REPORT OF PROCEEDINGS BY INVESTIGATING OFFICER/ERS

For use of this form, see AR 15-6; the proponent agency is OTJAG.

IF MORE SPACE IS REQUIRED IN FILLING OUT ANY PORTION OF THIS FORM, ATTACH ADDITIONAL SHEETS

SECTION I - APPOINTMENT

Appointed by Commander, 3/1 AD

(Appointing authority)

on 8 October 2005

(Date)

(Attach enclosure 1: Letter of appointment or summary of oral appointment date.) (See para 3-15, AR 15-6.)

SECTION II - SESSIONS

The investigation commenced at Camp Taji, Iraq

(Place)

at 1700

(Time)

on 8 October 2005

(Date)

If a formal board met for more than one session, check here. Indicate in enclosure the time each session began and ended, the place, persons present and absent, and explanation of absences, if any. The following persons (members, respondents, counsel) were present: (After each name, indicate capacity, e.g., President, Recorder, Member, Legal Advisor.)

AR, Investigating Officer

The following persons (members, respondents, counsel) were absent: (Include brief explanation of each absence.) (See para 5-2 and 5-8a, AR 15-6.)

The (Investigating officer) finished gathering/hearing evidence at 1700

(Time)

on 20 October 2005

(Date)

and completed findings and recommendations at 1200

(Time)

on 23 October 2005

(Date)

SECTION III - CHECKLIST FOR PROCEEDINGS

A. COMPLETE IN ALL CASES

<table>
<thead>
<tr>
<th>Item</th>
<th>YES</th>
<th>NO</th>
<th>N/A</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Inclusions (para 3-15, AR 13-6)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. The letter of appointment or a summary of oral appointment data?</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>b. Copy of notice to respondent, if any? (See item 9, below)</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>c. Other correspondence with respondent or counsel, if any?</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>d. All other written communications to or from the appointing authority?</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>e. Privacy Act Statements (Certificate, if statement provided orally)?</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>f. Explanation by the investigating officer or board of any unusual delays, difficulties, irregularities, or other problems encountered (e.g., absence of material witnesses)?</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>g. Information as to sessions of a formal board not included on page 1 of this report?</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>h. Any other significant papers (other than evidence) relating to administrative aspects of the investigation or board?</td>
<td></td>
<td>X</td>
<td></td>
</tr>
</tbody>
</table>

FOOTNOTES:

1. If all negative answers on an attached sheet.

2. The N/A column constitutes a positive representation that the circumstances described in the question did not occur in this investigation or board.

DA FORM 1574, MAR 83

EDITION OF NOV 77 IS OBSOLETE.
### Exhibits (para 3-16, AR 15-6)

<table>
<thead>
<tr>
<th>a</th>
<th>Are all items offered (whether or not received) or considered as evidence individually numbered or lettered as exhibits and attached to this report?</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>b</td>
<td>Is an index of all exhibits offered to or considered by investigating officer or board attached before the first exhibit?</td>
<td>NO</td>
</tr>
<tr>
<td>c</td>
<td>Has the testimony/declaration of each witness been recorded verbatim or been reduced to written form and attached as an exhibit?</td>
<td>NO</td>
</tr>
<tr>
<td>d</td>
<td>Are copies, descriptions, or depictions (if substituted for real or documentary evidence) properly authenticated and is the location of the original evidence indicated?</td>
<td>NO</td>
</tr>
<tr>
<td>e</td>
<td>Are descriptions or diagrams included of locations visited by the investigating officer or board (para 3-6b, AR 15-6)?</td>
<td>NO</td>
</tr>
<tr>
<td>f</td>
<td>Is each written stipulation attached as an exhibit and is each oral stipulation either reduced to writing and made an exhibit or recorded in a verbatim record?</td>
<td>NO</td>
</tr>
<tr>
<td>g</td>
<td>If official notice of any matter was taken over the objection of a respondent or counsel, is a statement of the matter of which official notice was taken attached as an exhibit (para 3-16a, AR 15-6)?</td>
<td>NO</td>
</tr>
</tbody>
</table>

### COMPLETE ONLY IF RESPONDENT WAS DESIGNATED (Section II, Chapter 5, AR 15-6)

<table>
<thead>
<tr>
<th>9</th>
<th>Notice to respondents (para 5-5, AR 15-6):</th>
</tr>
</thead>
<tbody>
<tr>
<td>a</td>
<td>Is the method and date of delivery to the respondent indicated on each letter of notification?</td>
</tr>
<tr>
<td>b</td>
<td>Was the date of delivery at least five working days prior to the first session of the board?</td>
</tr>
<tr>
<td>c</td>
<td>Does each letter of notification indicate:</td>
</tr>
<tr>
<td>(1)</td>
<td>the date, hour, and place of the first session of the board concerning that respondent?</td>
</tr>
<tr>
<td>(2)</td>
<td>the matter to be investigated, including specific allegations against the respondent, if any?</td>
</tr>
<tr>
<td>(3)</td>
<td>the respondent’s rights with regard to counsel?</td>
</tr>
<tr>
<td>(4)</td>
<td>the name and address of each witness expected to be called by the recorder?</td>
</tr>
<tr>
<td>(5)</td>
<td>the respondent’s rights to present, present evidence, and call witnesses?</td>
</tr>
<tr>
<td>d</td>
<td>Was the respondent provided a copy of all unclassified documents in the case file?</td>
</tr>
<tr>
<td>e</td>
<td>If there were relevant classified materials, were the respondent and his counsel given access and an opportunity to examine them?</td>
</tr>
</tbody>
</table>

### B. COMPLETE ONLY FOR FORMAL BOARD PROCEEDINGS (Chapter 5, AR 15-6)

| 4 | At the initial session, did the recorder read, or demonstrate that all participants had read, the letter of appointment (para 5-3b, AR 15-6)? | NO |
| 5 | Was a quorum present at every session of the board (para 5-2b, AR 15-6)? | NO |
| 6 | Was each absent of any member properly excused (para 5-2a, AR 15-6)? | NO |
| 7 | Were members, witnesses, reporter, and interpreter sworn, if required (para 3-1, AR 15-6)? | NO |

### C. COMPLETE ONLY IF RESPONDENT WAS DESIGNATED (Section II, Chapter 5, AR 15-6)

<table>
<thead>
<tr>
<th>11</th>
<th>Counsel (para 5-6, AR 15-6):</th>
</tr>
</thead>
<tbody>
<tr>
<td>a</td>
<td>Was each respondent represented by counsel?</td>
</tr>
<tr>
<td>b</td>
<td>Name and business address of counsel:</td>
</tr>
<tr>
<td>(If counsel is a lawyer, check here )</td>
<td></td>
</tr>
<tr>
<td>c</td>
<td>Was the counsel present at all open sessions of the board relating to that respondent?</td>
</tr>
<tr>
<td>d</td>
<td>If military counsel was requested but not made available, is a copy (or, if oral, a summary) of the request and the action taken on it included in the report (para 5-6b, AR 15-6)?</td>
</tr>
</tbody>
</table>

### 12 | If the respondent challenged the legal adviser or any voting member for lack of impartiality (para 5-7, AR 15-6): |
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>a</td>
<td>Was the challenge properly denied and by the appropriate officer?</td>
</tr>
<tr>
<td>b</td>
<td>Did each member successfully challenged cease to participate in the proceedings?</td>
</tr>
</tbody>
</table>

### 13 | The respondent given an opportunity to (para 5-8a, AR 15-6): |
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>a</td>
<td>Be present with his counsel at all open sessions of the board which deal with any matter which concerns that respondent?</td>
</tr>
<tr>
<td>b</td>
<td>Examine and object to the introduction of real and documentary evidence, including written statements?</td>
</tr>
<tr>
<td>c</td>
<td>Object to the testimony of witnesses and cross-examine witnesses other than his own?</td>
</tr>
<tr>
<td>d</td>
<td>Call witnesses and otherwise introduce evidence?</td>
</tr>
<tr>
<td>e</td>
<td>Testify as a witness?</td>
</tr>
<tr>
<td>f</td>
<td>Make or have his counsel make a final statement or argument (para 5-9, AR 15-6)?</td>
</tr>
</tbody>
</table>

### 14 | If requested, did the recorder assist the respondent in obtaining evidence in possession of the Government and in arranging for the presence of witnesses (para 5-8b, AR 15-6)? | YES |

### 15 | Are all of the respondent’s requests and objections which were denied indicated in the report of proceedings or in an inclusion or exhibit (para 5-11, AR 15-6)? | YES |

**FOOTNOTES:**

1. Exhude all required answers on an attached sheet.
2. Use of the N/A column constitutes a positive representation that the circumstances described in the question did not occur in this investigation or hearing.
SECTION IV - FINDINGS (para 3-10, AR 15-6)

The (investigating officer) (board), having carefully considered the evidence, finds:

See attached memorandum.

SECTION V - RECOMMENDATIONS (para 3-11, AR 15-6)

In view of the above findings, the (investigating officer) (board) recommends:

See attached memorandum.
SECTION VI - AUTHENTICATION (para 3-17, AR 15-6)

THIS REPORT OF PROCEEDINGS IS COMPLETE AND ACCURATE. (If any voting member or the recorder fails to sign here or in Section VII below, indicate the reason in the space where his signature should appear.)

(Recorder)

(Investigating Officer)

(Member)

(Member)

(Member)

(Member)

SECTION VII - MINORITY REPORT (para 3-13, AR 15-6)

To the extent indicated in inclosure , the undersigned do(es) not concur in the findings and recommendations of the board. (In the inclosure, identify by number each finding and/or recommendation in which the dissenting member(s) do(es) not concur. State the reasons for disagreement. Additional/substitute findings and/or recommendations may be included in the inclosure.)

(Member)

(Member)

SECTION VIII - ACTION BY APPOINTING AUTHORITY (para 2-3, AR 15-6)

The findings and recommendations of the (investigating officer) (board) are (approved) (disapproved) (approved with following exceptions/substitutions). (If the appointing authority returns the proceedings to the investigating officer or board for further proceedings or corrective action, attach that correspondence (or a summary, if oral) as a numbered inclosure.)

Ex

Ex
MEMORANDUM FOR Commander, 3rd Brigade, 1st Armor Division, Camp Taji, Iraq, APO AE 09378

SUBJECT: AR 15-6 investigation findings for the A/1-41 IN Sniper Shooting of 7 October 2005.

1. Facts:

a. SGT and his sniper team (consisting of SGT and PFC) were located in the town of Farah Shia on 7 October 2005. Local Nationals established an illegal TCP approximately 150 meters south of SGT position that morning. The TCP at first appeared to be doing nothing more than directing traffic to a mosque approximately 200 meters to the west. (Exhibits A and E)

b. At 1200 hours on 7 October 2005, a black Kia sedan arrived at the illegal TCP. At this time, an individual at the TCP pulled out an AK-47 from the back of a white truck. An individual near the black Kia was in possession of a second AK-47. (Exhibits A, B, E)

c. SGT engaged the two individuals with AK-47s, killing them both. (Exhibits B, E, M, N)

2. Findings:

a. What was the sequence of events that led up to the incident?

On 7 October 2005, SGT sniper team was given the following guidance by CPT Commander of A/1-41 IN: "1. Gather intelligence throughout the ISR, 2. Engage to destroy insurgents that threaten the sniper team or LNs of Farah Shia." (Exhibit G) CPT based this guidance off reports that numerous LNs in Farah Shia were being killed by insurgents.

The sniper team positioned themselves on the rooftop of a house vicinity MB 224938. (Exhibits A, B, L) At approximately 1000 hours on 7 October 2005, LNs established an illegal TCP approximately 150 meters south of the sniper position. (Exhibit E) The sniper team monitored the illegal TCP for about two hours. During this time the snipers observed no hostile activity. The LNs at the TCP appeared to be directing traffic to a local mosque. (Exhibits B and E)

PFC was on guard on the rooftop when he noticed a black Kia sedan pull up to the TCP at about 1200 hours. When the car pulled up to the TCP, PFC saw an individual from the group at the TCP pull an AK-47 from the bed of a white pickup truck in the vicinity of the TCP. (Exhibits A, B, E, M) PFC then called down for SGT (Exhibit E) SGT came to the roof and began to observe the individual with the AK-47. He then observed a commotion in the vicinity of the black Kia
sedan at the TCP. At this time he noticed a second AK-47 in the hands of an individual near the black Kia. (Exhibits B, E, N)

After the engagement concluded, SGT called the TAC (Exhibits E, I, J). TF 2-70 AR sent its QRF, the Estonian Platoon, which arrived approximately ten minutes later. (Exhibits B, H, J, K) Once on the scene, the QRF secured the area and began to perform first aid on the second individual shot. The first individual shot was dead by the time the QRF arrived. After about five minutes of first aid by the Estonian medic, the second individual shot died. The QRF also detained six LN males that were in the area. (Exhibit H)

Following the arrival of the QRF, LTC and his PSD arrived at the scene. He talked to all of the detainees and the local elder. He determined that the individuals setting up the TCP were locals that were doing so in order to protect their mosque during prayer time. One of the individuals killed was a member of the local community. The other individual killed was unidentified. LTC then released the two deceased individuals' remains to the local elder. He also released all detainees to the custody of the local elder. (Exhibit F)

b. Did the soldiers involved properly escalate the use of force?
When considering the ROE, the events of 7 October 2005 need to be split into two separate incidents. The first is the shooting and killing of two local nationals. The second is the shots fired at the vehicle trying to flee the scene with one of the deceased LNs.

d. Was deadly force authorized?

Yes. In accordance

Island observed an altercation between two armed men that they believed was about to escalate to the point of shots being fired. (Exhibits B, C, D, E)

e. More specifically, what hostile act or intent was demonstrated allowing the sniper to use deadly force?
f. What theory of defense did the sniper team believe they were operating under (self-defense or defense of others)?

Were there any Law of War violations?

No. The sniper team's actions were within the Rules of Engagement.

h. Are there any operational lessons that should be captured and disseminated?

SGT Kennedy's sniper team made good split-second decisions that allowed them to use the minimum force required to prevent harm to the unarmed LNs.

Local Nationals operating any type of illegal TCP (even ones that appear peaceful and unarmed) provide a high potential for an incident such as this. Task Force or Company Commanders should make the observation of such TCPs a PIR for their patrols and OPs in order to allow them the option to peacefully engage the LNs and break up the TCP before an incident such as this.

In areas where TCPs such as this are common, Commanders need to engage local leaders to inform them of the dangers that the LNs at these TCPs face once they arm themselves. If local leadership insists on running TCPs, Commanders can coordinate with the local leaders to provide overwatch, thereby negating the need for the LNs to arm themselves.

i. Were there any other contributing factors that, if changed, could have altered the outcome?

If TF 2-70 AR had sent a patrol to break up this illegal TCP sometime in the two hours between when it was established and the shooting incident, then obviously there would have been no shooting. However, that is a tactical decision that is hard to second-guess. It was only after the fact that the TF learned that the LNs at the TCP were sent there by the mosque. At the time of the shooting the snipers did not know whether or not the individuals at the TCP were AIF. Therefore, one can make the argument for allowing the illegal TCP to continue, in order to give the LNs there a chance to reveal their intentions while being observed by a sniper OP.

3. Recommendations:

a. I recommend no disciplinary action be taken against SGT Kennedy or his sniper team. Further investigation of this incident is not warranted. SGT Kennedy operated fully within the Rules of Engagement in order to stop Iraqi on Iraqi violence.

b. I recommend that Commanders in areas where illegal TCPs such as this are common engage local leadership to discourage them from ordering such TCPs. Also, Commanders should consider the option to try to disrupt illegal TCPs as soon as their Soldiers observe and report them.
4. The POC for this memorandum is the undersigned at VOIP 242-6185.

[Redacted]  
CPT, AR  
Investigating Officer
Index of Exhibits/Inclosures to AR 15-6 investigation of
A/1-41 IN Sniper Shooting of 7 October 2005

- Inclosure I: Letter of Appointment
- Exhibit A: Story Board Diagram of events of 7 October 2005
- Exhibit B: Sworn Statement from SGT
- Exhibit C: Sworn Statement from SGT
- Exhibit D: Sworn Statement from SPC
- Exhibit E: Sworn Statement from PFC
- Exhibit F: Sworn Statement from LTC
- Exhibit G: Sworn Statement from CPT
- Exhibit H: Sworn Statement from CPT
- Exhibit I: Sworn Statement from 1LT
- Exhibit J: TOC Log (DA Form 1594) from TF 2-70 AR TOC
- Exhibit K: SIGACT from TF 2-70 AR TOC
- Exhibit L: Photo from SGT sniper position
- Exhibit M: Photo of individual that took an AK-47 from the white truck
- Exhibit N: Photo of individual shot next to the black Kia
- Exhibit O: Photo of the white car that tried to leave the scene
MEMORANDUM FOR CPT [REDACTED], HHC, 3rd BCT, 1st AD, APO AE 09378

SUBJECT: Appointment as Investigating Officer

1. Pursuant to AR 15-6, paragraph 2-1, you are hereby appointed as an investigating officer to investigate the escalation of force incident and associated death of two local nationals that occurred on 7 October 2005 during an operation involving members of A/1-41 Infantry.

2. In your investigation, use procedures under AR 15-6, Chapter 4, for an informal board of officers. All witness statements will be sworn, and you will follow the procedures in AR 15-6, paragraph 3-7e for Privacy Act statements. If the person you are interviewing states that he/she does not know anything about the allegations, prepare a sworn statement to that effect for the witness to sign. If, in the course of your investigation, you suspect a soldier has committed an offense under the UCMJ, you must advise and read him/her their rights under the UCMJ, Article 31, or the Fifth Amendment, as appropriate, prior to conducting any interview.

3. In your investigation you need to answer the following questions:

   a. What was the sequence of events that led up to the incident?

   b. Did the soldiers involved properly escalate the use of force?

   c. Did the snipers have Positive Identification (were they reasonably certain that they were taking action against a legitimate military target) before engaging?

   d. Was deadly force authorized?

   e. More specifically, what hostile act or intent was demonstrated allowing the sniper to use deadly force?

   f. What theory of defense did the sniper team believe they were operating under (self-defense or defense of others)?

   g. Were there any Law of War violations?

   h. Are there any operational lessons that should be captured and disseminated?
AFZN-BB-CO
SUBJECT: Appointment as Investigating Officer

i. Were there any other contributing factors that, if changed, could have altered the outcome?

4. Contact the Command Judge Advocate, CPT [redacted] for legal guidance prior to starting your investigation. CPT [redacted] is located in Bldg 72 and his phone number is VOIP: 242-6045.

5. Submit your findings and recommendations on DA Form 1574 to CPT [redacted] for legal review no later than 18 October 2005.

COL, AR
Commanding
Classification: SECRET//REL TO USA AND MCFI

Here is the sniper engagement:

WHO: A/1-41IN
WHAT: SNIPER OP
WHEN: 07 0140 OCT (48HRS)
WHERE: ZONE 86
WHY: IOT DESTROY AIF IED EMPLACERS

0143: SET

1218: SNIPER OP ENGAGED TWO LN'S WITH AK-47'S. A LN HAD ESTABLISHED AN ILLEGAL TCP ALONG RTE CANNUCKS 100M SOUTH OF THE SNIPER OP. A BLACK SEDAN (TF BOLO VEHICLE BASED ON LN REPORTS OF DRIVE BY SHOOTINGS, KIDNAPPINGS AND IED EMPLACEMENT IN SAME TYPE VEHICLE) RAN THE CHECKPOINT AND THEN 1 X LNS GOT OUT OF THE VEHICLE WITH AN AK-47. THE LN CONDUCTING THE TCP GRABBED HIS AK-47 AND AGGRESSIVELY APPROACHED THE OTHER LN FROM THE CAR. THE SNIPER ASSESSED THAT THEY WERE AIF, ABOUT TO START SHOOTING AND ENGAGED AND KILLED THESE TWO LNS.

1235: CDR, 2-70AR ON LOCATION INVESTIGATING.

1345: SNIPER OP COLLAPSED, UNIT RP'D. 15-6 INVESTIGATION INITIATED.

SUMMARY:
2 X LN KIA

3/1AD BATTLE CAPTAIN

CPT (1100-2300)
CPT (2300-1100)
VOIP 242-6593
DSN 856-0986
EMAIL

Classification: SECRET//REL TO USA AND MCFI

________________________
From
Sent: Saturday, October 08, 2005 7:46 AM
To
Subject: [5] A/1-41 Sniper engaging LN CP

Classification: SECRET//REL TO USA AND MCFI

Classification: SECRET//REL TO USA AND MCFI
Follow On Actions:
1. A/1-41 IN CO.CDR met with local "leadership" and family members on 08OCT. He will return to visit with family on 11/12OCT, following the mourning period. Community members present were accepting/understanding of the events surrounding the incident.
2. AR15 ongoing. Expect preliminary report in next 24 hours.

4. One of the weapons at the site belongs to the mosque (an individual at the site produced credible paperwork with serial number verification). Weapon will be returned by the CO.CDR.

1. 071211OCT 05 Outcast 7 sniper OP (1/A/1-41) observed an illegal check point established by 6-10 LN's w/ MB 224 938. A black Kia (BOLO) was traveling north toward the CP and breached it.
2. After passing through the CP the black Kia stopped. A LN at the CP takes an AK-47 out of his truck parked on the east side of the road leading into the town of Farah Shla. then observed an Individual next to the black Kia with an AK-47. All the doors to the Kia were open and the occupants no longer in side.
4. 1213 - BDE, T6 notified of situation. T6, with Saber 7, enroute to incident.
5. 1214 - QRF enroute from the TAC to assist.
6. 1225 - QRF with sniper securing the site.
7. 1235 - Sabor 7/Thunder 6 is on site Initiate tactical questioning with 6 LN's detained on site to include local town leader.
8. 1335 - Thunder Oscar reports that one of the local nationals shot is a member of the town and the other is not and no one knows who he is (black Kia driver).
9. 1430 - QRF has returned to the TAC with all personnel. The bodies have been turned over to local leadership. An AR 15-6 has been initiated.
RIGHT

WARNING PROCEDURE/WAIVER CERT

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
   Camp Taji, Iraq

2. DATE 12/30/05
3. TIME 1545
4. FILE NO.

5. NAME [Last, First M.I.]

6. SSN [ ]

7. GRADE/STATUS E-5/5G+

8. ORGANIZATION OR ADDRESS
   ACo Y-11 I N F 3BC T 1AD

PART I - RIGHTS WAIVER/NON-WAIVER CERTIFICATE

Section A. Rights

The investigator whose name appears below told me that she is with the United States Army and wanted to question me about the following offenses of which I am suspected/accused: Sniper Shooting

Before she asked me any questions about the offenses, 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 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 offenses 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.

Section B. Waiver

I understand my rights as stated above. I am now willing to discuss the offenses 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]
1b. ORGANIZATION OR ADDRESS AND PHONE
   ACo Y-11 I N F 3BC T 1AD

2a. NAME [Type or Print]
2b. ORGANIZATION OR ADDRESS AND PHONE

3. SIGNATURE OF INTERVIEWEE
4. SIGNATURE OF INVESTIGATOR
5. TYPED NAME OF INVESTIGATOR

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 2829] SUBSEQUENTLY EXECUTED BY THE SUSPECT/ACCUSED

DA FORM 3881, NOV 89 EDITION OF NOV 84 IS OBSOLETE

USAPA 2.01

Exhibit B 13566 Fuso
### 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."

   *(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 statuted 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 oblige 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)

---

**REVERSE OF DA FORM 3881**

13567
SWORN STATEMENT
For use of this form, see AR 190-46; the proponent agency is ODCSOPS

PRIVACY ACT STATEMENT
AUTHORITY: Title 10 USC Section 301; Title 5 USC Section 2851; E.O. 5397 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
Camp Taji, Iraq

2. DATE (MMDDYY)
2005 10 10

3. TIME
1554

4. FILE NUMBER

5. LAST NAME, FIRST NAME, MIDDLE NAME

6. SSN

7. GRADE/STATUS
E-5/2gt

8. ORGANIZATION OR ADDRESS
1st Bde 3rd Inf Div TF 2-90 Armor 3 BCT 1AD

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

On 7 Oct 05 at 1200 hrs at Grid , I was standing downstairs in a house we had occupied as a sniper hide to overwatch the entrance into Farashia. There was a group of 20 to 30 people on the road entering the town. Some of them were stopping cars and then directing them to the Mosque approximately 200m west of the checkpoint. I noticed a man carrying an AK-47 and immediately ran upstairs where I was informed by PFC that the weapon had come from a pickup truck that was parked off the road beside the checkpoint. I used the scope on my rifle to observe the situation. Men running the checkpoint seemed to be in a confrontation with some men that they were making get out of a black 4 door sedan. I then noticed another AK-47 and possibly one more being held by men standing behind the black car. The first man I saw with a weapon had turned around and started walking towards me, when the crowd opened from around him I shot 1 round from my M24 sniper rifle into his chest. Some people ran and some ducked behind cover.

10. EXHIBIT

11. 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 THE INITIALS OF THE PERSON MAKING THE STATEMENT, AND PAGE NUMBER MUST BE INDICATED.

DA FORM 2823, DEC 1998  DA FORM 2823, JUL 72, IS OBSOLETE  USAPA V1.00
9. STATEMENT (Continued)

The second man I shot with a weapon had ducked down behind the open back door of the car. When he stood up, I shot him through his side and the rest of the people in the area took off running. Then a group of approximately 15 men and white car came up at a high rate of speed and started putting the first guy in the car. He was already dead, we were yelling at them to stop in Arabic and they wouldn't.

Approximately 150 m away was the distance of all 5 shots. About 10 minutes later the Stone Element arrived and secured the location. Their medic started working on the second man shot who was still breathing. He died after about five minutes.

Thunder 6 showed up with the Saber Element and questioned a few people. We then packed up and left for the THK.

Q: Did you shoot at anyone besides the man with At-47's and the Car? No I did not. A2K
Q: Did you use any other weapon systems besides your sniper rifle? No, I only wanted accurate fire because of the crowd. A2K
9. STATEMENT (Continued)

Q: In your opinion do you feel you followed the Rules of Engagement outlined by the Division?  Yes I do.  AK

Affidavit

[Signature of Person Making Statement]

WITNESSES:

[Signature of Person Administering Oath]

Organization or Address

[Typed Name of Person Administering Oath]

[Authority To Administer Oaths]

Page 3 of 3 Pages
### Section A. Rights

The Investigator whose name appears below told me that I was with the United States Army and wanted to question me about the following offense(s) of which I am suspected/accused: **sniper shooting**

Before he/she asked me any questions about the offense(s), 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 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.
   
   **(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.

### 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.

<table>
<thead>
<tr>
<th>WITNESSES (if available)</th>
<th>SIGNATURE OF INTERVIEWEE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1a. NAME (Type or Print)</td>
<td>3.</td>
</tr>
<tr>
<td>2a. NAME (Type or Print)</td>
<td>4.</td>
</tr>
<tr>
<td>b. ORGANIZATION OR ADDRESS AND PHONE</td>
<td>5.</td>
</tr>
<tr>
<td>ACO 1-41 / TF 2-70 AR</td>
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<tr>
<td>1AD 3ABCT</td>
<td></td>
</tr>
<tr>
<td>b. ORGANIZATION OR ADDRESS AND PHONE</td>
<td>6.</td>
</tr>
<tr>
<td>HHC 2-70 AR</td>
<td></td>
</tr>
<tr>
<td>1AD 3ABCT</td>
<td></td>
</tr>
</tbody>
</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 2823) SUBSEQUENTLY EXECUTED BY THE SUSPECT/ACCUSED**

**DA FORM 3881, NOV 89**

**EDITION OF NOV 84 IS OBSOLETE**

**USAFA 2.01**
1. WARNING - Inform the suspect/acused of:
   a. Your official position.
   b. Nature of offense(s).
   c. The fact that he/she is a suspect/acused.

2. RIGHTS - Advise the suspect/acused 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 personal 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 the 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/acused fully understands his/her rights.

THE WAIVER

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

“Have you ever requested a lawyer after being read your rights?”
(If the suspect/acused 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/acused 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/acused says “yes,” stop the questioning until he/she has a lawyer. If the suspect/acused 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/acused 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/acused 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/acused only 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 INCORRIMINATING STATEMENTS:
1. If the suspect/acused 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/acused 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 suspect must be so advised. If the suspect states he/she wants his/her rights, the interrogator should ask if he/she wants to waive his/her rights.

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

WHEN SUSPECT/ACCUSED DISPLAYS INDECISION ON EXERCISING HIS OR HER RIGHTS DURING THE INTERROGATION PROCESS: 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/acused only concerning whether he or she desires to waive counsel. The questioning may not be utilized to discourage a suspect/acused 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.”)

REVERSE OF DA FORM 3881

C-2

USAPA V2.01

13572
**SWORN STATEMENT**

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

<table>
<thead>
<tr>
<th>PRIVACY ACT STATEMENT</th>
</tr>
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<tbody>
<tr>
<td>AUTHORITY: Title 10 USC Section 301; Title 5 USC Section 2951; E.O. 9397 dated November 22, 1943</td>
</tr>
<tr>
<td>PRINCIPAL PURPOSE: To provide commanders and law enforcement officials with means by which information may be accurately</td>
</tr>
<tr>
<td>ROUTINE USES: Your social security number is used as an additional/alternate means of identification to facilitate filing and retrieval.</td>
</tr>
<tr>
<td>DISCLOSURE: Disclosure of your social security number is voluntary.</td>
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</tbody>
</table>

<table>
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<tr>
<th>1. LOCATION</th>
<th>2. DATE (YYYYMMDD)</th>
<th>3. TIME</th>
<th>4. FILE NUMBER</th>
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<tr>
<td>Lempa Taj, Iraq</td>
<td>20051004</td>
<td>1551</td>
<td>Ex6</td>
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</table>

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<tr>
<th>5. LAST NAME, FIRST NAME, MIDDLE NAME</th>
<th>6. SSN</th>
<th>7. GRADE/STATUS</th>
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</thead>
<tbody>
<tr>
<td>#</td>
<td>SBN</td>
<td>ES/Sgt</td>
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</tbody>
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<thead>
<tr>
<th>8. ORGANIZATION OR ADDRESS</th>
<th>9. WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:</th>
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<tbody>
<tr>
<td>Aco 1-4/TF 2-70 AR 3 BCT 1 AD</td>
<td>Ex1</td>
</tr>
</tbody>
</table>

I, [REDACTED], want to make the following statement under oath:

At 1000 hours on 7 October 2005 at grid [REDACTED], we were sitting in a house for a sniper position. Our hide position was on the roof of the house. We were watching the entrance to Fornini. I had just finished eating when I heard Sgt [REDACTED] say "He's holding an AK." I got up and started putting my gear on when I heard [REDACTED] fire a round. [REDACTED] got to the doorway where he was firing from. I saw people] [REDACTED] black [REDACTED] door KIA fall. I started scanning the area with binoculars and saw one guy laying down barely moving on the passenger side of the KIA and another guy about 25 meters away from him about 150 to 200 meters south of our position. I saw a group of people running towards the guy who wasn't moving and pick him up. A car stopped by them and they tossed him into the car and try to drive away. We started yelling at them to stop but they didn't. [REDACTED] people scattered again. [REDACTED] which was stone showed up about 10 minutes later had secured the site, while we were waiting for QRF to show up. we sat on the rooftop and overwatched the scene. After the site was secured myself and Sgt [REDACTED] walked to the site and secured the AK 47. [REDACTED] of the Estonian's was doing first aid to the wounded guy and a few others detained a few guys that were hiding. I went to the car with the dead guy in it and there was two more guys in it. The Estonian's grabbed them to.

**Q: Who saw the men with the AH's first?**

A: [REDACTED] and [REDACTED]

**Q: Did anyone besides Sgt [REDACTED] shoot?**

A: No, KE

**Q: Was anyone injured or shot besides the two individuals with AH's?**

A: One of the guys in the back of the car that Sgt [REDACTED] shot the window out and some blood on him that might have been from the dead guy or could have been from the window. Some of the glass might have cut him. Nothing follows.**

<table>
<thead>
<tr>
<th>10. EXHIBIT</th>
<th>11. INITIALS OF PERSON MAKING STATEMENT</th>
<th>PAGE OF 3 PAGES</th>
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ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT" TAKEN AT DATED

THE BOTTOM OF EACH ADDITIONAL PAGE MUST BE INDICATED.
Nothing Follows

Nothing Follows

Nothing Follows

Nothing Follows

INITIALS OF PERSON MAKING STATEMENT

PAGE 2 OF 3 PAGES
The investigator whose name appears below told me that she is with the United States Army and wanted to question me about the following offenses of which I am suspected/accused: Sniper shooting.

Before he/she asked me any questions about the offenses, 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.
   (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 offenses(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.

Section B. Waiver

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

WITNESSES (If available)

2. SIGNATURE OF INTERVIEWEE

1a. NAME (Type or Print)

b. ORGANIZATION OR ADDRESS AND PHONE
   A Co 1-91 7th gp 770 AR
   3rd Bn 1 AD

2a. NAME (Type or Print)

b. ORGANIZATION OR ADDRESS AND PHONE

6. ORGANIZATION OF INVESTIGATOR
   HHC 2-70 AR
   3rd Bn 1 AD

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/acused of:
   a. Your official position.
   b. Nature of offense(s).
   c. The fact that he/she is a suspect/acused.

2. **RIGHTS** - Advise the suspect/acused 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/acused fully understands his/her rights.

#### THE WAIVER

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

"Have you ever requested a lawyer after being read your rights?"
*(If the suspect/acused 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/acused 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/acused says "yes," stop the questioning until he/she has a lawyer. If the suspect/acused 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/acused 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/acused 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/ACUSED REFUSES TO SIGN WAIVER CERTIFICATE:** If the suspect/acused 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/acused 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/acused 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/acused was advised accordingly should be noted in the comment section on the waiver certificate and initialed by the suspect/acused.

**WHEN SUSPECT/ACUSED 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/acused only concerning whether he or she desires to waive counsel. The questioning may not be utilized to discourage a suspect/acused 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)

**REVERSE OF DA FORM 3881**

13577
SWORN STATEMENT

For use of this form, see AR 180-45; the proponent agency is ODCSOPS

PRIVACY ACT STATEMENT

AUTHORITY: Title 10 USC Section 301; Title 5 USC Section 2981; E.O. 9397 dated November 22, 1949 (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
   TAJI IRAQ

2. DATE
   2005 10 10

3. TIME
   15:43

4. FILE NUMBER
   Ex6

5. LAST NAME, FIRST NAME, MIDDLE NAME

6. RANK

7. GRADE/STATUS
   3-9 SF

8. ORGANIZATION OR AGENCY
   A Co 1-91 2nd Bn 25th Inf

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

   AT 12:00 NOON ON OCTOBER 10 AT ___________________________,

   I was off guard and I was down stairs resting when a soldier walked into the kitchen area of the house. The window in the kitchen
   was facing the road we were watching and around that time I saw men with AR-47s on the road. He then turned up stairs to join the sentry
   and only when was at the time PFC offered that time a soldier with a weapon and rushed to the kitchen to secure the door and watch what
   I could see of the road. I then heard several shots fired from the road
   and on the road I saw several people running for cover. I could not see the part of the road were the soldier was firing with a moment
   or two after that I saw a man rolling behind an open parapet. I looked
   like he was wounded. I stayed in the pasture by the kitchen door the whole time until
   QRF arrived at the scene. At no time did I fire any rounds after QRF arrived
   and我自己 started packing everything up while soldiers and
   man went to talk to QRF soon after we grabbed our belongings and left
   the house and pulled security on the scene with the QRF.

   Q: Who saw the individuals with the ARs first?
   A: PFC said he saw on man with an AR-47 first. He said he saw
   three more men with an AR-47 from where I was downstairs.

   Q: How many men were outside besides the men with ARs's outside.
   A: To my knowledge there were two men with AR-47 outside. J:11
   A: Beside the men with AR-47 there about 20 or so people inside the engagement area.

10. EXHIBIT
    D

11. INITIALS OF PERSON MAKING STATEMENT
    Ex6

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

THE BOTTOM OF EACH ADDITIONAL PAGE MUST BE INDICATED.
STATEMENT OF
TAKEN AT
DATED

9. STATEMENT (Continued)

Nothing follows

Nothing follows

Nothing follows

Nothing follows

AFFIDAVIT

I, [redacted], 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 influence, or unlawful inducement.

[Signature of Person Making Statement]

WITNESSES:

[Redacted]

[Redacted]

ORGANIZATION OR ADDRESS

[Redacted]

[Redacted]

[Redacted]

ORGANIZATION OR ADDRESS

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 10th day of October, 2005, at Camp Jay, Iraq.

[Signature of Person Administering Oath]

[Typed Name of Person Administering Oath]

[Authority To Administer Oaths]

PAGE 3 OF 3 PAGES

13580

Edo
### PART I - RIGHTS WAIVER/NON-WAIVER CERTIFICATE

Section A. Rights

The Investigator whose name appears below told me that I am suspected/accused of.

- **Sniper shooting**

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 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.

(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.

### 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.

<table>
<thead>
<tr>
<th>WITNESSES (if available)</th>
<th>3. SIGNATURE OF INTERVIEWEE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1a. NAME (Type or Print)</td>
<td></td>
</tr>
<tr>
<td>b. ORGANIZATION OR ADDRESS AND PHONE</td>
<td>4. SIGNATURE OF INVESTIGATOR</td>
</tr>
<tr>
<td>ACo V41 TF 2/70 AR 3BCT 1AD</td>
<td></td>
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</tbody>
</table>

<table>
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<tr>
<th>2a. NAME (Type or Print)</th>
<th>5. TYPED NAME OF INVESTIGATOR</th>
</tr>
</thead>
<tbody>
<tr>
<td>b. ORGANIZATION OR ADDRESS AND PHONE</td>
<td>6. ORGANIZATION OF INVESTIGATOR</td>
</tr>
</tbody>
</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 3881) SUBSEQUENTLY EXECUTED BY THE SUSPECT/ACCUSED**

DA FORM 3881, NOV 89

Edition of Nov 84 is Obsolete
### 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."
   - (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, 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.", "I don't know if I want a lawyer.", or "I don't want to talk to 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 190-45; the proponent agency is ODCSOPS

<table>
<thead>
<tr>
<th>PRIVACY ACT STATEMENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>AUTHORITY: Title 10 USC Section 301; Title 5 USC Section 2951; E.O. 9397 dated November 22, 1943 (SSN).</td>
</tr>
<tr>
<td>PRINCIPAL PURPOSE: To provide commanders and law enforcement officials with means by which information may be accurately</td>
</tr>
<tr>
<td>ROUTINE USES: Your social security number is used as an additional/alternate means of identification to facilitate filing and retrieval.</td>
</tr>
<tr>
<td>DISCLOSURE: Disclosure of your social security number is voluntary.</td>
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<tr>
<th>1. LOCATION</th>
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<tbody>
<tr>
<td>Iraq</td>
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<tr>
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<th>4. FILE NUMBER</th>
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<tr>
<th>5. LAST NAME</th>
<th>FIRST NAME</th>
<th>MIDDLE NAME</th>
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<tr>
<td>[Redacted]</td>
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<th>6. SSN</th>
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<td>[Redacted]</td>
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<th>7. GRADE/STATUS</th>
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<tr>
<td>E-3 PFC</td>
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<tr>
<th>8. ORGANIZATION OR ADDRESS</th>
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<tr>
<td>ACo '41 TF 2/30 AR 3BCT IAD</td>
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</table>

<table>
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<tr>
<th>9. WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:</th>
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<tbody>
<tr>
<td>At 120000 hrs on Oct 7 2003 at Grid [Redacted] I was on guard and saw individuals conducting an illegal TEP and a black car pulled up and one individual pulled an AK from the back of a truck. Sgt [Redacted] was informed of the actions and came up to the roof. Then Sgt [Redacted] said he saw another AK come out of the black car. Then the other people that were around picked up one of the bodies and put it in a car and tried to get away. Sgt [Redacted] called up to the TAC and AK was sent to the location.</td>
</tr>
</tbody>
</table>

| Q: How long was the illegal TEP in place before Sgt. [Redacted] took the shot |
| A: The people had been out there for a few hours. It looked like they were just directing cars cause they never had anyone get out of their car until the black car showed up. CLW |

| Q: At anytime did you or anyone on the sniper team enter a mosque |
| A: NO. CLW |

| Q: Did Sgt [Redacted] shoot anyone besides the two men with AK's and the vehicle? |
| A: NO. CLW |

10. EXHIBIT

<table>
<thead>
<tr>
<th>11. INITIALS OF PERSON MAKING STATEMENT</th>
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<tbody>
<tr>
<td>[Redacted]</td>
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</tbody>
</table>

ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT TAKEN AT DATED ____________
THE BOTTOM OF EACH ADDITIONAL PAGE MUST BE BE INDICATED.
Nothing Follows.
SWORN STATEMENT

For use of this form, see AR 130-45; the proponent agency is ODCGOPS

PRIVACY ACT STATEMENT

AUTHORITY:
Title 10 USC Section 301; Title 5 USC Section 2961; E.O. 9397 dated November 22, 1943 (SSW).

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
CAMP TAJI, IRAQ

2. DATE (YYYYMMDD)
2005/10/10

3. TIME
1700

4. FILE NUMBER

5. LAST NAME, FIRST NAME, MIDDLE NAME

6. SSN

7. GRADE/STATUS
OS/ACTIVE

8. ORGANIZATION OR ADDRESS
HHC/2-70AR/3BCT/1AD; TAJI, IRAQ

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

AS I ARRIVED AT THE SITE OF THE INCIDENT WITH MY PDS, THE ESTONIAN PLT (QRF) HAD ALREADY
RESPONDED AND SECURED THE SITE, AND WAS DETAINING 6 X LOCAL NATIONALS.

THERE WERE 2 X KIAS AT THE SITE, ONE BLACK KIA SEDAN, ONE WHITE PICKUP TRUCK AND ONE WHITE
SEDAN. 1 X AK47 HAD BEEN SEIZED AND PLACED WITH ONE OF THE KIAS NEAR THE WHITE SEDAN. HE WAS
LATER IDENTIFIED AS THE LOCAL MEMBER OF THE COMMUNITY.

ONCE ON SITE, I TOOK MY INTERPRETER AND STARTED TO QUESTION THE LNS THAT THE ESTONIANS HAD
DETAINED. AS I QUESTIONED THEM I DETERMINED THE FOLLOWING:

- THOSE DETAINED CLAIMED NOT TO BE PART OF THOSE AT THE CHECKPOINT, THEY CAME FOLLOWING THE
SHOOTING TO ATTEMPT TO EVACUATE THE KIA (LOCAL MEMBER OF THE COMMUNITY).
- ONE PRODUCED PAPERWORK THAT CAME FROM THE MOSQUE, SHOWING THE AK47 CARRIED BY THE
LOCAL COMMUNITY MEMBER WAS AN AUTHORIZED WEAPON FOR GUARDING THE MOSQUE.
- SEVERAL OF THE LNS QUESTIONED CLAIMED THE ILLEGAL TCP HAD BEEN ESTABLISHED BY LOCAL
COMMUNITY MEMBERS TO CONTROL ACCESS TO THE TOWN.
- NONE OF THEM COULD IDENTIFY THE INDIVIDUAL WHO WAS KILLED THAT DROVE UP IN THE BLACK "KIA"
SEDAN. ONE MENTIONED HE MIGHT BE COMING TO THE MOSQUE TO PRAY (THE SPEAKER OF THE MOSQUE
WAS STILL GIVING HIS SERMON THE ENTIRE TIME WE WERE THERE).
- ONE INDIVIDUAL CLAIMED TO BE THE COUSIN OF ONE OF THE KIAS.

I SPOKE WITH SGT., ASKING HIM WHAT HAD HAPPENED. HE PROVIDED THE FOLLOWING REPORT:

- HE OBSERVED THE ILLEGAL TCP BEING SET UP. NONE OF THE LNS AT THIS TIME SHOWED ANY WEAPONS.
- THE BLACK KIA PULLED UP AND THE DRIVER PULLED OUT AN AK47.
- A MEMBER OF THE TCP GROUP OR SOMEONE BEHIND THE TCP GROUP PULLED AN AK47 OUT FROM A WHITE
PICKUP TRUCK PARKED BEHIND THE TCP.
- SGT. THINKING EITHER HE OR THE TCP WAS ABOUT TO COME UNDER ATTACK, ENGAGED AND
KILLED BOTH LNS HOLDING WEAPONS.
- EVERYONE RAN AWAY FROM THE AREA. SHORTLY THEREAFTER A GROUP DROVE UP IN A WHITE SEDAN
AND TRIED TO RETRIEVED ONE OF THE BODIES

THIS TIME THE QRF ARRIVED AND SECURED THIS GROUP OF LNS.

I DISCUSSED WITH THE OLDEST LN PRESENT, WHO CLAIMED SOME LEADERSHIP OVER THE TOWN, THAT
WEAPONS OUTSIDE HOMES (AND MOSQUES) WERE UNAUTHORIZED, AND PEOPLE CARRYING AK47S CAN BE
INTERPRETED AS BEING TERRORISTS, ESPECIALLY IN THIS AREA WHERE TERRORISTS OFTEN OPERATE.

I ASKED HIM IF HE WANTED CUSTODY OF BOTH BODIES, AND HE ANSWERED THAT HE DID. I DIRECTED
THAT THE QRF RELEASE ALL DETAINNEES AND SECURED THE AK47 FOR LATER DISPOSITION.

10. EXHIBIT

11. INITIALS OF PERSON MAKING STATEMENT

PAGE 1 OF 2 PAGES

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

THE BOTTOM OF EACH ADDITIONAL PAGE MUST BE INDICATED.

DA FORM 2823, DEC 1998
DA FORM 2823, JUL 72, IS OBSOLETE

FU
<table>
<thead>
<tr>
<th>WITNESSES:</th>
<th>Subscribed and sworn to before me, a person authorized by law to administer oaths, this 10 day of Oct., 2003 at Camp Taji.</th>
</tr>
</thead>
<tbody>
<tr>
<td>[Redacted]</td>
<td>(Signature of Person Administering Oath)</td>
</tr>
<tr>
<td>[Redacted]</td>
<td>(Typed Name of Person Administering Oath)</td>
</tr>
<tr>
<td>[Redacted]</td>
<td>Authority To Administer Oaths)</td>
</tr>
</tbody>
</table>

INITIALS OF PERSON MAKING STATEMENT

PAGE 3, DA FORM 2623, DEC 1998
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:       disclosed of your social security number is voluntary.
DISCLOSURE:         Your social security number is used as an additional/alternate means of identification to facilitate filing and retrieval.

1. LOCATION
2. DATE (YYMMDD)
3. TIME
4. FILE NUMBER

Tiwi, Iraq
2005/10/11
1648

EX0

6. LAST NAME, FIRST NAME, MIDDLE NAME
7. GRADE/STATUS

[Redacted]

A/1-41 TN
CPT/CDR

8. ORGANIZATION OR ADDRESS

9. __________________________________________________________.
   WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:
   PRIOR TO SGT [Redacted] and 1LT [Redacted] taking their put
   INTO THE AVALANCHE P2O, I GAVE THEM SPECIFIC MISSION
   OBJECTIVES. DUE TO NUMEROUS REPORTS OF LN KILLINGS
   IN THE TOWN OF FARA SHIA BY INSURGENTS, I GAVE
   SG T [Redacted] TASK, PURPOSE AND INTENT TO CONDUCT
   A SNIPER OPERATION NINE WITHIN FARA SHIA.

   THE SPECIFIC GUIDANCE I GAVE WAS TO:
   1. GATHER INTELLIGENCE THROUGH ISR
   2. ENGAGE TO DESTROY INSURGENTS THAT THREATEN
      THE SNIPER TEAM OR LN'S OF FARA SHIA

   NOTHING FOLLOWS

10. EXHIBIT

11. INITIALS OF PERSON MAKING STATEMENT

   G

   PAGE 1 OF 3 PAGES

   ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT _____ TAKEN AT _____ DATED _____
   THE BOTTOM OF EACH ADDITIONAL PAGE MUST BE INDICATED.
On the 7th of October, my unit (Estela-I) was executing QRF mission in the TF 2-70 AO. On the afternoon we received a task to pull out a sniper team, because of the hostile act on their position. When we arrived to their location, I saw 2 dead bodies in front of FARA Shah village lvo nb 2293 and crowd of LN's moving out from a mosque toward the sniper position. When they saw us (QRF), they moved back to the mosque. None of my soldiers (Estela-I) or the snipers have entered the mosque.
STATEMENT OF (Continued)

TAKEN AT Camp Teji, DATED 05 10 05

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 Oct 05

(Signature of Person Administering Oath)

(Typed Name of Person Administering Oath)

(Authority To Administer Oath)

INITIALS OF PERSON MAKING STATEMENT

PAGE 3, DA FORM 2823, DEC 1998
I was the day Battle Captain for 2-70AR on the day the following events took place.

At approximately 1211 on the 7th of October, our Battalion TAC, located at MB 18914 95422, reported that our 1A/1-41 IN sniper team had engaged two local nationals at MB 224 928. The initial report was that a civilian check point had been established near the city of Parah Shia and that a black sedan ran through the (illegal) check point. The vehicle pulled to the side of the road and one local national exited the vehicle with an AK-47 and moved towards a white truck. At the same time, the IZ who was controlling the civilian check point exited his, the white pick up truck, also with an AK-47.

As the reports came up from the TAC, we were notified that at 1214, the Battalion QRF was enroute to assess the situation and provide support for the sniper team on the ground. At the same time, Thunder 6, escorted by his PSD (Saber 7), left Taji enroute to visit the site and to talk to the locals and establish what exactly happened and who the IZ were that were killed. The QRF arrived on site and verified that both local nationals were killed. Later, it was reported that the check point was an illegal check point set up by the town to provide security for themselves.

It was initially reported to the TOC that the leader of Parah Shia had been killed. We reported to Brigade the updates on all the information and sent the written reports through e-mail. Thunder 6 reported that he wanted to schedule a follow on meeting with the town leaders to discuss the events of the shooting. We later confirmed through Thunder 6 that the town leader HAD NOT been killed and that it was two local nationals.

We received no further updates from the TAC until 1430, when we were notified that the body had been given to the locals and that the QRF, the sniper team, and Thunder 6 were all enroute back to the TAC.
ORGANIZATION

INSTALLATION

10 0000

6 0990 00
3 0730 00
10 8743 00

13593