**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.

**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)**

<table>
<thead>
<tr>
<th>1a. NAME (Type or Print)</th>
<th>2a. NAME (Type or Print)</th>
<th>3. SIGNATURE OF INTERVIEWEE</th>
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<td>EXL</td>
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**ORGANIZATION OR ADDRESS AND PHONE**

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<tr>
<th>b. ORGANIZATION OR ADDRESS AND PHONE</th>
<th>4. SIGNATURE OF INVESTIGATOR</th>
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<td>RO 2/327 1 ICBT</td>
<td>EXL</td>
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</table>

**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 2822) 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."
   - d. *(For civilian 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 someone 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.
   - e. "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., within 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 offenses 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 offenses 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 suspect/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 advisement.

**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 190-48; the proponent agency is ODCSOPS

PRIVACY ACT STATEMENT

AUTHORITY: Title 10 USC Section 301; Title 5 USC Section 2851; 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.

<table>
<thead>
<tr>
<th>1. LOCATION</th>
<th>2. DATE (YYYYMMDD)</th>
<th>3. TIME</th>
<th>4. FILE NUMBER</th>
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11. INITIALS OF PERSON MAKING STATEMENT

additional pages must contain the heading "STATEDMENT _______ 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

USAPA v1.00
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:

______________________________

______________________________

______________________________

ORGANIZATION OR ADDRESS

______________________________

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ORGANIZATION OR ADDRESS

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INITIALS OF PERSON MAKING STATEMENT

______________________________

______________________________

PAGE 3, DA FORM 2622, DEC 1998

PAGE OF PAGES
more focus better of situation
- turned cars around probably
- crowd tried to stop cars
- fired first
Fire 22-25 s 3-5 seconds
- pissed off all people were throwing stuff, but not
- car ignored (crowd)
yelled at him
- did what had to do (protect ourself)
- fired at hood
- 2-3 mins afterward
- saw victim fall down
- rocks being thrown @ CF
- worked on chest wound with
RIGHTS WARNING PROCEDURE/WAIVER CERTIFICATE
For use of this form see AR 190-30; the proponent agency is DDCSOPS

DATA REQUIRED BY THE PRIVACY ACT

<table>
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<tr>
<th>AUTHORITY:</th>
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<tr>
<td>Title 10, United States Code, Section 3012(g)</td>
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<th>7. ORGANIZATION OR ADDRESS</th>
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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 Honolulu, 2-327 and wanted to question me about the following offense(s) of which I am suspected/accused: EOD On item from Brief.

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. Nothing I say or do can be used as evidence against me in a criminal trial.
3. I am not to be questioned about the offense(s) by a personal subject other than the UCMA investigator.
4. 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 UCMA) 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.

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)

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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 89

EDITION OF NOV 64 IS OBSOLETE

USAPA 2.01

12365
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 suspect/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 advisement.

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 INDIGNATION ON EXERCISING HIS OR HER RIGHTS DURING THE INTERROGATION PROCESS: if during the interrogation, the suspect displays indignation 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.”)
**SWORN STATEMENT**

For use of this form, see AR 190-48; the proponent agency is ODCSOPS.

**PRIVACY ACT STATEMENT**

1. LOCATION

2. DATE (MM/DD/YYYY)

3. TIME

4. FILE NUMBER

5. LAST NAME, FIRST NAME, MIDDLE NAME

6. SSN

7. GRADE/STATUS

Gunner

8. ORGANIZATION OR ADDRESS

2nd Plt, B Co, 2nd Inf

---

WENT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

We, 2nd Plt, 3rd Sqd, responded to a riot at Bahreemawa. Around 1500 we were relieved by 2nd Sqd and moved to flank behind the rioters. We pulled up in a side street behind the main body of the riot and were immediately hit with rocks. My position was the rear gunner on the .50 cal and I was hit twice by rocks from the open area to the right. I heard the squad behind me yelling “Kneel” and “Step” to a white car approaching our position. When the car got to approximately 10-15 meters of the lead truck I heard the squad begin to fire on the car. I turned around to see the last few rounds impact the car and yelling to cease fire. I then turned back around and continued to pull rear security.

---

**EX 6**

**EX 10**

**INITIALS OF PERSON MAKING STATEMENT**

**PAGE 1 OF 3 PAGES**

ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT ______ TAKEN AT ______ DATED ______"  

THE BOTTOM OF EACH ADDITIONAL PAGE MUST BE BORE THE INITIALS OF THE PERSON MAKING THE STATEMENT, AND PAGE NUMBER MUST BE INDICATED.
was then pulled out of my truck to administer First Aid to two young men who were injured in the shooting. I could not see who all worked on the Iraqis because I was pulling rear security on the crowd that had gathered and began to throw rocks again. After 15-20 minutes the leadership decided to take the casualties to Kirkuk General Hospital in our Humvees. The Iraqi that was put in my truck died on the way to the hospital. We arrived at Kirkuk General and down loaded both bodies and continued back to the riot scene.
<table>
<thead>
<tr>
<th>INITIALS OF PERSON MAKING STATEMENT</th>
<th>WITNESSES:</th>
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<tr>
<td>ORGANIZATION OR ADDRESS</td>
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**Affidavit**

I, the undersigned, do hereby declare that the statements contained herein are true to the best of my knowledge and belief and that I have not been induced to make said statement by any promise or threat of punishment or promise of reward.

I declare that I have reviewed the contents of each page of this statement and have not altered any of the statements made.

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

(Signature of Person Administering Oath)

**Statement (Continued)**

Taken at [Place], this day of [Date].
- did not fire
  - Throwing rocks
  - squd yelled vehicle to stop
  - 15m when fired
  - 150 rounds fired for 20 sec.
  - crowd was yelling to stop
  - notice young men hurt - LNs brought to position
  - Iraq: cutty shirt
  - sheets, cloth wound
  - 20 mins before met 20 Gs
  - called for FMLA: civilian ambulance