect/accused has made spontaneous incriminating statements before being properly advised of his/her rights he/she should be told that such statements do not obligate him/her to answer further questions.
2. If the suspect/accused was questioned as such either without being advised of his/her rights or some question exists as to the propriety of the first statement, the accused must be so advised. The office of the serving Staff Judge Advocate should be contacted for assistance in drafting the proper rights advisal.

NOTE: If 1 or 2 applies, the fact that the suspect/accused was advised accordingly should be noted in the comment section on the waiver certificate and initialed by the suspect/accused.

WHEN SUSPECT/ACCUSED DISPLAYS INDECISION ON EXERCISING HIS OR HER RIGHTS DURING THE INTERROGATION PROCESS: If during the interrogation, the suspect displays indecision about requesting counsel (for example, "Maybe I should get a lawyer."), further questioning must cease immediately. At that point, you may question the suspect/accused only concerning whether he or she desires to waive counsel. The questioning may not be utilized to discourage a suspect/accused from exercising his/her rights. (For example, do not make such comments as "If you didn't do anything wrong, you shouldn't need an attorney.")

COMMENTS *(Continued)*

SWORN STATEMENT

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

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 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	2. DATE (YYYYMMDD)	3. TIME	4. FILE NUMBER
FOB FALLAN, BAGHDAD, IRAQ	20070409	1842	

5. LAST NAME, FIRST NAME, MIDDLE NAME	6. SSN	7. GRADE/STATUS
(b)(3), (b)(6)	(b)(3), (b)(6)	E6

8. ORGANIZATION OR ADDRESS

A-TRP 1/4 CAV 4IBCT 1 ID

9.

I, (b)(3), (b)(6), WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

On our about 1500 HRS on April 09, 2007 we (3RD PLT) recieved a frago from our commander, NP's were in heavy enamy contact. We were to move to mahala (b)(2)High and provide assistants. When we started to head north on street 51 in mahala (b)(2)Hig we recieved an update. There was a white car moving parralel to our formation in the street just west of us (49), to be countions as there had been order to the local nationals that vehicle movement was not allowed, it might be a VBIED. We heard multiple shots from diffrent locations as we approched the NP's location. While our A-section was clearing houses vic grid (b)(2)High I manuvered my section to the west to provide flank security from the west. Lt. (b)(3), (b)(6) ordered us to expand our cordon, while we were getting set I dismounted with PFC (b)(3), (b)(6) & PFC (b)(3), (b)(6) while our PSG spoke with LT (b)(3), (b)(6) on the ground, he was on the west side of the veh. I saw a white car, annoced outloud "Contact white car on the west." I yelled out stop twice, fired a warning shot, yelled again while each of my dismounts shot one more warning shot towards the vehicle. He sped up towards the Lt. (b)(3),(b)(6) truck, even after we all yelled fired warning shots. Lt. (b)(3),(b)(6) gunner (PFC (b)(3),(b)(6) shot at the car. The car backed up about 100m until it hit a building and stoped. Another person jumped out and ran towards the truck. SFC (b)(3),(b)(6) yelled and than (b)(2)High and the person stoped. We assed the driver dead

10. EXHIBIT	11. INITIALS OF PERSON MAKING STATEMENT	PAGE 1 OF 2 PAGES
	(b)(3), (b)(6)	

ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF _____ TAKEN AT _____ DATED _____

THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT, AND PAGE NUMBER MUST BE BE INDICATED.

STATEMENT OF (b)(3), (b)(6) TAKEN AT FOB FALCON DATED 20070409

9. STATEMENT *(Continued)*

(b)(3), (b)(

Nothing Follows

(b)(3), (b)(6)

(b)(3), (b)(

AFFIDAVIT

I, (b)(3), (b)(6), HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE 2. 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 INFLU

(b)(3), (b)(6)

g Statement)

WITNESSES:

(b)(3), (b)(6)

HHC, 4 CBCT

ORGANIZATION OR ADDRESS

(b)(3), (b)(6)

HHT 1-4 CAV, 4 IBCT, 1ID FOB Falcon APO AE 09361

ORGANIZATION OR ADDRESS

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 9 day of April, 2007 at FOB Falcon, Iraq

(b)(3), (b)(6)

(Signature of Person Administering Oath)

(b)(3), (b)(6)

(Typed Name of Person Administering Oath)

Adjutant 1-4 CAV

(Authority To Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT (b)(3), (b)(6

PAGE 2 OF 2 PAGES

PAGE 3, DA FORM 2823, DEC 1998 FOE w/ LN DEATH(A TRP 1-4CAV), 4-1ID, 9 APR 07 IO (b)(3),(b)(6) PE v1.01

CENTCO 72

RIGHTS WARNING PROCEDURE/WAIVER CERTIFICATE

For use of this form, see AR 190-30; the proponent agency is ODCSOPS

DATA REQUIRED BY THE PRIVACY ACT

AUTHORITY: Title 10, United States Code, Section 3012(g)
PRINCIPAL PURPOSE: 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	2. DATE	3. TIME	4. FILE NO.
FOB Falcon Iraq	12 APR 07	1900	

5. NAME (Last, First, MI)	8. ORGANIZATION OR ADDRESS
(b)(3),(b)(6)	A Trp, 1-4 CAV FOB Falcon, Iraq APO AE 09361
6. SSN: (b)(3), (b)(6)	7. GRADE/STATUS: E6/AD

PART I - RIGHTS WAIVER/NON-WAIVER CERTIFICATE

Section A. Rights

The investigator whose name appears below told me that he/she is with the United States Army _____ and wanted to question me about the following offense(s) of which I am suspected/accused: Accidental shooting of a civilian

Before he/she asked me any questions about the offense(s), however, he/she made it clear to me that I have the following rights:

1. I do not have to answer any question or say anything.
2. Anything I say or do can be used as evidence against me in a criminal trial.
3. *(For personnel subject to the UCMJ)* I have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with me during questioning. This lawyer can be a civilian lawyer I arrange for at no expense to the Government or a military lawyer detailed for me at no expense to me, or both.

   - or -

   (For civilians not subject to the UCMJ) I have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with me during questioning. I understand that this lawyer can be one that I arrange for at my own expense, or if I cannot afford a lawyer and want one, a lawyer will be appointed for me before any questioning begins.
4. If I am now willing to discuss the offense(s) under investigation, with or without a lawyer present, I have a right to stop answering questions at any time, or speak privately with a lawyer before answering further, even if I sign the waiver below.

5. COMMENTS *(Continue on reverse side)*

Section B. Waiver

I understand my rights as stated above. I am now willing to discuss the offense(s) under investigation and make a statement without talking to a lawyer first and without having a lawyer present with me.

WITNESSES *(If available)*	3. (b)(3), (b)(6)
1a. NAME *(Type or Print)*: (b)(3), (b)(6)	
b. ORGANIZATION OR ADDRESS AND PHONE: A Trp, 1-4 CAV, FOB Falcon, Iraq, APO AE 09361	4. SIGNATURE OF INVESTIGATOR: (b)(3), (b)(6)
2a. NAME *(Type or Print)*	5. TYPED NAME OF INVESTIGATOR: (b)(3), (b)(6)
b. ORGANIZATION OR ADDRESS AND PHONE: A Trp, 1-4 CAV, FOB Falcon, Iraq, APO AE 09361	6. ORGANIZATION OF INVESTIGATOR: HHT 1-4 Cav, FOB Falcon Iraq

Section C. Non-waiver

1. I do not want to give up my rights
   - ☐ I want a lawyer
   - ☐ I do not want to be questioned or say anything
2. SIGNATURE OF INTERVIEWEE

ATTACH THIS WAIVER CERTIFICATE TO ANY SWORN STATEMENT *(DA FORM 2823)* SUBSEQUENTLY EXECUTED BY THE SUSPECT/ACCUSED

DA FORM 3881, NOV 1989 EDITION OF NOV 84 IS OBSOLETE APD PE v2.01ES

PART II - RIGHTS WARNING PROCEDURE

THE WARNING

1. WARNING - Inform the suspect/accused of:
   a. Your official position.
   b. Nature of offense(s).
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Make certain the suspect/accused fully understands his/her rights.

THE WAIVER

"Do you understand your rights?"
(If the suspect/accused says "no," determine what is not understood, and if necessary repeat the appropriate rights advisement. If the suspect/accused says "yes," ask the following question.)

"Have you ever requested a lawyer after being read your rights?"
(If the suspect/accused says "yes," find out when and where. If the request was recent *(i.e., fewer than 30 days ago)*, obtain legal advice whether to continue the interrogation. If the suspect/accused says "no," or if the prior request was not recent, ask him/her the following question.)

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"At this time, are you willing to discuss the offense(s) under investigation and make a statement without talking to a lawyer and without having a lawyer present with you?" *(If the suspect/accused says "no," stop the interview and have him/her read and sign the non-waiver section of the waiver certificate on the other side of this form. If the suspect/accused says "yes," have him/her read and sign the waiver section of the waiver certificate on the other side of this form.)*

SPECIAL INSTRUCTIONS

WHEN SUSPECT/ACCUSED REFUSES TO SIGN WAIVER CERTIFICATE: If the suspect/accused orally waives his/her rights but refuses to sign the waiver certificate, you may proceed with the questioning. Make notations on the waiver certificate to the effect that he/she has stated that he/she understands his/her rights, does not want a lawyer, wants to discuss the offense(s) under investigation, and refuses to sign the waiver certificate.

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PRIOR INCRIMINATING STATEMENTS:

1. If the supsect/accused has made spontaneous incriminating statements before being properly advised of his/her rights he/she should be told that such statements do not obligate him/her to answer further questions.
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COMMENTS *(Continued)*

SWORN STATEMENT

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

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 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	2. DATE (YYYYMMDD)	3. TIME	4. FILE NUMBER
FOB Falcon, Iraq	2007 04 09	1900	

5. LAST NAME, FIRST NAME, MIDDLE NAME	6. SSN	7. GRADE/STATUS
(b)(3), (b)(6)	(b)(3), (b)(6)	E-3/PFC

8. ORGANIZATION OR ADDRESS
A trp, 1-4 CAV, 4th IBCT

9. I, PFC (b)(3), (b)(6), WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

On 9 Apr. 2007, 3rd plt., Apache troop, 1-4 Cav was assissting the Iraqi National police in clearing and searching some houses in Baghdad, Sector (b)(2)High I had oriented my (b)(2)High machine gun to the Northeast to cover our dismount team from possible enemy fire from rooftops as they cleared and searched some buildings in the neighborhood. My truck commander, 1st LT (b)(3), (b)(6) alerted me to a white four-door vehicle moving North on a street that was East of our position. I rotated my ~~weapon~~ (b)(3), (b)(6) turret and pointed my weapon at the vehicle, raised my left hand, yelling "Qif!" three or four times. The vehicle continued its advance and I heard a warning shot come from my left, just west of our position. Our truck was advancing at this point but came to a halt approx. 100m from the vehicle. After the warning shot, dismounts on the ground commenced firing at the grill of the vehicle, and I was gaining my sight picture. The vehicle suddenly sped forward and I fired one short (b)(2)High at the driver's side of

10. EXHIBIT	11. INITIALS OF PERSON MAKING STATEMENT	PAGE 1 OF 3 PAGES
	(b)(3), (b)(6)	

ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF _____ TAKEN AT _____ DATED _____

THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT, AND PAGE NUMBER MUST BE BE INDICATED.

DA FORM 2823, DEC 1998 DA FORM 2823, JUL 72, IS OBSOLETE 10 (b)(3), (b)(6) PE v1.01
EOF w/LN DEATH(A, TRP 1-4CAV), 4-1ID, 9 APR 07
CENTCO 75

USE THIS PAGE IF NEEDED. IF THIS PAGE IS NOT NEEDED, PLEASE PROCEED TO FINAL PAGE OF THIS FORM.

STATEMENT OF PFC (b)(3), (b)(6) TAKEN AT FOB Falcon, Iraq DATED 9 Apr. 2007

9. STATEMENT *(Continued)*

the windshield. The vehicle suddenly leaped into reverse and rolled into a cinder block wall behind it. The car's passenger immediately jumped out, running East into the open area by the road. — Nothing Follows —

(b)(3), (b)(6)

N/A

(b)(3), (b)(6)

N/A

(b)(3), (b)(6)

N/A

(b)(3), (b)(6)

N/A

INITIALS OF PERSON MAKING STATEMEN (b)(3), (b)(6) PAGE 2 OF 3 PAGES

STATEMENT OF PFC (b)(3), (b)(6) TAKEN AT FOB Falcon, Iraq DATED 9 Apr. 2007

9. STATEMENT (Continued)

(b)(3), (b)(6)

N/A

(b)(3), (b)(6)

N/A

N/A

(b)(3), (b)(6)

N/A

(b)(3), (b)(6)

AFFIDAVIT

I, PFC (b)(3), (b)(6), HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE 3. 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 INF (b)(3), (b)(6)

(b)(3), (b)(6)
(Signature of Person Making Statement)

WITNESSES:

(b)(3), (b)(6)

ORGANIZATION OR ADDRESS

(b)(3), (b)(6)

HHT 1-4 CAV, HIBCT, 1ID FOB Falcon
ORGANIZATION OR ADDRESS APO AE 09361

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 9 day of April, 2007 at FOB Falcon Iraq

(b)(3), (b)(6)
(Signature of Person Administering Oath)

(b)(3), (b)(6)
(Typed Name of Person Administering Oath)

Adjutant, 1-4 CAV
(Authority To Administer Oaths)

INITIALS OF PERSON MAKING STATEME (b)(3), (b)(6) PAGE 3 OF 3 PAGES

EOF w/ LN DEATH (A TRP 1-4CAV), 4-1ID, 9 APR 07 (b)(3), (b)(6)

RIGHTS WARNING PROCEDURE/WAIVER CERTIFICATE

For use of this form, see AR 190-30; the proponent agency is ODCSOPS

DATA REQUIRED BY THE PRIVACY ACT

AUTHORITY: Title 10, United States Code, Section 3012(g)
PRINCIPAL PURPOSE: 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	2. DATE	3. TIME	4. FILE NO.
FOB Falcon, Iraq	9 Apr 07	1836	

5. NAME (Last, First, MI)	8. ORGANIZATION OR ADDRESS
(b)(3), (b)(6)	A/1-4CAV FOB Falcon, Iraq APO AE 09361
6. SSN	**7. GRADE/STATUS**
(b)(3), (b)(6)	E-3

PART I - RIGHTS WAIVER/NON-WAIVER CERTIFICATE

Section A. Rights

The investigator whose name appears below told me that he/she is with the United States Army _____ and wanted to question me about the following offense(s) of which I am ~~suspected/accused~~ Accidental Shooting of civilian

Before he/she asked me any questions about the offense(s), however, he/she made it clear to me that I have the following rights:

1. I do not have to answer any question or say anything.
2. Anything I say or do can be used as evidence against me in a criminal trial.
3. *(For personnel subject to the UCMJ)* I have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with me during questioning. This lawyer can be a civilian lawyer I arrange for at no expense to the Government or a military lawyer detailed for me at no expense to me, or both.

   - or -

   (For civilians not subject to the UCMJ) I have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with me during questioning. I understand that this lawyer can be one that I arrange for at my own expense, or if I cannot afford a lawyer and want one, a lawyer will be appointed for me before any questioning begins.
4. If I am now willing to discuss the offense(s) under investigation, with or without a lawyer present, I have a right to stop answering questions at any time, or speak privately with a lawyer before answering further, even if I sign the waiver below.

5. COMMENTS *(Continue on reverse side)*

Section B. Waiver

I understand my rights as stated above. I am now willing to discuss the offense(s) under investigation and make a statement without talking to a lawyer first and without having a lawyer present with me.

WITNESSES *(If available)*	
1a. NAME *(Type or Print)* (b)(3), (b)(6)	(b)(3), (b)(6)
b. ORGANIZATION OR ADDRESS AND PHONE HHT, 1-4 CAV 777-2171	4. SIGNATURE OF INVESTIGATOR (b)(3), (b)(6)
2a. NAME *(Type or Print)* (b)(3), (b)(6)	5. TYPED NAME OF INVESTIGATOR (b)(3), (b)(6)
b. ORGANIZATION OR ADDRESS AND PHONE HHT, 1-4 CAV 777-2171	6. ORGANIZATION OF INVESTIGATOR HHT/1-4CAV

Section C. Non-waiver

1. I do not want to give up my rights
   ☐ I want a lawyer ☐ I do not want to be questioned or say anything
2. SIGNATURE OF INTERVIEWEE

ATTACH THIS WAIVER CERTIFICATE TO ANY SWORN STATEMENT *(DA FORM 2823)* SUBSEQUENTLY EXECUTED BY THE SUSPECT/ACCUSED

PART II - RIGHTS WARNING PROCEDURE

THE WARNING

1. WARNING - Inform the suspect/accused of:
   a. Your official position.
   b. Nature of offense(s).
   c. The fact that he/she is a suspect/accused.
2. RIGHTS - Advise the suspect/accused of his/her rights as follows:
   "Before I ask you any questions, you must understand your rights."
   a. "You do not have to answer my questions or say anything."
   b. "Anything you say or do can be used as evidence against you in a criminal trial."
   c. (For personnel subject to the UCMJ) "You have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with you during questioning. This lawyer can be a civilian you arrange for at no expense to the Government or a military lawyer detailed for you at no expense to you, or both."

   - or -

   (For civilians not subject to the UCMJ) You have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with you during questioning. This lawyer can be one you arrange for at your own expense, or if you cannot afford a lawyer and want one, a lawyer will be appointed for you before any questioning begins."
   d. "If you are now willing to discuss the offense(s) under investigation, with or without a lawyer present, you have a right to stop answering questions at any time, or speak privately with a lawyer before answering further, even if you sign a waiver certificate."

Make certain the suspect/accused fully understands his/her rights.

THE WAIVER

"Do you understand your rights?"
(If the suspect/accused says "no," determine what is not understood, and if necessary repeat the appropriate rights advisement. If the suspect/accused says "yes," ask the following question.)

"Have you ever requested a lawyer after being read your rights?"
(If the suspect/accused says "yes," find out when and where. If the request was recent *(i.e., fewer than 30 days ago)*, obtain legal advice whether to continue the interrogation. If the suspect/accused says "no," or if the prior request was not recent, ask him/her the following question.)

"Do you want a lawyer at this time?"
(If the suspect/accused says "yes," stop the questioning until he/she has a lawyer. If the suspect/accused says "no," ask him/her the following question.)

"At this time, are you willing to discuss the offense(s) under investigation and make a statement without talking to a lawyer and without having a lawyer present with you?" *(If the suspect/accused says "no," stop the interview and have him/her read and sign the non-waiver section of the waiver certificate on the other side of this form. If the suspect/accused says "yes," have him/her read and sign the waiver section of the waiver certificate on the other side of this form.)*

SPECIAL INSTRUCTIONS

WHEN SUSPECT/ACCUSED REFUSES TO SIGN WAIVER CERTIFICATE: If the suspect/accused orally waives his/her rights but refuses to sign the waiver certificate, you may proceed with the questioning. Make notations on the waiver certificate to the effect that he/she has stated that he/she understands his/her rights, does not want a lawyer, wants to discuss the offense(s) under investigation, and refuses to sign the waiver certificate.

IF WAIVER CERTIFICATE CANNOT BE COMPLETED IMMEDIATELY: In all cases the waiver certificate must be completed as soon as possible. Every effort should be made to complete the waiver certificate before any questioning begins. If the waiver certificate cannot be completed at once, as in the case of street interrogation, completion may be temporarily postponed. Notes should be kept on the circumstances.

PRIOR INCRIMINATING STATEMENTS:

1. If the supsect/accused has made spontaneous incriminating statements before being properly advised of his/her rights he/she should be told that such statements do not obligate him/her to answer further questions.
2. If the suspect/accused was questioned as such either without being advised of his/her rights or some question exists as to the propriety of the first statement, the accused must be so advised. The office of the serving Staff Judge Advocate should be contacted for assistance in drafting the proper rights advisal.

NOTE: If 1 or 2 applies, the fact that the suspect/accused was advised accordingly should be noted in the comment section on the waiver certificate and initialed by the suspect/accused.

WHEN SUSPECT/ACCUSED DISPLAYS INDECISION ON EXERCISING HIS OR HER RIGHTS DURING THE INTERROGATION PROCESS: If during the interrogation, the suspect displays indecision about requesting counsel (for example, "Maybe I should get a lawyer."), further questioning must cease immediately. At that point, you may question the suspect/accused only concerning whether he or she desires to waive counsel. The questioning may not be utilized to discourage a suspect/accused from exercising his/her rights (For example, do not make such comments as "If you didn't do anything wrong, you shouldn't need an attorney.")

COMMENTS *(Continued)*

SWORN STATEMENT

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

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 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	2. DATE (YYYYMMDD)	3. TIME	4. FILE NUMBER
FOB Falcon, Baghdad Iraq	20070409	1643	

5. LAST NAME, FIRST NAME, MIDDLE NAME	6. SSN	7. GRADE/STATUS
(b)(3), (b)(6)	(b)(3), (b)(6)	E-3

8. ORGANIZATION OR ADDRESS
A-TRP, 1-4 CAV, 4TH IBCT

9.
I, (b)(3), (b)(6), WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

I was dismounted with SSG (b)(3), (b)(6), and PFC (b)(3), (b)(6) getting ready to clear a house when we saw a vechical moving from South to North on a street that (3), (b) 31 truck was providing security for us. the vechical ~~continued~~ continued to move even after we yelled in Abric and English for the vechical to stop when the vechical continued SSG (b)(3),(b)(6) fired a warning shot then the vechical speed up so me and PFC (b)(3),(b)(6) fired at the vechical at the same time all this was going on the gunner of 31 and also shooted at the vechical to stop and when (b)(3)(b)(6) (b)(3), (b)(6) (b)(3)(b)(6) shoot at the vechical the ~~gunner~~ vechical speed up more that was when the Gunner open fire with a short (b)(2)High the vechical then went in to reverse a speed back words in to a wall were it stoped then a boy got out of the car and was yelling Something at the 31 truck at which time me PFC (b)(3), (b)(6) and SSG (b)(3), (b)(6) mounted up on the 31 truck to (b)(3), (b)((b)(3), (b)(6 the situation more finding that the driver had been shoot ~~we~~ I (b)(3), (b)(6) ~~[illegible]~~ assede the casualty And found no hart beat and Anounced the casualty dead.

10. EXHIBIT	11. INITIALS	MAKING STATEMENT	PAGE 1 OF 2 PAGES
	(b)(3), (b)(6)		

ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF _____ TAKEN AT _____ DATED _____

THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT, AND PAGE NUMBER MUST BE BE INDICATED.

STATEMENT OF (b)(3), (b)(6) TAKEN AT FOB Falcon DATED 2007 04 09

9. STATEMENT *(Continued)* Nothen Follows

(b)(3), (b)(6)

AFFIDAVIT

(b)(3), (b)(6), HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE 2. 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)(3), (b)(6)
(Signature of Person Administering Statement)

WITNESSES:

(b)(3), (b)(6)
ORGANIZATION OR ADDRESS

(b)(3), (b)(6)
HHT 1-4 CAV, 4IBCT, 2ID FOB Falcon
ORGANIZATION OR ADDRESS APO AE 09361

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 9 day of April, 2007 at FOB Falcon

(b)(3), (b)(6)
(Signature of Person Administering Oath)

(b)(3), (b)(6)
(Typed Name of Person Administering Oath)

Adjutant, 1-4 CAV
(Authority To Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT (b)(3), (b)(6)

PAGE 2 OF 2 PAGES

RIGHTS WARNING PROCEDURE/WAIVER CERTIFICATE

For use of this form, see AR 190-30; the proponent agency is ODCSOPS

DATA REQUIRED BY THE PRIVACY ACT

AUTHORITY: Title 10, United States Code, Section 3012(g)
PRINCIPAL PURPOSE: 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	2. DATE	3. TIME	4. FILE NO.
FOB Falcon, IRAQ	12 APR 07	1900	

5. NAME (Last First MI)	8. ORGANIZATION OR ADDRESS
(b)(3), (b)(6)	A Trp, 1-4 CAV FOB Falcon, Iraq APO AE 09361
6. SSN: (b)(3), (b)(6)	7. GRADE/STATUS: E3/AD

PART I - RIGHTS WAIVER/NON-WAIVER CERTIFICATE

Section A. Rights

The investigator whose name appears below told me that he/she is with the United States Army _____ and wanted to question me about the following offense(s) of which I am ~~suspected/accused~~: accidental shooting of a civilian

Before he/she asked me any questions about the offense(s), however, he/she made it clear to me that I have the following rights:

1. I do not have to answer any question or say anything.
2. Anything I say or do can be used as evidence against me in a criminal trial.
3. *(For personnel subject to the UCMJ)* I have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with me during questioning. This lawyer can be a civilian lawyer I arrange for at no expense to the Government or a military lawyer detailed for me at no expense to me, or both.

   - or -

   (For civilians not subject to the UCMJ) I have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with me during questioning. I understand that this lawyer can be one that I arrange for at my own expense, or if I cannot afford a lawyer and want one, a lawyer will be appointed for me before any questioning begins.
4. If I am now willing to discuss the offense(s) under investigation, with or without a lawyer present, I have a right to stop answering questions at any time, or speak privately with a lawyer before answering further, even if I sign the waiver below.

5. COMMENTS *(Continue on reverse side)*

Section B. Waiver

I understand my rights as stated above. I am now willing to discuss the offense(s) under investigation and make a statement without talking to a lawyer first and without having a lawyer present with me.

WITNESSES *(If available)*	3. (b)(3), (b)(6)
1a. NAME *(Type or Print)*: (b)(3), (b)(6)	
b. ORGANIZATION OR ADDRESS AND PHONE: A Trp 1-4 CAV, FOB Falcon, Iraq, APO AE 09361	4. SIGNATURE OF INVESTIGATOR: (b)(3), (b)(6)
2a. NAME *(Type or Print)*	5. TYPED NAME OF INVESTIGATOR: (b)(3), (b)(6)
b. ORGANIZATION OR ADDRESS AND PHONE: A Trp 1-4 CAV, FOB Falcon Iraq, APO AE 09361	6. ORGANIZATION OF INVESTIGATOR: HHT 1-4 Cav, FOB Falcon Iraq

Section C. Non-waiver

1. I do not want to give up my rights
   - ☐ I want a lawyer
   - ☐ I do not want to be questioned or say anything
2. SIGNATURE OF INTERVIEWEE

ATTACH THIS WAIVER CERTIFICATE TO ANY SWORN STATEMENT *(DA FORM 2823)* SUBSEQUENTLY EXECUTED BY THE SUSPECT/ACCUSED

DA FORM 3881, NOV 1989 EDITION OF NOV 84 IS OBSOLETE APD PE v2.01ES

EOF w/ LN DEATH(A TRP 1-4CAV), 4-1ID, 9 APR 07 (b)(3), (b)(6)

PART II - RIGHTS WARNING PROCEDURE

THE WARNING

1. WARNING - Inform the suspect/accused of:
   a. Your official position.
   b. Nature of offense(s).
   c. The fact that he/she is a suspect/accused.
2. RIGHTS - Advise the suspect/accused of his/her rights as follows:
   "Before I ask you any questions, you must understand your rights."
   a. "You do not have to answer my questions or say anything."
   b. "Anything you say or do can be used as evidence against you in a criminal trial."
   c. (For personnel subject to the UCMJ) "You have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with you during questioning. This lawyer can be a civilian you arrange for at no expense to the Government or a military lawyer detailed for you at no expense to you, or both."

   - or -

   (For civilians not subject to the UCMJ) You have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with you during questioning. This lawyer can be one you arrange for at your own expense, or if you cannot afford a lawyer and want one, a lawyer will be appointed for you before any questioning begins."
   d. "If you are now willing to discuss the offense(s) under investigation, with or without a lawyer present, you have a right to stop answering questions at any time, or speak privately with a lawyer before answering further, even if you sign a waiver certificate."

Make certain the suspect/accused fully understands his/her rights.

THE WAIVER

"Do you understand your rights?"
(If the suspect/accused says "no," determine what is not understood, and if necessary repeat the appropriate rights advisement. If the suspect/accused says "yes," ask the following question.)

"Have you ever requested a lawyer after being read your rights?"
(If the suspect/accused says "yes," find out when and where. If the request was recent *(i.e., fewer than 30 days ago)*, obtain legal advice whether to continue the interrogation. If the suspect/accused says "no," or if the prior request was not recent, ask him/her the following question.)

"Do you want a lawyer at this time?"
(If the suspect/accused says "yes," stop the questioning until he/she has a lawyer. If the suspect/accused says "no," ask him/her the following question.)

"At this time, are you willing to discuss the offense(s) under investigation and make a statement without talking to a lawyer and without having a lawyer present with you?" *(If the suspect/accused says "no," stop the interview and have him/her read and sign the non-waiver section of the waiver certificate on the other side of this form. If the suspect/accused says "yes," have him/her read and sign the waiver section of the waiver certificate on the other side of this form.)*

SPECIAL INSTRUCTIONS

WHEN SUSPECT/ACCUSED REFUSES TO SIGN WAIVER CERTIFICATE: If the suspect/accused orally waives his/her rights but refuses to sign the waiver certificate, you may proceed with the questioning. Make notations on the waiver certificate to the effect that he/she has stated that he/she understands his/her rights, does not want a lawyer, wants to discuss the offense(s) under investigation, and refuses to sign the waiver certificate.

IF WAIVER CERTIFICATE CANNOT BE COMPLETED IMMEDIATELY: In all cases the waiver certificate must be completed as soon as possible. Every effort should be made to complete the waiver certificate before any questioning begins. If the waiver certificate cannot be completed at once, as in the case of street interrogation, completion may be temporarily postponed. Notes should be kept on the circumstances.

PRIOR INCRIMINATING STATEMENTS:

1. If the supsect/accused has made spontaneous incriminating statements before being properly advised of his/her rights he/she should be told that such statements do not obligate him/her to answer further questions.
2. If the suspect/accused was questioned as such either without being advised of his/her rights or some question exists as to the propriety of the first statement, the accused must be so advised. The office of the serving Staff Judge Advocate should be contacted for assistance in drafting the proper rights advisal.

NOTE: If 1 or 2 applies, the fact that the suspect/accused was advised accordingly should be noted in the comment section on the waiver certificate and initialed by the suspect/accused.

WHEN SUSPECT/ACCUSED DISPLAYS INDECISION ON EXERCISING HIS OR HER RIGHTS DURING THE INTERROGATION PROCESS: If during the interrogation, the suspect displays indecision about requesting counsel (for example, "Maybe I should get a lawyer."), further questioning must cease immediately. At that point, you may question the suspect/accused only concerning whether he or she desires to waive counsel. The questioning may not be utilized to discourage a suspect/accused from exercising his/her rights. (For example, do not make such comments as "If you didn't do anything wrong, you shouldn't need an attorney.")

COMMENTS *(Continued)*

SWORN STATEMENT

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

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 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	2. DATE (YYYYMMDD)	3. TIME	4. FILE NUMBER
FOB Falcon Baghdad	20070409	1843	

5. LAST NAME, FIRST NAME, MIDDLE NAME	6. SSN	7. GRADE/STATUS
Gli[redacted] (3), (b) (b)(3), (b)(6)	(b)(3), (b)(6)	E 3

8. ORGANIZATION OR ADDRESS

A-TRP 1/4 Cav 4TH IBCT 1ST ID

9.

I, PFC (b)(3), (b)(6), WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

On 2007 April 09 PFC (b)(3), (b)(6), SSG (b)(3), (b)(6) and I were dismounted (3), (b) in Muholla (b)(2)High when a white 4door vehicle was spotted driving towards our cordone. The vehicle war shot down after repeated verbal and visual commands to stop, also failed to stop after 3 warning shots were fired by the 3 of us, and in fact sped towards our cordone when the warning shots were fired. Our PL's gunner, PFC (b)(3), (b)(6) then engaged the vehicle with a 240B when the driver advanced towards him after having verbal, visual and warning shots to stop. After the vehicle stopped a young male (14-16) got out and ran away, but he was stopped by other coalition forces from our cordone. Then PFC (b)(3), (b)(6) SSG (b)(3), (b)(6), and I moved toward the car and found one male (b)(6) with a gunshot wound to his head. We then expanded our cordone and had NP's secure the body and took it to the family of the deceased (3), (b).

Nothig Follows

(b)(3), (b)(6)

10. EXHIBIT	11. INITIALS OF PERSON MAKING STATEMENT	PAGE 1 OF 2 PAGES
	(b)(3), (b)(6)	

ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF _____ TAKEN AT _____ DATED _____

THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT, AND PAGE NUMBER MUST BE BE INDICATED.

DA FORM 2823, DEC 1998 EOF w/ LN DEATH(A TRP 1-4CAV), 4-1ID, 9 APR 07 DA FORM 2823, JUL 72, IS OBSOLETE IC (b)(3), (b)(6) APD PE v1.01

CENTC 4

STATEMENT OF PFC (b)(3), (b)(6) TAKEN AT FOB Falcon Iraq DATED 20070409

9. STATEMENT *(Continued)* Nothing Follows

(b)(3), (b)(6)

AFFIDAVIT

I, PFC (b)(3), (b)(6), HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE 2. 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)(3), (b)(6)
(Signature of Person Making Statement)

WITNESSES:

(b)(3), (b)(6)
ORGANIZATION OR ADDRESS

(b)(3), (b)(6)
HHT 1-4 CAV, 41BCT, ID FOB Falcon APO AE 09361
ORGANIZATION OR ADDRESS

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 9 day of April, 2007 at FOB Falcon, Iraq

(b)(3), (b)(6)
(Signature of Person Administering Oath)

(b)(3), (b)(6)
(Typed Name of Person Administering Oath)

Adjutant, 1-4CAV
(Authority To Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT	(b)(3), (b)(6)		PAGE 2 OF 2 PAGES

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PART II - RIGHTS WARNING PROCEDURE

THE WARNING

1. WARNING - Inform the suspect/accused of:
   a. Your official position.
   b. Nature of offense(s).
   c. The fact that he/she is a suspect/accused.
2. RIGHTS - Advise the suspect/accused of his/her rights as follows:
   "Before I ask you any questions, you must understand your rights."
   a. "You do not have to answer my questions or say anything."
   b. "Anything you say or do can be used as evidence against you in a criminal trial."
   c. (For personnel subject to the UCMJ) "You have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with you during questioning. This lawyer can be a civilian you arrange for at no expense to the Government or a military lawyer detailed for you at no expense to you, or both."

   - or -

   (For civilians not subject to the UCMJ) You have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with you during questioning. This lawyer can be one you arrange for at your own expense, or if you cannot afford a lawyer and want one, a lawyer will be appointed for you before any questioning begins."
   d. "If you are now willing to discuss the offense(s) under investigation, with or without a lawyer present, you have a right to stop answering questions at any time, or speak privately with a lawyer before answering further, even if you sign a waiver certificate."

Make certain the suspect/accused fully understands his/her rights.

THE WAIVER

"Do you understand your rights?"
(If the suspect/accused says "no," determine what is not understood, and if necessary repeat the appropriate rights advisement. If the suspect/accused says "yes," ask the following question.)

"Have you ever requested a lawyer after being read your rights?"
(If the suspect/accused says "yes," find out when and where. If the request was recent *(i.e., fewer than 30 days ago)*, obtain legal advice whether to continue the interrogation. If the suspect/accused says "no," or if the prior request was not recent, ask him/her the following question.)

"Do you want a lawyer at this time?"
(If the suspect/accused says "yes," stop the questioning until he/she has a lawyer. If the suspect/accused says "no," ask him/her the following question.)

"At this time, are you willing to discuss the offense(s) under investigation and make a statement without talking to a lawyer and without having a lawyer present with you?" *(If the suspect/accused says "no," stop the interview and have him/her read and sign the non-waiver section of the waiver certificate on the other side of this form. If the suspect/accused says "yes," have him/her read and sign the waiver section of the waiver certificate on the other side of this form.)*

SPECIAL INSTRUCTIONS

WHEN SUSPECT/ACCUSED REFUSES TO SIGN WAIVER CERTIFICATE: If the suspect/accused orally waives his/her rights but refuses to sign the waiver certificate, you may proceed with the questioning. Make notations on the waiver certificate to the effect that he/she has stated that he/she understands his/her rights, does not want a lawyer, wants to discuss the offense(s) under investigation, and refuses to sign the waiver certificate.

IF WAIVER CERTIFICATE CANNOT BE COMPLETED IMMEDIATELY: In all cases the waiver certificate must be completed as soon as possible. Every effort should be made to complete the waiver certificate before any questioning begins. If the waiver certificate cannot be completed at once, as in the case of street interrogation, completion may be temporarily postponed. Notes should be kept on the circumstances.

PRIOR INCRIMINATING STATEMENTS:

1. If the supsect/accused has made spontaneous incriminating statements before being properly advised of his/her rights he/she should be told that such statements do not obligate him/her to answer further questions.
2. If the suspect/accused was questioned as such either without being advised of his/her rights or some question exists as to the propriety of the first statement, the accused must be so advised. The office of the serving Staff Judge Advocate should be contacted for assistance in drafting the proper rights advisal.

NOTE: If 1 or 2 applies, the fact that the suspect/accused was advised accordingly should be noted in the comment section on the waiver certificate and initialed by the suspect/accused.

WHEN SUSPECT/ACCUSED DISPLAYS INDECISION ON EXERCISING HIS OR HER RIGHTS DURING THE INTERROGATION PROCESS: If during the interrogation, the suspect displays indecision about requesting counsel (for example, "Maybe I should get a lawyer."), further questioning must cease immediately. At that point, you may question the suspect/accused only concerning whether he or she desires to waive counsel. The questioning may not be utilized to discourage a suspect/accused from exercising his/her rights. (For example, do not make such comments as "If you didn't do anything wrong, you shouldn't need an attorney.")

COMMENTS *(Continued)*

(b)(6)

(b)(6)

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(b)(3), (b)(6)

EOF w/ LN DEATH(A TRP 1-4CAV), 4-1ID, 9 APR 07

b)(3), (b)(6

Pages 24 through 29 redacted for the following reasons:
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, Nonresponsive, (b)(2)High, (b)(5)
(b)(2)High
Nonresponsive, (b)(2)High, (b)(5)
Nonresponsive, (b)(2)High, (b)(5), (b)(3)(b)(6)