

ACTION

DEPARTMENT OF THE ARMY
HEADQUARTERS, U.S. ARMY AIR DEFENSE ARTILLERY CENTER AND FORT BLISS
FORT BLISS, TEXAS 79916-0058

In the case of Private First Class Willie Brand
Headquarters Battery, U.S. Army Air Defense Artillery Center and Fort Bliss, Texas 79916, the
sentence is approved and will be executed.

U.S. Army, Headquarters and



ROBERT P. LENNOX

Major General, USA

Commanding

15 May 2006

0134-02-CID369-23533

Sworn Statement**LOCATION:** Bagram Airfield, Afghanistan, APO AE 09354**DATE:** 21 Jan 03**TIME:** 1350 Z *NRD***NAME:** Neil R. BERKLEY**SSAN:****RANK:** SSG/E-6/Reserves**ORGANIZATION:****I, SSG Neil R. BERKLEY, want to make the following statement under oath:**

I am making this statement to clarify certain aspects or to further clarify certain issues from my last statement, which I made on 10 Dec 02:

Q: In the statement you made on 10 Dec 02, you stated that you had struck BT-421 while he was being combative in the Airlock Cell. Is that correct?

A: Correct.

Q: How many times did you hit him?

A: One or two. Just a couple to get his arms back down.

Q: How did you hit him?

A: With my fist in his right side.

Q: After the altercation, did BT-421 appear to be injured, hurt, or did he complained that he was injured or hurt?

A: The only injury that I saw on him was where a scab had come off of an injury on his nose. After we restrained him, an MI person mentioned that she observed a scab on his nose earlier in the day. He did not make any indications or saying anything to the fact that he was hurt of injured.

Q: Other than guards administering common perineal strikes, did you see any of them strike BT-421, during the incident in the Airlock Cell?

A: No.

Q: Did you see any other guards strike BT-421 in the same area as you did?

A: No.

Q: Did you have any significant involvement with BT-412?

A: He had struck me in the face while I was trying to restrain him in his cell. I stated this in my earlier statement.

Q: Do you have anything further to add to your statement?

A: No.///END OF STATEMENT/// *NRD*

NRB

Initials of Person Making Statement
DA Form 2823

FOR OFFICIAL USE ONLY

Page 1 of 2 Pages

Exhibit: _____

For Official Use Only / Law Enforcement Sensitive

Encl 16

137-02-CID369-23534

0137-02-CID369-23534

Sworn Statement**LOCATION:** Bagram Airfield, Afghanistan, APO AE 09354**DATE:** 10 Dec 02**TIME:** 0700Z *NRB***NAME:** Neil R. BERKLEY**SSAN:****RANK:** SSG/E-6/Reserves**ORGANIZATION:****I, SSG Neil R. BERKLEY, want to make the following statement under oath:**

NRB I was the Sergeant of the Guard (SOG) at the Confinement Facility when I relieved SGT CURTIS about 0110-0115Z, for about 10 minutes so that he could go down stairs and get something to eat. BT-421 was still rambling and pulling on his handcuffs. About 0125Z, SGT CURTIS returned. At 0130Z, I was notified of an incident in ISO Block #2, and was told to bring SPC CAMMACK with me. When we arrived, SPC MORDEN and SGT CURTIS were in the cell that belonged to BT-421, who was lying on the ground. SPC MORDEN stated that the detainee was not breathing, so I contacted the RTO to call for an ambulance. SPC CAMMACK stated he would go get the breathing mask. SPC MORDEN and myself started CPR, I doing chest compressions and SPC MORDEN doing mouth to mouth. After about 3-4 minutes of doing CPR, someone arrived with the stretcher and we took the detainee down to the inprocessing room to await the ambulance. *NRB*

Q: SA POTTER**A: SSG BERKLEY****Q: While you were in the ISO, did you observe or check on BT-421?****A: I walked past his cell and could see him still restrained in the cell. He had a hood over him, so I could not see his face. He was still talking and pulling on his cuffs.****Q: Why was BT-421 in the ISO?****A: The night before he had been ordered by MI to be in a stand-up position in the airlock cell on the main floor. He had been combative and his cuffs had tightened up. SPC MORDEN went into the airlock to loosen the cuffs, when BT-421 became even more combative and started to fight SPC MORDEN. Instead of fighting the detainee inside the airlock, they moved him onto the main floor, and then eventually moved him into the ISO.****Q: Do you know if SPC MORDEN had struck BT-421 other than in the common perennial?****A: Not that I am aware. I do not believe so.****Q: Do you know if any guards had struck any detainees other than in common pressure points?****A: I did strike BT-421 in the right side of his ribs while attempting to restrain him while in the airlock.****Q: How did you strike him in the ribs?****A: With my fist.****Q: How many times did you strike him?****A: Only once. We immediately went to the ground after that because the detainee was still being uncooperative and aggressive.****Q: Did BT-421 appear to be in pain or injured because of you striking him in the ribs?***NRB*

Initials of Person Making Statement

DA Form 2823

FOR OFFICIAL USE ONLY

Page 1 of 3 Pages

Exhibit: _____

End 17

Statement of SSG Neil R. BERKLEY, taken at Bagram Airfield, Afghanistan. APO AE 09837-02:CID369-23534
continued:

A: No he didn't even seem to feel it. The space within the airlock was very small so it was not a full punch. He never complained about it afterwards. After we got him to the ground, we noticed that there were three small drops of blood on the ground and after removing his hood we noticed that he had a small scratch on the left side of his nose. The MI person that was there to help calm him down said that his scab over the scratch was missing, and during the scuffle the scab probably came off. She said that during an earlier interview, she noticed the scab.

Q: Do you know the name of the MI person that was there with you?

A: No, she was short, black hair and appeared to be Puerto Rican.

Q: After the incident on the main floor on 9 Dec 02, did BT-421 appear to be in pain or injured?

A: No, he was still squirming and trying to get loose while we were bringing him up to the ISO.

Q: Prior to the incident on 9 Dec 02, how long before had BT-421 ate or drank any water?

A: I am not sure.

Q: Prior to finding him unresponsive on 10 Dec 02, how long had it been that he had ate or drank any water?

A: I am not sure. I know that there was three empty bottles of water in his cell.

Q: Do you know if BT-421 was taking any medications?

A: I am not aware of that, it was not listed.

Q: While you were in the inprocessing room, did you still continue CPR?

A: Yes for about 2-3 minutes until the ambulance arrived.

Q: Is this statement in your own words and typed by this agent?

A: Yes.

Q: Do you have anything further to add to your statement?

A: No///End of Statement/// *NRB*

NRB

Initials of Person Making Statement
DA Form 2823

FOR OFFICIAL USE ONLY

Page 2 of 3 Pages

Exhibit: _____

RIGHTS WARNING PROCEDURE/WAIVER CERTIFICATE For use of this form, see AR 190-30: the proponent agency is ODCSOPS

DATA REQUIRED BY THE PRIVACY ACT

AUTHORITY:
PRINCIPAL PURPOSE:
ROUTINE USES:
DISCLOSURE:

Title 10, United States Code, Section 3012(g)
To provide commanders and law enforcement officials with means by which information may be accurately identified.
Your Social Security Number is used as an additional/alternate means of identification to facilitate filing and retrieval.
Disclosure of your Social Security Number is voluntary.

1. LOCATION Embassy Suites Hotel, Cincinnati, OH 45237	2. DATE 24 Jan 04	3. TIME 1123	4. FILE NO. 0134-02-CID368-23533
5. NAME (Last, First, MI) BRAND, Willie V.	8. ORGANIZATION OR ADDRESS		
6. SSN	7. GRADE/STATUS SPC/E-4		

PART 1 - 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 Criminal Investigation Command as a Special Agent and wanted to question me about the following offense(s) of which I am

suspected/accused Assault/Battery, False Official Statement, Cruelty/Maltreatment of Subordinates, Negligent Homicide

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 questions or say anything.
2. Anything I say or do can be used as evidence against me in a criminal trial.
3. (For personnel subject to the UCMJ) I have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with me during questioning. This lawyer can be a civilian lawyer I arrange for at no expense to the Government or a military lawyer detailed for me at no expense to me, or both.

- or -

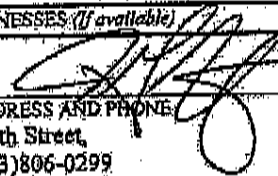
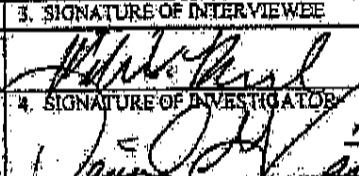
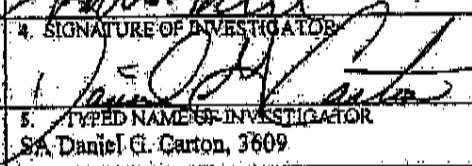
(For civilians not subject to the UCMJ) I have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with me during questioning. I understand that this lawyer can be one that I arrange for at my own expense, or if I cannot afford a lawyer and want one, a lawyer will be appointed for me before any questioning begins.

4. If I am now willing to discuss the offense(s) under investigation, with or without a lawyer present, I have a right to stop answering questions at any time, or speak privately with a lawyer before answering further, even if I sign the waiver below.

5. COMMENTS (Continue on reverse side)

Section B. Waiver

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

WITNESSES (If available)		3. SIGNATURE OF INTERVIEWEE	
1a. NAME (Type or Print) SA Angela G. Birt, 3615			
b. ORGANIZATION OR ADDRESS AND PHONE HQ, USACIDC, 6010 Sixth Street, Fort Belvoir, VA 22060 (703)806-0299			
2a. NAME (Type or Print)		4. SIGNATURE OF INVESTIGATOR	
b. ORGANIZATION OR ADDRESS AND PHONE		5. TYPED NAME OF INVESTIGATOR SA Daniel G. Carton, 3609	
		6. ORGANIZATION OF INVESTIGATOR HQ, USACIDC, 6010 Sixth Street, Fort Belvoir, VA 22060	

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 80

EDITION OF NOV 84 IS OBSOLETE

PROSECUTION EXHIBIT 4 FOR ID

0134-02-010300-235

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 on 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 THE SUSPECT/ACCUSED REFUSES TO SIGN THE 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 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 interrogations, 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 advisal.

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

WHEN SUSPECT/ACCUSED DISPLAYS INDECISION ON EXERCISING HIS OR HER RIGHTS DURING THE INTERROGATION PROCESS: If during the interrogation, the suspect displays indecision about requesting counsel (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)

FILE OPMF 9209

SERVICE SCHOOL ACADEMIC EVALUATION REPORT				DATE	
For use of this form, see AR 623-1; the proponent agency is MILPERCEN.				14 May 1999	
1. LAST NAME - FIRST NAME - MIDDLE INITIAL		2. ESN	3. GRADE	4. BR	5. SPECIALTY/MOSC
BRAND, WILLIE V.			SPC	USAR	85B10
6. COURSE TITLE		7. NAME OF SCHOOL		8. COMB	
Corrections Specialist Conversion Course 95C10 I/R		3rd Bn, 84th Regt (MP), 3rd Bde (CS), 84th Div		USAR	
9. TYPE OF REPORT	10. PERIOD OF REPORT (Year, Month, Day)		11. DURATION OF COURSE (Year, Month, Day)		
<input checked="" type="checkbox"/> RESIDENT	From: 1 May 1999 To: 14 MAY 1999		From: 1 MAY 1999 To: 14 MAY 1999		
<input type="checkbox"/> NONRESIDENT	12. EXPLANATION OF NONRATED PERIODS				
13. PERFORMANCE SUMMARY			14. DEMONSTRATED ABILITIES		
<input type="checkbox"/> EXCEEDED COURSE STANDARDS <i>(Limited to 20% of class enrollment)</i> <input checked="" type="checkbox"/> ACHIEVED COURSE STANDARDS <input type="checkbox"/> marginally achieved course standards <input type="checkbox"/> FAILED TO ACHIEVE COURSE STANDARDS			a. WRITTEN COMMUNICATION <input type="checkbox"/> NOT EVALUATED <input type="checkbox"/> UNSAT <input checked="" type="checkbox"/> SAT <input type="checkbox"/> SUPERIOR b. ORAL COMMUNICATION <input type="checkbox"/> NOT EVALUATED <input type="checkbox"/> UNSAT <input checked="" type="checkbox"/> SAT <input type="checkbox"/> SUPERIOR c. LEADERSHIP SKILLS <input type="checkbox"/> NOT EVALUATED <input type="checkbox"/> UNSAT <input checked="" type="checkbox"/> SAT <input type="checkbox"/> SUPERIOR d. CONTRIBUTION TO GROUP WORK <input type="checkbox"/> NOT EVALUATED <input type="checkbox"/> UNSAT <input checked="" type="checkbox"/> SAT <input type="checkbox"/> SUPERIOR e. EVALUATION OF STUDENT'S RESEARCH ABILITY <input checked="" type="checkbox"/> NOT EVALUATED <input type="checkbox"/> UNSAT <input type="checkbox"/> SAT <input type="checkbox"/> SUPERIOR <i>(SUPERIOR/UNSAT rating must be supported by comments in ITEM 16)</i>		
15. HAS THE STUDENT DEMONSTRATED THE ACADEMIC POTENTIAL FOR SELECTION TO HIGHER LEVEL SCHOOLING/TRAINING?					
<input type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> N/A <i>(A "NO" response must be supported by comments in ITEM 16)</i>					
16. COMMENTS (This item is intended to obtain a word picture of each student that will accurately and completely portray academic performance, intellectual qualities, and communication skills and abilities. The narrative should also discuss broader aspects of the student's potential leadership capabilities, moral and overall professional qualities. In particular, comments should be made if the student failed to respond to recommendations for improving academic or personal affairs.)					
This individual has attended and successfully completed the Corrections Specialist Conversion Course 95C10 I/R. The list of tasks completed during the course period is presented on the back of this form for review. o Achieves course standards through dedication and self study.					
Control: ARPERCEN, ATTN: DARP-PRE, 9700 Page Blvd., St Louis, MO 63132-5200					
HT: 72 WT: 192					
17. AUTHENTICATION					
a. TYPED NAME, GRADE, BRANCH, AND TITLE OF PREPARING OFFICER			SIGNATURE		
Duane A. Fredrickson SGM, USAR, Training Chief Instructor			<i>Duane A. Fredrickson</i>		
b. TYPED NAME, GRADE, BRANCH, AND TITLE OF REVIEWING OFFICER			SIGNATURE		
Ronald B. Smith LTC, MP, USAR, Commander			<i>Ronald B. Smith</i>		
18. MILITARY PERSONNEL OFFICER			c. DISTRIBUTION		
a. FORWARDING ADDRESS (Rated student)			<input checked="" type="checkbox"/> STUDENT <input checked="" type="checkbox"/> UNIT CDR (P/B NGOs only) <input checked="" type="checkbox"/> STUDENT'S OFFICIAL MILITARY RECORDS		

DA FORM 1059
1 NOV 77

EDITION OF 1 JUL 73 IS OBSOLETE.

R - 005414344 - 001

THIS IS A CERTIFIED TRUE COPY

PROSECUTION EXHIBIT 9 FOR ID

95C10 I/R

CHH202	Introduction to Corrections
CHH204	The Army Correctional System
CHH206	Assist and Communicate with Prisoners
CHH208	Practical Exercise
CHH210	Stress Management
CHH210	Legal Aspects of Confinement
CHH002	Prisoner Administration and Services Examination
CHH216	Human Immunodeficiency Virus and the Prisoner
CHH218	Review and Verify orders
CHH220	Prepare confinement Facility Blotter
CHH222	Account for prisoners
CHH226	Inspect Physical Security of a cell block
CHH228	Safety in confinement/correctional facilities
CHH422	Gangs in confinement/correctional facilities
CHH424	Forced Cell moves
CHH230	Segregate prisoner by prisoner status
CHH238	Issue medication to Prisoners
CHH004	Custody and Control
CHH240	Contraband Control
CHH242	Prepare observation and disciplinary reports
CHH246	Escort / Supervise movement of prisoners
CHH248	Supervise work activities within a confinement facility
CHH250	Restrain a prisoner
CHH252	Apply priorities of force within a confinement facility
CHH254	Take action in case of fire/escape and disorder
CHH256	React to a bomb threat / bomb in a confinement facility
WHH200	Fire the 12 gauge shotgun
WHH002	12 gauge shotgun qualification
CHH404	Conduct main gate / sally port operations
CHH406	In-processing prisoner
CHH408	Cell block
CHH410	Close confinement operations
CHH412	Dining facility operations
CHH414	Visitors room procedures
CHH416	Escort guard duties
CHH418	Tower Guard Duties
CHH420	Confinement Facility Exercise

DEPARTMENT OF THE ARMY
377th Military Police Company
1600 Seymour Avenue -
Cincinnati, OH 45237-3095

05 June 2004

AFRC-CMN-MPFB (135)

MEMORANDUM FOR PFC Willie V. Brand,

SUBJECT: Notification of Separation Proceedings Under AR 135-178, Chapter 13

1. Under the provisions of AR 135-178, chapter , section 1, paragraph , I am initiating action to separate you from the U.S. Army Reserve for Unsatisfactory Performance. The reason for my proposed action are failure to attend drill.
2. I am recommending that you receive a General (under honorable conditions) characterization of service. My recommendation and your reply will be submitted through intermediate commanders to the Separation Authority, Commander, 88th Regional Support Command, who will make the final decision on your case.
3. The intermediate commander(s) and the separation authority are not bound by my recommendation. The separation authority may direct that your service be characterized as honorable, general (under honorable conditions), under other than honorable conditions, or you may receive an uncharacterized description of service if you are in an entry level status. However, the separation authority may not direct the issuance of a type of discharge or characterization of service less favorable than that recommended by the board should you request and be entitled to a hearing before an administrative separation board.
4. If my recommendation is approved, the proposed separation could result in discharge from the U.S. Army Reserve; transfer or reassignment from you U.S. Army Reserve unit to the Individual Ready Reserve; or release from custody and control of the Army.
5. I am suspending action for 45 days to give you an opportunity to exercise the following rights:
 - a. You have the right to consult with consulting counsel and/or civilian counsel at no expense to the Government.
 - (1) If you desire an appointed counsel for consultation, notify this command before completing the response by endorsement and the name and phone number of the appointed counsel will be provided.
 - (2) If you desire a military counsel of your choice, provide this command with the officer's name and rank before completing the response by endorsement and if the officer is reasonably available, he or she will be appointed counsel for consultation.
 - (3) If you retain civilian counsel at no expense to the government, recommend the counsel be retained before completing the response by endorsement.

AFRC-

SUBJECT: Notification of Separation Proceedings Under AR 135-178, Chapter

b. You have the right to obtain copies of documents that will be sent to the separation authority supporting the basis of the proposed separation. (Classified documents may be summarized.)

c. You have the right to request a hearing before an administrative separation board.

d. You have the right to representation at the administrative board by a military counsel that will be designated (see paragraph 6 below). A military counsel of choice is not authorized.

e. You have the right to representation at the administrative board by civilian counsel at your own expense and at no expense to the Government.

f. You have the right to present written statements on your behalf instead of the administrative board proceedings.

g. Except as explained in paragraph 6 below, you have the right to waive the rights listed in paragraphs a through f in writing, and you may withdraw any such waiver at any time before the date of the separation authority orders, directs, or approves your separation.

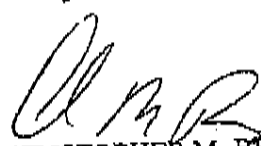
h. Except as explained in paragraph 6 below, you may submit a conditional waiver of your right to an administrative board proceeding contingent upon receiving a characterization of service higher than the least favorable characterization of service authorized for the basis of your proposed separation.

6. Waiver of the right to an administrative board hearing (para 5c(3)) and waiver of the right to representation by counsel at board hearings (para 5d or e) will not be accepted if you have completed 18, but less than 20, years of qualifying service for retired pay.

7. You must complete the attached endorsement acknowledging receipt of this memorandum and indicating the election of your rights. A copy of this memorandum with the completed endorsement attached must be delivered to the address shown on the endorsement within 30 days from the date of your receipt of this memorandum of notification. Any statement or documents you desire to submit in your behalf must be received by me within 30 calendar days after you receive this memorandum, unless you request and receive an extension for good cause shown. Unless an extension is granted, failure to deliver the completed endorsement within 30 days of the date of your receipt of this memorandum will constitute a waiver of your rights in paragraphs 4a through 4h above.

Encls

1. Election/Acknowledgement



CHRISTOPHER M. BEIRING
CPT, MP, USAR
Commanding

(Date of Soldier's response)

MEMORANDUM FOR Commander, 377th Military Police Company, 1600 Seymour Ave,
Cincinnati, OH 45237-3095

SUBJECT: Acknowledgement/Election for Notification of Separation Proceedings Under AR
135-178, Chapter 13

1. I hereby acknowledge receipt of the memorandum Notification of Separation Proceedings Under AR 135-178, Chapter 13, dated 5 June 2004. I understand that I may expect to encounter substantial prejudice in my civilian life if my service is characterized as general (under honorable conditions).

2. Before completing this response, I understand that I have the right to consult with an appointed counsel for consultation; or military counsel of my own choice, if he or she is reasonable available, or civilian counsel at my own expense. (Soldier will exercise this right by initialing on of the following paragraphs:)

a. ☐ I have exercised my right and I have consulted with counsel in preparation of this response to the notification memorandum. I have been advised by my consulting counsel of the basis for the contemplated action to separate me for Unsatisfactory Participation under AR 135-178, Chapter 13, and its effects; of the rights available to me; and the effect of any action taken by me in waiving my rights. The counsel has confirmed this by entering and signing the statement at the end of this endorsement; or

b. ☐ I hereby waive my right to consult with an appointed counsel for consultation; or military counsel of my own choice, or civilian counsel at my own expense.

3. I understand I have the right to obtain copies of documents that will be sent to the separation authority supporting the basis of my proposed separation. (The soldier will exercise this right by initialing on the following paragraphs:)

a. ☐ I hereby waive my right to obtain copies of documents.

b. ☐ I hereby request copies of the documents.

4. I understand that if I have 6 years of total active and/or reserve military service on the date of this notification, I have the right to a hearing before an administrative separation board, unless I waive that right. (The soldier will exercise this right by initialing one of the following paragraphs:)

SUBJECT: Acknowledgement/Election for Notification of Separation Proceedings Under AR
135-178, Chapter 13

a. ☐ I have 6 or more years of total active and/or reserve service on the date of this notification, and I hereby exercise my right to a hearing before an administrative separation board. I understand that after having requested appearance before the board, my willful failure to appear before the board will constitute a waiver of my rights to personal appearance before the board, unless I am in civil confinement. (When requesting a board hearing the soldier must initial on of the following subparagraphs:).

(1) ☐ I request a counsel for representation at the hearing be designated.

(2) ☐ I waive my right to a counsel for representation at the board hearing.

b. ☐ I have 6 or more years of service on the date of this notification and I hereby waive my right to a hearing before an administrative separation board.

5. I have the right to representation at the administrative board by civilian counsel at my own expense and at no expense to the Government. (The soldier will initial the following if civilian counsel is retained)

☐ I have retained, or will retain, civilian counsel.

6. I understand I have the right to present written statements on my behalf instead of the administrative board proceedings.

a. ☐ I waive my right to submit written statements.

b. ☐ Statements in my own behalf are submitted herewith and attached as enclosures.

7. I understand that I have the right, up until the date the separation authority orders, directs, or approves my separation, to withdraw any waiver of rights that I may have submitted. If I had a right to a board hearing and waived that right, I can withdraw the waiver and request a hearing before an administrative board.

8. I understand that if I have been ordered to undergo a medical or mental status evaluation and refuse to comply with the order, or willfully fail to undergo such examination or evaluation, separation action will be taken without an examination or evaluation.

9. I understand that there is no automatic upgrading or review by any Government agency of any characterization of service that is less than honorable. After discharge, I may apply to the Army Discharge Review Board or the Army Board for Correction of Military Records if I wish review of my characterization of service. I realize that the act of consideration by either board does not imply that my characterization of service will be upgraded.

SUBJECT: Acknowledgement/Election for Notification of Separation Proceedings Under AR 135-178, Chapter 13

10. I have retained a copy of this statement.

UNDERSTANDING: I have read and understand each of the statements above and understand that they are intended to constitute all promises whatsoever concerning my waiver options. Any other promise, representation, or commitment made to me in connection with my separation is written below in my own handwriting or is hereby waived. (If none, write "NONE").

Encl

WILLIE V. BRAND
PFC, USAR

DATE SIGNED: _____

This section is for MILITARY OR CIVILIAN ATTORNEY ONLY:

Having been advised by me of the basis for his contemplated separation and its effects, the rights available to him of a waiver of his rights, WILLIE V. BRAND personally made the choices indicated in the foregoing statement.

Consulting Counsel

DATE SIGNED: _____

DEVELOPMENTAL COUNSELING FORM

For use of this form, see FM 22-100; the proponent agency is TRADOC

DATA REQUIRED BY THE PRIVACY ACT OF 1974

AUTHORITY: 5 USC 301, Departmental Regulations; 10 USC 3013, Secretary of the Army and E.O. 9397 (SSN)
 PRINCIPAL PURPOSE: To assist leaders in conducting and recording counseling data pertaining to subordinates.
 ROUTINE USES: For subordinate leader development IAW FM 22-100. Leaders should use this form as necessary.
 DISCLOSURE: Disclosure is voluntary.

PART I - ADMINISTRATIVE DATA

Name (Last, First, MI) <u>BRAND WILLIE V.</u>	Rank/Grade <u>Sgt / E-4</u>	Date of Counseling <u>03 APR 04</u>
Organization <u>377th MP CO, CINCINNATI, OH</u>	Name and Title of Counselor <u>NEIL R. BEAKLEY / SGT LOR</u>	

PART II - BACKGROUND INFORMATION

Purpose of Counseling: (Leader states the reason for the counseling, e.g., performance/professional growth or event-oriented counseling, and includes the leader's facts and observations prior to the counseling.)

The above named individual failed to report for drill on 03 APR 04 (date). The first formation was conducted at 0730 (time) and prior to this, the soldier did not contact their Chain of Command to notify them of this absence.

PART III - SUMMARY OF COUNSELING

Complete this section during or immediately subsequent to counseling.

Key Points of Discussion:

The following attempts, at the date and time listed, were made to contact the soldier and produced these results:

1st Attempt 0750 / 03 APR 04 (Date/Time) Results: NO ANSWER

2nd Attempt 0830 / 04 APR 04 (Date/Time) Results: SOLDIER IS
PENDING OUT

3rd Attempt _____ (Date/Time) Results:

4th Attempt _____ (Date/Time) Results:

OTHER INSTRUCTIONS

This form will be destroyed upon: reassignment (other than rehabilitative transfers), separation at ETS, or upon retirement. For separation requirements and notification of loss of benefits/consequences see local directives and AR 635-200.

Plan of Action: (Outlines actions that the subordinate will do after the counseling session to reach the agreed upon goal(s). The actions must be specific enough to modify or maintain the subordinate's behavior and include a specified time line for implementation and assessment (Part IV below).)

Session Closing: (The leader summarizes the key points of the session and checks if the subordinate understands the plan of action. The subordinate agrees/disagrees and provides remarks if appropriate.)

Individual counseled: ☐ I agree ☐ disagree with the information above.

Individual counseled remarks:

Signature of Individual Counseled: SOLDIER UNAVAILABLE FOR SIGNATURE

Date: _____

Leader Responsibilities: (Leader's responsibilities in implementing the plan of action.)

Signature of Counselor: [Signature]

Date: 03 APR 04

PART IV - ASSESSMENT OF THE PLAN OF ACTION

Assessment: (Did the plan of action achieve the desired results? This section is completed by both the leader and the individual counseled and provides useful information for follow-up counseling.)

Counselor: _____

Individual Counseled: _____

Date of Assessment: _____

_____ and the individual counseled should retain a record of the counseling.

DEPARTMENT OF THE ARMY
377TH MILITARY POLICE COMPANY
1600 SEYMOUR AVENUE
CINCINNATI, OH 45237-3095

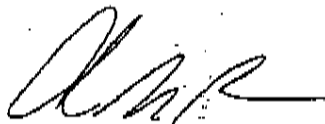
AFRC-CMN-MPFB

10 March 2004

MEMORANDUM FOR SPC Willie Brand,

SUBJECT: Reduction in Rank

1. Under the provisions of AR 140-15B, chapter 7-10.1, I am initiating action to reduce you from SPC/E4 to PFC/E3. The reason for my proposed action is your refusal to respond to official correspondence and having accrued a specified number of unexcused absences from scheduled training assemblies.
2. Transfer proceedings will be initiated to discharge you for unsatisfactory participation if this behavior continues.
3. You have the right to submit statements and documentary evidence pertinent to your behalf. Failure to respond to this notice within 10 days will constitute an automatic reduction to the grade listed above.
4. POC this headquarters, CPT Christopher Beiring, 513-351-1245.



CHRISTOPHER M. BEIRING
CPT, MP, USAR
Commanding

DEPARTMENT OF THE ARMY
0377 MP CO (-)
1600 SEYMOUR AVENUE
CINCINNATI, OH 45237-3095

AFRC-CMN-MPFB (135-91)

10 March 2004

MEMORANDUM FOR: SPC BRAND WILLIE VE.

SUBJECT: Letter of Instructions -- Unexcused Absence

1. Attendance records for this unit show that you were absent from the scheduled unit training assembly (UTA) or multiple unit training assembly (MUTA) for the following period(s):
1 Mar 6 2004, 2 Mar 6 2004, 1 Mar 7 2004, 2 Mar 7 2004
2. Under AR 135-91, you are required to attend all scheduled unit training assemblies and annual training periods. In addition, you are required to participate in a satisfactory manner with regard to proper military appearance and performance of assigned duties.
3. Unless the absences indicated in paragraph 1 are excused, you will have accrued 36 unexcused absences within a 1 year period. The 1 year period begins on the date you incur your first unexcused absence.
4. Absences from training assemblies may be excused only for reasons of sickness, injury, emergency or other circumstances beyond your control. If your absence was for one of these reasons, you should furnish this unit an appropriate affidavit or certification by a doctor, medical officer, or other person(s) having specific knowledge of the emergency or circumstances, requesting that it be excused. Your absence cannot be excused unless your request, and affidavit or certificate, are received within 15 days of the date you receive this letter.
5. You will be notified in writing within 10 days after receipt of your request as to whether the absence has been excused.
6. If you have family responsibilities that are causing a hardship or if your civilian job is of critical importance to the national or community health, safety, or interest, you should contact me so that I can advise and assist you in the proper procedures to resolve these problems.
7. As you are aware, if you accumulate 9 unexcused absences within a 1-year period, you become an unsatisfactory participant and you will be processed for separation from the Selected Reserve either by reassignment or discharge. You should be aware that the separation could result in pay grade reduction and an other than honorable characterization of your military service. In addition, if you are entitled to educational assistance under the Montgomery GI Bill, or to bonus payments or loan repayments based on Selected Reserve service, this separation will terminate any such entitlement and may require

AFRC-CMN-MPFB (135-91)

SUBJECT: Letter of Instructions -- Unexcused Absence

you to repay all or a portion of the incentives you received to the U.S. Government. If you are an officer and a recipient of an ROTC scholarship, elimination from Reserve of the Army status may subject you to recoupment of scholarship funds by the U.S. Government.

8. I hope that as a result of this letter you will take immediate steps to improve your attendance.

9. The next scheduled training assembly for this unit is 03 Apr 2004.

CHR
CHRISTOPHER M BEIRING
CPT, MP, USAR
COMMANDING

7002 2030 0004 2758 7629

U.S. Postal Service	
CERTIFIED MAIL RECEIPT	
<i>(Domestic Mail Only; No Insurance Coverage Provided)</i>	
For delivery information visit our website at www.usps.com	
OFFICIAL USE	
Postage \$	
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees \$	
Sent To <u>Willie Brand</u>	
Street, Apt. No. or PO Box No.	
City, State, ZIP	
PS Form 3800, June 2002 See Reverse for Instructions	

1. Article Number

2. Article Number
(Transfer from service label)

7002 2030 0004 2758 7629

PS Form 3800, August 2001

Domestic Return Receipt

102550-02-1001-40

DEVELOPMENTAL COUNSELING FORM

For use of this form, see FM 22-100; the proponent agency is TRADOC

DATA REQUIRED BY THE PRIVACY ACT OF 1974

AUTHORITY: 5 USC 301, Departmental Regulations; 10 USC 3013, Secretary of the Army and E.O. 9397 (SSN)
PRINCIPAL PURPOSE: To assist leaders in conducting and recording counseling data pertaining to subordinates.
ROUTINE USES: For subordinate leader development IAW FM 22-100. Leaders should use this form as necessary.
DISCLOSURE: Disclosure is voluntary.

PART I - ADMINISTRATIVE DATA

Name (Last, First, MI) BRAND, Willie V	Rank/Grade SPC/E-4	Social Security No.	Date of Counseling 6 MAR 2004
Organization 377th MP CO, CINCINNATI, OH	Name and Title of Counselor DARIN M. BROADY, SGT TEAM LEADER		

PART II - BACKGROUND INFORMATION

Purpose of Counseling: (Leader states the reason for the counseling, e.g., performance/professional growth or event-oriented counseling, and includes the leader's facts and observations prior to the counseling.)

The above named individual failed to report for drill on 6 MAR 2004 (date). The first formation was conducted at 0730 (time) and prior to this, the soldier did not contact their Chain of Command to notify them of this absence.

PART III - SUMMARY OF COUNSELING

Complete this section during or immediately subsequent to counseling.

Key Points of Discussion:

The following attempts, at the date and time listed, were made to contact the soldier and produced these results:

1st Attempt 09:00 6 MAR 2004 (Date/Time) Results:

- SPOKE WITH SPC. BRAND. SPC BRAND HE DID NOT WANT TO COME TO DRILL ON THE 6TH DR TH OF MARCH. SPC BRAND DID NOT GIVE A REASON.

2nd Attempt _____ (Date/Time) Results:

3rd Attempt _____ (Date/Time) Results:

4th Attempt _____ (Date/Time) Results:

OTHER INSTRUCTIONS

This form will be destroyed upon: reassignment (other than rehabilitative transfers), separation at ETS, or upon retirement. For separation requirements and notification of loss of benefits/consequences see local directives and AR 635-200.

Plan of Action: (Outlines actions that the subordinate will do after the counseling session to reach the subordinate upon goal(s). The actions must be specific enough to modify or maintain the subordinate's behavior and include a specified time line for implementation and assessment (Part IV below).)

SPL BRAND IS NOT CONFORMING TO REGULATION. IF THIS ACTION IS CONTINUED THEN SPL BRAND WILL BE PUT IN FOR A REDUCTION IN RANK ADMINISTRATIVE. SINCE RETURNING FROM DEPLOYMENT IT SHOULD BE NOTED THAT SPL BRAND HAS NOT BEEN PRESENT AND HAS RECEIVED (U)'S FOR DRILL SINCE RETURNING HOME.

Session Closing: (The leader summarizes the key points of the session and checks if the subordinate understands the plan of action. The subordinate agrees/disagrees and provides remarks if appropriate.)

Individual counseled: ☐ I agree ☐ disagree with the information above.

Individual counseled remarks:

Signature of Individual Counseled: SOLDIER UNAVAILABLE FOR SIGNATURE

Date:

Leader Responsibilities: (Leader's responsibilities in implementing the plan of action.)

* PAPER WORK WILL BE PROCESSED IF SPL BRAND DOES NOT COMPLY WITH REGULATION.

Signature of Counselor: [Signature]

Date: 10 MAR 2004

PART IV - ASSESSMENT OF THE PLAN OF ACTION

Assessment: (Did the plan of action achieve the desired results? This section is completed by both the leader and the individual counseled and provides useful information for follow-up counseling.)

Counselor:

Individual Counseled:

Date of Assessment:

Note: Both the counselor and the individual counseled should retain a record of the counseling.

DEVELOPMENTAL COUNSELING FORM

For use of this form, see FM 22-100; the proponent agency is TRADOC

DATA REQUIRED BY THE PRIVACY ACT OF 1974

AUTHORITY: 5 USC 301, Departmental Regulations; 10 USC 3013, Secretary of the Army and E.O. 9397 (SSN)
 PRINCIPAL PURPOSE: To assist leaders in conducting and recording counseling data pertaining to subordinates.
 ROUTINE USES: For subordinate leader development IAW FM 22-100. Leaders should use this form as necessary.
 DISCLOSURE: Disclosure is voluntary.

PART I - ADMINISTRATIVE DATA

Name (Last, First, MI) BRAND UZZLE V.	Rank/Grade SIC E-4	Serial Number Mo	Date of Counseling 7 MAR 04
Organization 377th MP CO, CINCINNATI, OH		Name and Title of Counselor NEIL R. BARKLEY / JGA-COR	

PART II - BACKGROUND INFORMATION

Purpose of Counseling: (Leader states the reason for the counseling, e.g., performance/professional growth or event-oriented counseling, and includes the leader's facts and observations prior to the counseling.)

The above named individual failed to report for drill on **7 MAR 04** (date). The first formation was conducted at **0700** (time) and prior to this, the soldier did not contact their Chain of Command to notify them of this absence.

PART III - SUMMARY OF COUNSELING

Complete this section during or immediately subsequent to counseling.

Key Points of Discussion:

The following attempts, at the date and time listed, were made to contact the soldier and produced these results:

1st Attempt **7 MAR 04 0800** (Date/Time) Results: **MADE CONTACT,**
SFC BRAND INFORMED ME HE WAS NOT GOING TO DRILL
OR RST

2nd Attempt _____ (Date/Time) Results:

3rd Attempt _____ (Date/Time) Results:

4th Attempt _____ (Date/Time) Results:

OTHER INSTRUCTIONS

This form will be destroyed upon: reassignment (other than rehabilitative transfers), separation at ETS, or upon retirement. For separation requirements and notification of loss of benefits/consequences see local directives and AR 635-200.

Plan of Action: (Outlines actions that the subordinate will do after the counseling session to reach the agreed upon goal(s). The actions must be specific enough to modify or maintain the subordinate's behavior and include a specified time line for implementation and assessment (Part IV below).)

Session Closing: (The leader summarizes the key points of the session and checks if the subordinate understands the plan of action. The subordinate agrees/disagrees and provides remarks if appropriate.)

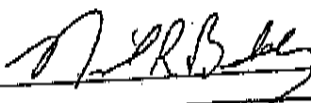
Individual counseled: ☐ I agree ☐ disagree with the information above.

Individual counseled remarks:

Signature of Individual Counseled: SOLDIER UNAVAILABLE FOR SIGNATURE

Date: _____

Leader Responsibilities: (Leader's responsibilities in implementing the plan of action.)

Signature of Counselor: 

Date: 07 MAR 04

PART IV - ASSESSMENT OF THE PLAN OF ACTION

Assessment: (Did the plan of action achieve the desired results? This section is completed by both the leader and the individual counseled and provides useful information for follow-up counseling.)

Counselor: _____ Individual Counseled: _____ Date of Assessment: _____

Note: Both the counselor and the individual counseled should retain a record of the counseling.

DEPARTMENT OF THE ARMY
0377 MP CO (-)
1600 SEYMOUR AVENUE
CINCINNATI, OH 45237-3095

AFRC-CN-MPFB (135-91)

11 February 2004

MEMORANDUM FOR: SPC BRAND WILLIE VR.

SUBJECT: Letter of Instructions -- Unexcused Absence

1. Attendance records for this unit show that you were absent from the scheduled unit training assembly (UTA) or multiple unit training assembly (MUTA) for the following period(s):

1 Feb 7 2004, 2 Feb 7 2004, 1 Feb 8 2004, 2 Feb 8 2004

2. Under AR 135-91, you are required to attend all scheduled unit training assemblies and annual training periods. In addition, you are required to participate in a satisfactory manner with regard to proper military appearance and performance of assigned duties.

3. Unless the absences indicated in paragraph 1 are excused, you will have accrued 32 unexcused absences within a 1 year period. The 1 year period begins on the date you incur your first unexcused absence.

4. Absences from training assemblies may be excused only for reasons of sickness, injury, emergency or other circumstances beyond your control. If your absence was for one of these reasons, you should furnish this unit an appropriate affidavit or certification by a doctor, medical officer, or other person(s) having specific knowledge of the emergency or circumstances, requesting that it be excused. Your absence cannot be excused unless your request, and affidavit or certificate, are received within 15 days of the date you receive this letter.

5. You will be notified in writing within 10 days after receipt of your request as to whether the absence has been excused.

6. If you have family responsibilities that are causing a hardship or if your civilian job is of critical importance to the national or community health, safety, or interest, you should contact me so that I can advise and assist you in the proper procedures to resolve these problems.

7. As you are aware, if you accumulate 9 unexcused absences within a 1-year period, you become an unsatisfactory participant and you will be processed for separation from the Selected Reserve either by reassignment or discharge. You should be aware that the separation could result in pay grade reduction and an other than honorable characterization of your military service. In addition, if you are entitled to educational assistance under the Montgomery GI Bill, or to bonus payments or loan repayments based on Selected Reserve service, this separation will terminate any such entitlement and may require

AFRC-CN-MPFB (135-91)

SUBJECT: Letter of Instructions -- Unexcused Absence

you to repay all or a portion of the incentives you received to the U.S. Government. If you are an officer and a recipient of an ROTC scholarship, elimination from Reserve of the Army status may subject you to recoupment of scholarship funds by the U.S. Government.

8. I hope that as a result of this letter you will take immediate steps to improve your attendance.

9. The next scheduled training assembly for this unit is 06 Mar 2004.

CM
CHRISTOPHER M BEIRING
CPT, MP, USAR
COMMANDING

7002 2030 0004 2758 7544

U.S. Postal Service	
CERTIFIED MAIL RECEIPT	
<i>(Domestic Mail Only; No Insurance Coverage Provided)</i>	
For delivery information visit our website at: www.usps.com	
OFFICIAL USE	
Postage \$	
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees \$	
Sent To	<i>Willie BRAND</i>
Street, Apt. No., or PO Box No.	
City, State, ZIP+4	
PS Form 3800, 01-01	

2. Address Labels

(Domestic Mail Service Only)

PS Form 3800, August 2001

7002 2030 0004 2758 7544

Domestic Return Receipt

PS Form 3800, August 2001

DEVELOPMENTAL COUNSELING FORM

For use of this form, see FM 22-100; the proponent agency is TRADOC

DATA REQUIRED BY THE PRIVACY ACT OF 1974

AUTHORITY: 5 USC 301, Departmental Regulations; 10 USC 3013, Secretary of the Army and E.O. 9397 (SSN)
 PRINCIPAL PURPOSE: To assist leaders in conducting and recording counseling data pertaining to subordinates.
 ROUTINE USES: For subordinate leader development IAW FM 22-100. Leaders should use this form as necessary.
 DISCLOSURE: Disclosure is voluntary.

PART I - ADMINISTRATIVE DATA

Name (Last, First, MI) BRAND, WILLIE V.	Rank/Grade SPL / E-4	Social Security No.	Date of Counseling 07 FEB 04
Organization 377th MP CO, CINCINNATI, OH		Name and Title of Counselor NEIL R. BERKLEY / SQUAD LEADER	

PART II - BACKGROUND INFORMATION

Purpose of Counseling: (Leader states the reason for the counseling, e.g., performance/professional growth or event-oriented counseling, and includes the leader's facts and observations prior to the counseling.)

The above named individual failed to report for drill on **07 FEB 04** (date). The first formation was conducted at **0730** (time) and prior to this, the soldier did not contact their Chain of Command to notify them of this absence.

PART III - SUMMARY OF COUNSELING

Complete this section during or immediately subsequent to counseling.

Key Points of Discussion:

The following attempts, at the date and time listed, were made to contact the soldier and produced these results:

1st Attempt **07 FEB 04 / 0800 HRS** (Date/Time) Results: **NO CONTACT MADE**

2nd Attempt **07 FEB 04 / 1330** (Date/Time) Results: **NO CONTACT MADE**

3rd Attempt **08 FEB 04 / 0845** (Date/Time) Results: **NO CONTACT MADE, NO ONE ANSWERED PHONE, NO ANSWERING MACHINE**

4th Attempt **08 FEB 04 / 1400** (Date/Time) Results: **NO CONTACT MADE, NO ONE ANSWERED PHONE**

OTHER INSTRUCTIONS

This form will be destroyed upon: reassignment (other than rehabilitative transfers), separation at ETS, or upon retirement. For separation requirements and notification of loss of benefits/consequences see local directives and AR 635-200.

Plan of Action: (Outlines actions that subordinate will do after the counseling session to be specific enough to modify or maintain the subordinate's behavior and include a specified time line for implementation and assessment (Part IV below).)

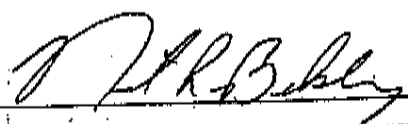
Session Closing: (The leader summarizes the key points of the session and checks if the subordinate understands the plan of action. The subordinate agrees/disagrees and provides remarks if appropriate.)

Individual counseled: ☐ I agree ☐ disagree with the information above.
Individual counseled remarks:

Signature of Individual Counseled: SOLDIER UNAVAILABLE FOR SIGNATURE

Date: _____

Leader Responsibilities: (Leader's responsibilities in implementing the plan of action.)

Signature of Counselor: 

Date: 07 FEB 04

PART IV - ASSESSMENT OF THE PLAN OF ACTION

Assessment: (Did the plan of action achieve the desired results? This section is completed by both the leader and the individual counseled and provides useful information for follow-up counseling.)

Counselor: _____

Individual Counseled: _____

Date of Assessment: _____

Note: Both the counselor and the individual counseled should retain a record of the counseling.

DEVELOPMENTAL COUNSELING FORM

For use of this form, see FM 22-100; the proponent agency is TRADOC

DATA REQUIRED BY THE PRIVACY ACT OF 1974

AUTHORITY: 5 USC 301, Departmental Regulations; 10 USC 3013, Secretary of the Army and E.O. 9397 (SSN)
PRINCIPAL PURPOSE: To assist leaders in conducting and recording counseling data pertaining to subordinates.
ROUTINE USES: For subordinate leader development IAW FM 22-100. Leaders should use this form as necessary.
DISCLOSURE: Disclosure is voluntary.

PART I - ADMINISTRATIVE DATA

Name (Last, First, MI) BRAND, WILLIE V.	Rank/Grade SPC/E-4	Date of Counseling 01 NOV 03
Organization 377th MP CO, CINCINNATI, OH	Name and Title of Counselor NEIL R. BERKLEY, SQD LDR	

PART II - BACKGROUND INFORMATION

Purpose of Counseling: (Leader states the reason for the counseling, e.g., performance/professional growth or event-oriented counseling, and includes the leader's facts and observations prior to the counseling.)

The above named individual failed to report for drill on **01 NOV 03** (date). The first formation was conducted at **0730** (time) and prior to this, the soldier did not contact their Chain of Command to notify them of this absence.

PART III - SUMMARY OF COUNSELING

Complete this section during or immediately subsequent to counseling.

Key Points of Discussion:

The following attempts, at the date and time listed, were made to contact the soldier and produced these results:

1st Attempt **01 NOV 03 / 0800 HRS** (Date/Time) Results: **SOLDIER'S WIFE REFUSED TO PUT SOLDIER ON PHONE. WIFE STATED "HE'S NOT IN THE MILITARY ANYMORE!"**

RECEIVE "U"

2nd Attempt **02 NOV 03 / 0830** (Date/Time) Results: **DONOT CALL DUE TO STATEMENT ABOVE**

RECEIVE "U"

3rd Attempt _____ (Date/Time) Results:

4th Attempt _____ (Date/Time) Results:

OTHER INSTRUCTIONS

This form will be destroyed upon: reassignment (other than rehabilitative transfers), separation at ETS, or upon retirement. For separation requirements and notification of loss of benefits/consequences see local directives and AR 635-200.

Plan of Action: (Outlines actions that the subordinate will do after the counseling session to reach the agreed upon goals). The actions must be specific enough to modify or maintain the subordinate's behavior and include a specified time line for implementation and assessment (Part IV below).)

Session Closing: (The leader summarizes the key points of the session and checks if the subordinate understands the plan of action. The subordinate agrees/disagrees and provides remarks if appropriate.)

Individual counseled: ☐ I agree ☐ disagree with the information above.

Individual counseled remarks:

Signature of Individual Counseled: SOLDIER UNAVAILABLE FOR SIGNATURE

Date: _____

Leader Responsibilities: (Leader's responsibilities in implementing the plan of action.)

Signature of Counselor: [Signature]

Date: 01 NOV 03

PART IV - ASSESSMENT OF THE PLAN OF ACTION

Assessment: (Did the plan of action achieve the desired results? This section is completed by both the leader and the individual counseled and provides useful information for follow-up counseling.)

Counselor: _____ Individual Counseled: _____ Date of Assessment: _____

Note: Both the counselor and the individual counseled should retain a record of the counseling.

DEPARTMENT OF THE ARMY
0377 MP CO (-)
1600 SEYMOUR AVENUE
CINCINNATI, OH 45237-3095

8 September 2003

AFRC-CMN-MPFB (135-91)

MEMORANDUM FOR: SPC BRAND WILLIE VE,

SUBJECT: Letter of Instructions -- Unexcused Absence

1. Attendance records for this unit show that you were absent from the scheduled unit training assembly (UTA) or multiple unit training assembly (MUTA) for the following period(s):

1 Sep 6 2003, 2 Sep 6 2003, 1 Sep 7 2003, 2 Sep 7 2003

2. Under AR 135-91, you are required to attend all scheduled unit training assemblies and annual training periods. In addition, you are required to participate in a satisfactory manner with regard to proper military appearance and performance of assigned duties.

3. Unless the absences indicated in paragraph 1 are excused, you will have accrued 16 unexcused absences within a 1 year period. The 1 year period begins on the date you incur your first unexcused absence.

4. Absences from training assemblies may be excused only for reasons of sickness, injury, emergency or other circumstances beyond your control. If your absence was for one of these reasons, you should furnish this unit an appropriate affidavit or certification by a doctor, medical officer, or other person(s) having specific knowledge of the emergency or circumstances, requesting that it be excused. Your absence cannot be excused unless your request, and affidavit or certificate, are received within 15 days of the date you receive this letter.

5. You will be notified in writing within 10 days after receipt of your request as to whether the absence has been excused.

6. If you have family responsibilities that are causing a hardship or if your civilian job is of critical importance to the national or community health, safety, or interest, you should contact me so that I can advise and assist you in the proper procedures to resolve these problems.

7. As you are aware, if you accumulate 9 unexcused absences within a 1-year period, you become an unsatisfactory participant and you will be processed for separation from the Selected Reserve either by reassignment or discharge. You should be aware that the separation could result in pay grade reduction and an other than honorable characterization of your military service. In addition, if you are entitled to educational assistance under the Montgomery GI Bill, or to bonus payments or loan repayments based on Selected Reserve service, this separation will terminate any such entitlement and may require


AFRC-CMN-MPFB (135-91)

SUBJECT: Letter of Instructions -- Unexcused Absence

you to repay all or a portion of the incentives you received to the U.S. Government. If you are an officer and a recipient of an ROTC scholarship, elimination from Reserve of the Army status may subject you to recoupment of scholarship funds by the U.S. Government.

8. I hope that as a result of this letter you will take immediate steps to improve your attendance.

9. The next scheduled training assembly for this unit is 05 Oct 2003.


CHRISTOPHER M BEIRING
CPT, MP, USAR
COMMANDING

7002 2030 0004 2758 6974

U.S. Postal Service	
CERTIFIED MAIL RECEIPT	
<small>(Domestic Mail Only: No Insurance Coverage Provided)</small>	
<small>For delivery information visit our website at www.usps.com</small>	
OFFICIAL USE	
Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$
Sent To	Willie Brand
Signature and Address	
PS	

29 MAY 08 5104391
U.S. POSTAGE
11 00 11

DEPARTMENT OF THE ARMY
377TH MILITARY POLICE COMPANY
1600 SEYMOUR AVENUE
CINCINNATI, OH 45237-3095


5 June 2004

ORDER # 04-157-04

BRAND, WILLIE V
377TH Military Police Company (WTYGA1)
1600 Seymour Avenue
Cincinnati, OH 45237-3095

You are reduced in the grade of rank as shown below:

From: Specialist/SPC/E4 with DOR of 19990506
To: Private First Class/PFC/E3, with DOR of 20040514
Effective Date: 14 May 2004
Authority: AR 140-158, para 7-10-1b
Reason: Unsatisfactory Participation
Format: 306



CHRISTOPHER M. BEIRING
CPT, MP, USAR
Commanding

DISTRIBUTION:

Sidpers (1)
Record Set (1)
Reference Set (1)
MPRJ (1)
PFC Willie Brand, 280-76-2066
Cdr, Fort McCoy, WI, ATTN: AFZR-RMF-PR(1)

REPORT DATE: 2004/12/30

PCN: HQH-R07

TYPE RECORD: SPECIAL REQUEST

UNIT: 0377 MP CO (-)
1800 SEYMOUR AVENUE
CINCINNATI, OH 45237-3095

NAME: BRAND WILLIE VE

*** THIS REPORT MAY BE SUBJECT TO THE PRIVACY ACT OF 1974 (PL 93-579) ***

TOTAL ARMY PERSONNEL DATABASE - RESERVE (TAPDB-R)
PERSONNEL QUALIFICATION RECORD
(ENLISTED)

UIC: WTYGA1

MUSARC: 4H - 85TH REGIONAL READINESS COMMAND

Page: 2 of 2

RCS: AG-883

TCC: 4604

SSN: 280-76-2086

~~SECTION IV - UNIT DATA~~

1. CURR UIC / FPC: WTYGA1 / 0
2. UNIT NAME: 0377 MP CO (-)
3. EFF DATE ASG: 2003/05/05
4. PROJ YRMO DPRT:
5. RSN PROJ LOSS:

6. DATE CONDL REL:
7. PREVIOUS UIC:
8. DATE ASG PREV UIC:
9. DATE DPRT PREV UIC:

10. UIC OF ATTACH:
11. EFF DATE ATTACH:
12. REASON ATTACH:
13. EXPN DATE ATTACH:

1. POSITION NBR: 9993
2. PARA / LINE NBR: /
3. POSITION TITLE:
4. POSN ASG DATE: 2004/05/01

5. DUTY POSITION: 31B10
6. DUTY QUAL CODE: X - NOT QUALIFIED - EXCESS TO UNIT
7. AUTH GRADE:
8. AUTH BRANCH:

9. AUTH MPC:
10. AUTH SEX:
11. PS INVEST RQRD:
12. POSITION PSSTAT:

1. ELIG STATUS: M - ELIG SUSPENDED-AWAITING FINAL
DETERM OF UNSAT PARTN/PERFORM
2. BENEFIT RECOUP: 9 - UNKNOWN

3. DATE START MGIB: 1998/08/22
4. DATE TERM MGIB: 2004/03/10

5. 1ST CONTRACT DATE: 1997/01/07
6. 2ND CONTRACT DATE:

1. LANGUAGE IDENT CODE:
PROFICIENCY SOURCE:
YRMO PROFICIENCY TEST:
LISTENING PROF LEVEL:
LISTENING EVAL METHOD:
SPEAKING PROF LEVEL:
SPEAKING EVAL METHOD:
READING PROF LEVEL:
READING EVAL METHOD:

2. LANGUAGE IDENT CODE:
PROFICIENCY SOURCE:
YRMO PROFICIENCY TEST:
LISTENING PROF LEVEL:
LISTENING EVAL METHOD:
SPEAKING PROF LEVEL:
SPEAKING EVAL METHOD:
READING PROF LEVEL:
READING EVAL METHOD:

I BELIEVE THAT (I AM)/(I AM NOT) EMPLOYED IN A KEY POSITION WITH THE FEDERAL, STATE, OR LOCAL GOVERNMENT OR SUPPORTING DEFENSE AGENCY /INDUSTRY; OR PREPARING FOR THE MINISTRY, OR HAVE AN OBLIGATION TO PERFORM MISSIONARY WORK; OR MY ENTRY ON EXTENDED ACTIVE DUTY WOULD CREATE AN EXTREME PERSONAL OR COMMUNITY HARDSHIP.

I CERTIFY TO THE BEST OF MY KNOWLEDGE AND BELIEF THAT I HAVE NO MEDICAL CONDITION OR PHYSICAL DEFECT THAT WOULD PREVENT MY PERFORMANCE OF ACTIVE MILITARY SERVICE EXCEPT AS FOLLOWS:

SIGNATURE: _____

DATE REVIEWED: _____

17
PROSECUTION EXHIBIT FOR ID

PERSONNEL QUALIFICATION RECORD - PART II

DATA

970618

Reviewed 6 2 4

- Fold Here -

REPORT DATE: 2004/12/30

*** THIS REPORT MAY BE SUBJECT TO THE PRIVACY ACT OF 1974 (PL 93-579) ***

PCN: HCH-R07

TOTAL ARMY PERSONNEL DATABASE - RESERVE (TAPDB-R)
PERSONNEL QUALIFICATION RECORD
(ENLISTED)

Page 1 of 2

TYPE RECORD: SPECIAL REQUEST

RCR: AG-883

UNIT: 0377 MP CO (-)
1600 SEYMOUR AVENUE
CINCINNATI, OH 45237-3095

UIC: WTYGA1

MUSARC: 4H - 86TH REGIONAL READINESS COMMAND

TGOW: 4604

~~PERSONAL DATA~~

1. NAME: BRAND WILLIE VE
2. SSN:
3. VSSN: A - SSN VERIFIED ON NAME, DATE OF BIRTH AND SEX
4. DOB: 1978/05/20
SEX: M - MALE
MARITAL STATUS: ~~NA - SINGLE~~ **MARRIED**
MIL SPOUSE/SSN: N / 000-00-0000
5. NUM DEPENDENTS: **05**

8A. SOLE PARENT INDICATOR: N
9. FAMILY CARE PLAN STATUS: B - NO FAMILY CARE PLAN
FAMILY CARE STATUS DATE: 2001/04/09
10. RACE: N - BLACK
11. ETHNIC GROUP: Y - NONE
12. CITIZENSHIP: A - NATIVE BORN

13. REL DENOM: 01 - NO RELIGIOUS PREFERENCE
14. ADDR STREET:
CITY, STATE ZIP:
15. ADDR VAL CD/DATE: 4 / 2003/10/25
16. CIVILIAN OCC CAT: 998 - UNEMPLOYED

~~PERSONNEL DATA~~

1. MIL PER CLASS: E - ENLISTED
2. GRADE / GR ARMO SVC: SPC /
3. DATE OF RANK: 2004/11/14
4. TRNG PAY CAT: A - SELECTED RESERVE INDIVIDUALS TRAINED IN UNITS
5. DEPLOYABILITY: G1 - SUSPENSION OF FAVORABLE PERSONNEL ACTION
6. YRMO DEPLOY END: 2005/12
7. PEBD: 1997/01/07
8. EXP RDY RES OBLG: 2005/01/06

9. EXPN STAT OBLG: 2005/01/06
10. EXPN TPU SVC: 2003/01/06
11. QUAL RETN STAT:
12. QUAL RETN YRMO:
13. INITIAL ENTRY MIL: 1997/01/01
14. INITIAL ENTRY RES: 1997/01/01
15. 20 YEAR CERT:
16. SOURCE MPC: G - VOL ENL IN RC ON OR AFTER 3 SEPT 83, TITLE 10 USC 511D
17. AD CALL-UP EVENT:
18. YRS ACT FED SVC: 02.42

19. DATE LAST REL AD: 1998/06/21
20. DATE LAST EVAL REG:
21. YRMO ELIG AFM: 2007/01
22. YRMO ARCAM SUSP: 2006/01
23. IND INCENT STATUS CD:
IND INCENTIVE EFF DATE:
INCENTIVE BONUS TYPE:
INCENTIVE PROGRAM CD:
TERM REASON CODE:
TERMINATION EFF DATE:

~~PERSONNEL DATA~~

1. PMOS / SMOS / AMOS: 31B1 / 31E1 /
SQ(s) / AS(s): O /
DLAB SCORE:
4. YRMO DLAB TEST:
5. CURR AERO RATE:
6. CURR FLY STATUS:
7. PHYS CAT / PULSES: A / 111111
8. YRMO LAST PHYS EXAM: 1998/08
9. YRMO LAST HIV TEST: 2002/06
10. YRMO DRUG TEST:

11. DENT XRAY LOC:
12. DNA SAMPLE INDIC: Y
13. HEIGHT / WEIGHT: 72 in. / 223 lbs.
14. HGT WT INDIC / YRMO: M / 1999/04
15. APRT INDIC / YRMO: F / 2001/06
16. FLD DETM PSSTAT: Y - NONE
17. DTE FLD DETM PSSTAT: 2000/05/05
18. PS INVEST TYPE / DATE: / 1997/01/17
19. DEPT DETM PSSTAT: F - SECRET

20. AFQT PCTL / GRP: 53 / C - GROUP IIA
21. MIL EDUC ENRLD:
22. MIL EDUC COMPL:
23. CIV EDUC LEVEL: C - 12TH GRADE
24. CIV EDUC CERT: B - ADULT EDUCATION DIPLOMA
25. MAJ COLL SUBJ: YYY - NO MAJOR

7-02-CID369-23534

RIGHTS WARNING PROCEDURE/WAIVER CERTIFICATE

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

DATA REQUIRED BY THE PRIVACY ACT

AUTHORITY: Title 10, United States Code, Section 3012(g) **0134-02-CID369-23533**
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 Fort Bragg CID, Randolph Street, Fort Bragg, NC		2. DATE 6 Jan 04	3. TIME 11:16	4. FILE NUMBER
5. Name (Last First MI) WOOD, Carolyn A.		6. ORGANIZATION OR ADDRESS		
7. GRADE/STATUS CPT/AD				

PART I - RIGHTS WAIVER/NON-WAIVER CERTIFICATE**SECTION A. Rights**

The investigator whose name appears below told me that he/she is with the United States Army Criminal Investigation Command and wanted to question me about the following offense(s) of which I am suspected/accused: Dereliction of Duty / Misprison of a Serious Offense

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 questions or say anything.
2. Anything I say or do can be used as evidence against me in a criminal trial.
3. (For personnel subject to the UCMJ) I have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with me during questioning. This lawyer can be a civilian lawyer I arrange for at no expense to the Government or a military lawyer detailed for me at no expense to me or both.

-or-

(For civilians not subject to the UCMJ) I have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with me during questioning. I understand that this lawyer can be one that I arrange for at my own expense, or if I cannot afford a lawyer and want one, a lawyer will be appointed for me before any questioning begins.

If I am now willing to discuss the offense(s) under investigation, with or without a lawyer present, I have the right to stop answering questions at any time, or speak privately with a lawyer before answering further, even if I sign the waiver below.

5. COMMENTS (Continue on reverse side)

SECTION B. Waiver

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

WITNESSES (if available)		3. SIGNATURE OF INTERVIEWEE	
1a. NAME (Type or Print) SA James F. WALKER			
6. ORGANIZATION OR ADDRESS AND PHONE HQ, USACIDC, Fort Belvoir, VA 22060			
2a. NAME (Type or Print) SA Daniel G. CARTON		4. SIGNATURE OF INVESTIGATOR	
6. ORGANIZATION OR ADDRESS AND PHONE HQ, USACIDC, Fort Belvoir, VA 22060		5. TYPE NAME OF INVESTIGATOR SA Daniel G. CARTON, 3609	
		6. ORGANIZATION OF INVESTIGATOR HQ, USACIDC Fort Belvoir, VA 22060	

SECTION C. Non-waiver

1. I do not want to give up my rights
☒ I want a lawyer *Adw* ☒ I do not want to be questioned or say anything *Adw*

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 (AUTOMATED)

EDITION OF NOV 84 IS OBSOLETE

Encl 10

SWORN STATEMENT			
For use of this form, see AR 190-45; the proponent agency is DDCSOPS			
PRIVACY ACT STATEMENT			
AUTHORITY:		Title 10 USC Section 301; Title 6 USC Section 2861; E.O. 13397 dated November 22, 1943 (SSW).	
PRINCIPAL PURPOSE:		To provide commanders and law enforcement officials with means by which information may be accurately identified.	
ROUTINE USES:		Your social security number is used as an additional/alternate means of identification to facilitate filing and retrieval.	
DISCLOSURE:		Disclosure of your social security number is voluntary.	
1. LOCATION	2. DATE (YYYYMMDD)	3. TIME	4. FILE NUMBER
5. LAST NAME, FIRST NAME, MIDDLE NAME Carolyn A. Wood		6. GRADE/STATUS CPT/CDR	
7. ORGANIZATION OR ADDRESS MI Det BCP			
<p>9. <u>Carolyn A. Wood</u> WANTS TO MAKE THE FOLLOWING STATEMENT UNDER OATH:</p> <p>How many people are assigned to your MI section? 20.</p> <p>What are the MOS's? 97E (Interrogator), 97B (Counter Intel), 351E (Interrogator Tech)</p> <p>What is the rank structure of your unit? 1 CPT, 1 WO, 4 SSO's, 4 SGTs, 10 SPC.</p> <p>What are components are your soldiers from? 6 RC, 14 AC. The RC soldiers are from the UTAH ARNG.</p> <p>Was this an MTOB section or was it composed of different sections/units? Unit made up of several platoons within the 525 MI BDE with the addition of the UTAH ARNG soldiers.</p> <p>Any unit member that has been assigned to the BCP, redeployed, and then returned? NO.</p> <p>What real world experience have your soldiers had conducting interrogations prior to deploying to Afghanistan? Only one or two of the soldiers have been assigned anywhere else interrogating and that was in Kosovo.</p> <p>Does the MI section have an SOP besides the BCP SOP? No, working on a TYP at this time. It is currently in draft format.</p> <p>When did your unit arrive in Afghanistan? July 2002.</p> <p>How are new interrogators assimilated into the unit? The Utah ARNG troops arrived in the unit three weeks prior to deploying. We took soldiers from four different units within the 525 MI BDE. Several of the soldiers had just returned from INCOG. We used PO's from that course. Had asked for assistance from the MI School but didn't get much assistance. Part of the problem is the school teaches interrogation techniques to be used on enemy soldiers, order of battle, weapons, equipment, etc. Not totally applicable to the situation here in Afghanistan where we are interrogating terrorists as opposed to military detainees.</p> <p>What methods do you use to measure the proficiency of an interrogator? Interrogators are paired. Platoon Sergeant and myself were with new interrogators. Given the number of interrogations each of the soldiers have conducted, everybody has an equal expertise level.</p> <p>Are interrogators monitored? Do the rooms have two-way mirrors or are they wired for sound? No. Interrogators take notes during the interrogations. These are used for continuity when another interrogation team interrogates the same PUC at a later time. These are for internal use only.</p> <p>Explain the sequence of an interrogation.</p> <p>1). Prep of interrogator. Team leaders use a tracking system for their sections. This is used to schedule interrogations. They also look at whether they are getting information (Hot) or not getting information (Cold). If it is cold, the section leaders look at switching interrogation teams. Interrogators do back-up checks on the PUC's (notes, photos, observe PUC while they are in the cell). They do a question plan. This plan may be used, it may not be determined by the flow of the interrogation.</p> <p>2). Set up of the room. Lighting is standard due to the overhead fluorescent lightening in each of the interrogation rooms. There is a table with chairs. No windows. Each room is the same. As mentioned earlier, there are no two way mirrors or recording.</p>			
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 BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT, AND PAGE NUMBER MUST BE INDICATED.			

Hand 11

STATEMENT OF <u>CPT Carolyn A. Wood</u>	TAKEN AT <u>0800Z</u>	DATED <u>2002/12/16</u>
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2. STATEMENT (Continued)

3). Composition of interrogation team. There are two interrogators, one interpreter. MP's are present if using a harsh approach or the PUC is perceived as a threat to the team or himself.

4). Is interrogation monitored? No. Have requested the polygraph room be set up with a two-way mirror. This has not been done at this time.

5). How is the PUC placed in the room during an interrogation? Depending on the approach the interrogation team has decided on, the PUC may be sitting, kneeling, standing.

Interrogation Techniques. How do interrogators determine their style or method they are going to use? This will depend on what has been determined during the preparation phase. Initially, the direct approach will be used. While the interrogation is ongoing, the interrogator may determine that an opening is being made to use another approach. Threats, leniency, discrimination, intimidation may be used again depending on the circumstances and the PUC at a particular point of time.

a). Is sleep deprivation used? Yes. It is suggested by the interrogators and enforced by the MP's. How much sleep is required for a PUC? Four hours per day. Is this continuous sleep? No, Not necessarily continuous.

b). Are rewards used? Yes, we have used this for long term residents. We start with direct approach. Work off a field screening. Build a rapport/baseline. Types of rewards offered: smoking (away from the other PUC's), sodas, fruit in the interrogation booth.

Is there any physical contact with PUC's during interrogation? Yes, in a non malicious manner. For instance putting hands on his shoulders to move him on way or another or to have him sit.

Where are the PUC's placed between interrogations? They can be either in the general population or in isolation.

When PUC's are moved from the cell to the interrogation room how are they secured? They are gagged or hooded. They have on leg and arm short and long cuffs. During the interrogation they may take off some of the short cuffs but are still restrained. Hoods/goggles are taken off once in the interrogation box.

What is the purpose for not allowing the PUC's to talk while in the general population? We want the only outlet for them to speak to be with the interrogators.

What is the average interrogations done daily? 16-19.

What recommendations would you make to improve the operation?

Would like to get additional legal guidance. We would like to know what our left and right limits are in respect to stress positions and sleep adjustments for instance.

Six months may be too long for our interrogators especially given the average amount of daily interrogations. Also, since there is no R&R program, the interrogators have a set routine that gets tedious with little time off at Bagram.

Concerned with the implications of 1003V may have on the interrogators. Due to the density of interrogators, we may leave here and go to that theater.

AFFIDAVIT

I, CAROLYN A. WOOD, HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE 2. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

Carolyn A. Wood
(Signature of Person Making Statement)

WITNESSES:

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 17 day of January, 2003
in NO. 537P-10, Bagram, AFB

[Signature]
(Signature of Person Administering Oath)

ORGANIZATION OR ADDRESS _____

(Typed Name of Person Administering Oath)

ORGANIZATION OR ADDRESS _____

(Authority To Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT <u>[Signature]</u>	PAGE <u>2</u> OF <u>2</u> PAGES
---	---------------------------------

37-02-CID369-23534

RIGHTS WARNING PROCEDURE/WAIVER CERTIFICATE

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

DATA REQUIRED BY THE PRIVACY ACT

AUTHORITY: Title 10, United States Code, Section 3012(g)
PRINCIPAL PURPOSE: To provide commanders and law enforcement officials with means by which information may be accurately identified.
ROUTINE USES: Your Social Security Number is used as an additional/alternate means of identification to facilitate filing and retrieval.
DISCLOSURE: Disclosure of your Social Security Number is voluntary.

1. LOCATION Embassy Suites Hotel, 4554 Lake Forest Drive, Blue Ash, OH 45242		2. DATE 28 Jan 2004	3. TIME 1700	4. FILE NO.
5. NAME (Last, First, MI) Bendley, Neil R.		6. ORGANIZATION OR ADDRESS		
8. SSN	7. GRADE/STATUS SSG			

PART 1 - 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 Criminal Investigation Command and wanted to question me about the following offense(s) of which I am

suspected/accused: Aggravated Assault, Negligent Homicide, Cruelty and Maltreatment of a Prisoner, Dereliction of Duty, False Official Statement

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 questions or say anything.

2. Anything I say or do can be used as evidence against me in a criminal trial.

3. (For personnel subject to the UCMJ) I have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with me during questioning. This lawyer can be a civilian lawyer I arrange for at no expense to the Government or a military lawyer detailed for me at no expense to me, or both.

- or -

(For civilians not subject to the UCMJ) I have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with me during questioning. I understand that this lawyer can be one that I arrange for at my own expense, or if I cannot afford a lawyer and want one, a lawyer will be appointed for me before any questioning begins.

4. If I am now willing to discuss the offense(s) under investigation, with or without a lawyer present, I have a right to stop answering questions at any time, or speak privately with a lawyer before answering further, even if I sign the waiver below.

5. COMMENTS (Continue on reverse side)**Section B. Waiver**

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

WITNESSES (If available)		3. SIGNATURE OF INTERVIEWEE	
1a. NAME (Type or Print) SA Darren Petri			
b. ORGANIZATION OR ADDRESS AND PHONE HQ, USACIDC, Ft. Belvoir, VA			
2a. NAME (Type or Print)		4. SIGNATURE OF INVESTIGATOR	
b. ORGANIZATION OR ADDRESS AND PHONE		5. TYPED NAME OF INVESTIGATOR SA Brandon L. Owens	
		6. ORGANIZATION OF INVESTIGATOR Ft. Leavenworth Resident Agency (CID) Ft. Leavenworth, KS 66027	

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 3884 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."
- 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 on 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 THE SUSPECT/ACCUSED REFUSES TO SIGN THE 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 on the waiver certificate to the effect that he/she has stated that he/she 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. 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 interrogations, 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 advisal.

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

WHEN SUSPECT/ACCUSED DISPLAYS INDECISION ON EXERCISING HIS OR HER RIGHTS DURING THE INTERROGATION PROCESS: If during the interrogation, the suspect displays indecision about requesting 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

File Number :
Location : Embassy Suites Hotel, Blue Ash, OH 45242
Date : 28 Jan 04 *NRB* Time: *1145 NRB*
Statement Of: Neil R. Berklev
SSN : Grade/Status: E-6
Org/Address :

I, Neil R. Berkley, WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

Q: The U.S. Army is currently investigating the death of two detainees at Bagram Airbase, Afghanistan during December 2002. Were you deployed or assigned to Afghanistan between October and December 2002?

A: Yes. *NRB*

Q: What dates were you there and what were your duties?

A: I arrived on 31 Aug 02. I left on about 14 Sep 02 for three weeks to undergo a hernia surgery. I came back on about 8 Oct 02. I left on 20 Dec 02 and returned home for the birth of my daughter and returned to Afghanistan on 3 Jan 03. I was squad leader for 1st Squad, 1st Platoon, 377th Military Police Company, while I was there and performed duties as a SOG in the detention facility on a rotating basis with other squad leaders. Inside the facility if I wasn't SOG, I would assist with escorting and would relieve other soldiers for a period of time for a break. *NRB*

Q: Did you guard either detainee that died during the period of time between October and December 2002?

A: I was in charge of the group that guarded them as SOG. I can not specifically recall the face of either detainee, I only remember them by number. *NRB*

Q: Did you interview or were you present during any interviews with either detainee during this time frame?

A: When 412 and 421 entered the facility, I was probably in the room during their inprocessing, but I do not specifically remember either PUC being inprocessed. *NRB*

Q: Define corporal punishment.

A: Corporal punishment is excessive punishment for some reason. We had several incidents where people were abusing a privilege of water, if someone gave them made them stand with their hands restrained that might be corporal punishment. *NRB*

Q: Did you witness either detainee receiving any type of corporal punishment?

A: I don't remember which number it was, but it was an incident we

Exhibit: _____ INITIALS *NRB* PAGE 1 OF 8

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STATEMENT OF SSG Neil R. Berkley, TAKEN AT Embassy Suites Hotel, Blue Ash, OH; DATED 28 Jan 04; CONTINUED:

had in an airlock, when one of the two grabbed one of the guards. When the PUC grabbed the guard, MORDEN and I and two other guards that I can't remember, struggled with the PUC inside the airlock. Since it was such a confined airway in the airlock, we pulled him out of the airlock and used our weight to force him to the ground. As we tried to get him handcuffed, he continued to resist, so I used a couple of strikes with my hand to his ribs to try and get his hands cuffed. Once we had him cuffed, we picked him up and escorted him to an isolation cell. He was told by a MI translator to stand up in the middle of the isolation cell. He had handcuffs on that were left in front of him. He was not confined to the ceiling or any part of the cell. *I DO NOT RECALL EXACTLY HOW HE WAS RESTRAINED*

Q: What shift were you working when this happened?

A: I think we were on the night shift. *NRB*

Q: Did you have any more problems from that PUC that night?

A: No, I don't recall any other problems with him at all either before or after that incident. *NRB*

Q: Did either PUC that died cause any trouble during the shifts that you worked?

A: Other than the incident I just described, I don't remember them causing any other problems. Whichever one we had to give CPR to, I believe refused to eat for a period of time. *NRB*

Q: Were either detainees placed into standing restraints while you were on shift?

A: I don't remember if they were or not. *NRB*

Q: Were you there when either detainee was found unresponsive?

A: I was on the main floor and received a call from SPC MORDEN that he needed help on the second floor. When I got to the isolation cell with CAMMACK, MORDEN said the PUC was not breathing and the PUC was already laying on the ground inside the cell laying on his back. It was the first cell on the left. I don't recall the PUC having any type of restraints on him at that time. He didn't have a hood or goggles on when I arrived, and I didn't see any in the area, but so much was going on, I might not have noticed. MORDEN began doing mouth resuscitations with his hands of the PUC's mouth and I began doing chest compressions to provide CPR. Just prior to me jumping down, I called down to our RTO and told him to make notifications to the hospital. We continued to do chest compressions for a couple of minutes, then decided to go ahead and move him downstairs to a room right by the facility door and then continued to do CPR. We moved him on a stretcher. The hospital personnel showed up about ten minutes after I had first *NRB*

Exhibit: _____

INITIALS *NRB*

PAGE 2 OF 8

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STATEMENT OF SSG Neil R. Berkley, TAKEN AT Embassy Suites Hotel, Blue Ash, OH; DATED 28 Jan 04; CONTINUED:

went to assist MORDEN. The hospital personnel took over when they got there and hurried him to the ambulance and left. I got my people together and put them back to work. *NRB*

Q: How did the PUC look to you and feel when you arrived?

A: He did not appear to have any signs of life. *NRB*

Q: Define corporal punishment.

A: Corporal punishment is excessive punishment for some reason. We had several incidents where people were abusing a privilege of water, if someone gave them made them stand with their hands restrained that might be corporal punishment. *NRB*

Q: Were soldiers directed to not talk about the incident?

A: I don't specifically recall, but if so, it was so other PUC's wouldn't hear because we suspected some of them understood English. *NRB*

Q: Did other MP's complain that either of the PUC's that died were troublemakers?

A: Not that I remember. *NRB*

Q: Did any of the other MP's appear to dislike the PUC's?

A: I wouldn't say they had a hatred for them. They didn't like being there. *NRB*

Q: How did the MP's handle troublemakers?

A: Initially, we would make them stand up in their cell for punishment. If it continued to be a problem, we would get ahold of a translator from MI to speak to the detainee about the problem. I don't recall a PUC ever being a problem beyond that, which would recall further action. If someone was put into isolation cell, it was because MI directed us to. The incident I discussed above was the only time I can remember putting a PUC in isolation cell as a form of punishment. *NRB*

Q: Have you been trained on common pronial strikes and pressure point control tactics?

A: Yes. I received the training in my police department in Newport, KY, since about 1999. We had a one day class in Fort Dix, but I don't remember who taught it. I think someone from the unit taught it. We were told if someone wouldn't comply with your verbal directions, you may need to use a strike. The only time that was used is if someone was trying to harm someone else. *NRB*

Q: Did a soldier have to ask permission from a SOG before applying one of those tactics?

A: They didn't have to ask permission. *NRB*

Q: Did you ever utilize those tactics on a PUC?

A: I never utilized common pronial strikes. The only time I ever *NRB*

Exhibit: _____

INITIALS *NRB*

PAGE 3 OF 8

FOR OFFICIAL USE ONLY

STATEMENT OF SSG Neil R. Berkley, TAKEN AT Embassy Suites Hotel, Blue Ash, OH; DATED 28 Jan 04; CONTINUED:

struck a PUC was the incident I described above with my fist. I don't believe I ever used PPCT over there.

Q: Did you apply either of those tactics on either of the detainees that died?

A: No. *NRB*

Q: Do you recall any individuals being rough with detainees?

A: I know MORDEN and GRATOREX were told by MI to "PT" a couple of detainees. The PUC's were brothers who apparently had some good information and MI wanted these guys stressed out. MORDEN and GRATOREX were told to PT these guys and keep them moving around for twenty-four hours. I saw them making the PUC's do push-ups and lean against the wall. I heard some rumors that they may have got rough and applied some common pronial strikes to these guys during that time to stress them out. Nobody came up to me and told me they struck a PUC, but I heard the rumor that MORDEN and GRATOREX used the common pronial strikes to keep these guys doing PT. By the time I heard about that, the two PUC's were already shipped off to Cuba. *NRB*

Q: Do you know who had anything to do with the eventual death of either detainee?

A: The only one that I know that may have struck either detainee that died was MORDEN, but I believe he would have actually caused their death. *NRB*

Q: Did anyone tell you who might have had anything to do with the death of either detainee?

A: No. *NRB*

Q: Did you hear or see anything pertaining to the treatment of detainees that you felt uncomfortable with?

A: We had a Specialist who would intentionally hurry a detainee to the point of dragging them, and I thought that was excessive and he wrote up about it. That was SPC JONES. He was taken off from doing those details after that. *NRB*

Q: Did you have any other interactions with either of the detainees that died?

A: One of the PUC's was refusing to eat, BREWER and I went into the cell and tried to get him to eat by offering him the food. He still refused to eat and we tried to give him water, but he refused the water, too. He had regular handcuffs on, but his hands were down so he could eat. We left the cell, and about five to ten minutes later I came back and looked in the cell and the PUC's pants were down to his ankles. I called for someone to assist me and CURTIS arrived. We opened the cell door and went in. *NRB*

Exhibit: _____

INITIALS *NRB*

PAGE 4 OF 8

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STATEMENT OF SSG Neil R. Berkley, TAKEN AT Embassy Suites Hotel, Blue Ash, OH; DATED 28 Jan 04; CONTINUED:

to attempt to pull his pants up. When I got face to face with him, the PUC suddenly pulled his handcuffed hands up and struck my chin. I grabbed him by his upper arms and held him up against the wall. CURTIS went and retrieved longer cuffs and put him in a "Y" position to the ceiling. *NRB*

Q: How do you feel about the deaths of those two detainees?

A: I don't like being under scrutiny about it, it makes me uncomfortable. I don't believe that I or any of my guys did anything wrong. *NRB*

Q: Who do you think caused the death of the detainees?

A: Whoever was using excessive common pronial strikes. I heard a rumor that 3rd Platoon was using excessive strikes, but I don't remember any specific names. We had one PUC that never caused our shift any problems, but every day we came in he would be in isolation and 3rd platoon said that he had caused problems, which seemed strange since the guy never caused us any problems. We thought the guy was so friendly that we used him as a translator occasionally. *NRB*

Q: Do you suspect anyone caused the detainees death?

A: I guess if someone was using excessive common pronial strikes, but I don't suspect any individual person because I don't know who was doing the striking. *NRB*

Q: Do you think that the death of either of those detainees was deliberate?

A: No. I don't think most people would know common pronial strikes could kill someone. *NRB*

Q: Who do you think would have had the best opportunity to have physically abused either detainee?

A: I think if one of my guys would have done it, I would have known. I doubt it could have happened in general population because everyone would have seen it. If someone was abused it was probably in the isolation cells. *NRB*

Q: Why do you think someone would abuse a detainee?

A: If the detainees are not following the rules, someone may have abused a detainee because of stress. *NRB*

Q: Were you aware of anyone using any type of supplements or enhancers during the deployment?

A: People were using Nitrotech and Hydroxycut. The PX was selling the Nitrotech. I never heard of any orders by the commanders forbidding the use of any supplements. *NRB*

Q: Did you ever think about abusing a detainee, even though you didn't go through with it?

Exhibit: _____

INITIALS *NRB*

PAGE 5 OF 8

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STATEMENT OF SSG Neil R. Berkley, TAKEN AT Embassy Suites Hotel, Blue Ash, OH; DATED 28 Jan 04; CONTINUED:

A: No. *NRB*

Q: Why wouldn't you abuse a detainee?

A: It's not worth going through something like this over. It's not in my nature. *NRB*

Q: What do you think should happen to a person who mistreated or caused the death of a detainee?

A: Punishment of some type. Nothing severe because some of the people over there were evil people. If you intentionally caused a death, you would have to face what's coming. *NRB*

Q: Have you ever heard of a compliance blow?

A: No. *NRB*

Q: Under what circumstances were you given direction that a common pronial strike or pressure point control tactic could be applied?

A: If someone was directing harm toward any of us or another detainee, you can use a strike if verbal is not working. I have known that from my training with my police department and whoever gave the training to us, I'm sure went over it. *NRB*

Q: Where did you learn what was and was not acceptable treatment of the detainees?

A: I don't think we were ever taught what was and was not acceptable. *NRB*

Q: Did you know your commander had a SOP for the facility?

A: Yes, I think I helped write the SOG portion of the SOP. *NRB*

Q: Was the SOP accessible to soldiers?

A: If anyone would have asked for it, they could have seen it. But it wasn't passed out. *NRB*

Q: Do you know if the unit prior to yours utilized standing restraints, PPCT or common pronial strikes?

A: I have no idea. *NRB*

Q: What was the maximum amount of force that could be applied to a detainee who was being defiant?

A: The ultimate punishment was standing restraint for an hour. *NRB*

Q: Was there a status board maintained by the cells?

A: Yes, it was used to keep locations of all PUCs at all times. Such as if a PUC had to go to the hospital or something. It was also used to keep track of standing restraints in isolation by indicating the amount of hours a person was to remain in standing restraints as per MI. For example, "4↑ 1↓" indicated four hours in standing restraints, one hour down. It was written that way because it was simpler and everyone understood it. *NRB*

Q: Was the status board ever erased before anyone visited?

A: No. *NRB*

Exhibit:

STATEMENT OF SSG Neil R. Berkley, TAKEN AT Embassy Suites Hotel,
Blue Ash, OH; DATED 28 Jan 04; CONTINUED:

Q: Did anyone such as the International Committee of the Red Cross
or any other dignitaries ever visit the facility during your
shifts?

A: No, they only came during day shift and I only ever worked
night shift. *NRB*

Q: What did you believe caused the death of either detainee
immediately after their deaths?

A: Their health. *NRB*

Q: What do you now believe caused the death of either detainee?

A: Until this interview, I still thought it was their health.
Since you told me about the damage to their legs, someone must
have had to use too much force. *NRB*

Q: What was your professional training and background outside of
the military before deploying?

A: I have worked as a Police Officer since January 1999. I had
about three years of college. *NRB*

Q: Did you ever see either of the PUC's legs underneath his
clothing?

A: I saw the one when he had his pants down, but I didn't pay any
attention to his legs. *NRB*

Q: Did you ever observe any bruises or injuries on either PUC?

A: No. *NRB*

Q: Did either PUC ever appear ill to you?

A: No. *NRB*

Q: Did you ever observe either PUC in pain?

A: No. *NRB*

Q: Were you on shift when the other PUC died that you did not
describe above?

A: I was on shift, but I don't recall being involved with the
medical treatment of the other one. *NRB*

Q: Beyond the platoon level, who was aware that the detainees were
being subjected to standing restraints, sleep deprivation, PFCT
and common pronial strikes?

A: MI, because they initiated a lot of it. Everyone in our entire
company new except for maybe the mechanics and cooks. The
commander went through the facility so he knew what was going on. *NRB*

Q: Are you aware of any plan to conceal or alter details
surrounding either detainee's deaths?

A: No. *NRB*

Q: Do you have anything to add to this statement?

A: No. ///END OF STATEMENT/// *NRB*

Exhibit: _____

INITIALS *NRB*


PAGE 7 OF 8

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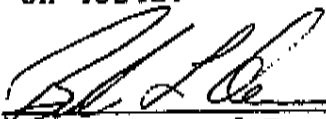
STATEMENT OF SSG Neil R. Berkley, TAKEN AT Embassy Suites Hotel,
Blue Ash, OH; DATED 28 Jan 04; CONTINUED:

AFFIDAVIT

I, Neil R. Berkley, HAVE READ OR HAVE HAD READ TO ME THIS
STATEMENT WHICH BEGINS ON PAGE 1 AND ENDS ON PAGE 8. 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)

Subscribed and sworn to before me, a person authorized by
law to administer oaths, this 28th day of January, 2004 at Blue
Ash, OH 45242.


(Signature of Person Administering Oath)

SA Brandon L. Owens

(Typed Name of Person Administering Oath)

ARTICLE 136 (b) (4) UCMJ

(Authority To Administer Oaths)

WITNESS:

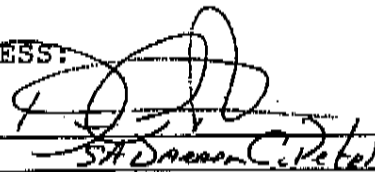

SA Doreen C. Petel

Exhibit: _____

INITIALS



PAGE

8 OF 8

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0185 03 010369-2353

RIGHTS WARNING PROCEDURE/WAIVER CERTIFICATE

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

DATA REQUIRED BY THE PRIVACY ACT 013-02-010369-2353

THORITY:

Title 10, United States Code, Section 3012(g)

PRINCIPAL PURPOSE:

To provide commanders and law enforcement officials with means by which information may be accurately identified.

ROUTINE USES:

Your Social Security Number is used as an additional/alternate means of identification to facilitate filing and retrieval.

DISCLOSURE:

Disclosure of your Social Security Number is voluntary.

1. LOCATION	2. DATE	3. TIME	4. FILE NO.
		1605 TRB	
5. NAME (Last, First, MI)	6. ORGANIZATION OR ADDRESS		
7. GRADE/STATUS			
SSG/USAR			

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 Criminal Investigation Division and wanted to question me about the following offense(s) of which I am

suspected/accused: AGGRAVATED ASSAULT

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:

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

- or -

(For civilians not subject to the UCMJ) I have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with me during questioning. I understand that this lawyer can be one that I arrange for at my own expense, or if I cannot afford a lawyer and want one, a lawyer will be appointed for me before any questioning begins.

- If I am now willing to discuss the offense(s) under investigation, with or without a lawyer present, I have a right to stop answering questions at any time, or speak privately with a lawyer before answering further, even if I sign the waiver below.

5. COMMENTS (Continue on reverse side)

Section B. Waiver

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

WITNESSES (if available)		3. SIGNATURE OF INTERVIEWEE
1a. NAME (Type or Print)		x [Signature]
b. ORGANIZATION OR ADDRESS AND PHONE		4. SIGNATURE OF INVESTIGATOR
		[Signature]
2a. NAME (Type or Print)		5. TYPED NAME OF INVESTIGATOR
		SA MICHAEL P. KLOPFERSTEIN
b. ORGANIZATION OR ADDRESS AND PHONE		6. ORGANIZATION OF INVESTIGATOR
		280TH MP DET CIO FT KNOX WY 80121

Section C. Non-waiver

I do not want to give up my rights:

☐ I want a lawyer.

☐ I do not want to be questioned or say anything.

FOR OFFICIAL USE ONLY

EXHIBIT

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

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EDITION OF NOV 84 IS OBSOLETE

End 14

RIGHTS WARNING PROCEDURE/WAIVER CERTIFICATE

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

DATA REQUIRED BY THE PRIVACY ACT

0134-02-C10369-23533

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 BAGRAM CID OFFICE, APO AE 09354	2. DATE 21 JAN 03	3. TIME 1335Z	4. FILE NO.
5. NAME (Last, First, MI) BERKELEY, NICK P.	6. ORGANIZATION OR ADDRESS		
7. GRADE/STATUS SSG E-6			

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 Criminal Investigation Command and wanted to question me about the following offense(s) of which I am suspected: AGGRAVATED ASSAULT III

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:

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

- or -

(For civilians not subject to the UCMJ) I have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with me during questioning. I understand that this lawyer can be one that I arrange for at my own expense, or if I cannot afford a lawyer and want one, a lawyer will be appointed for me before any questioning begins.

If I am now willing to discuss the offense(s) under investigation, with or without a lawyer present, I have a right to stop answering questions at any time, or speak privately with a lawyer before answering further, even if I sign the waiver below.

5. COMMENTS (Continue on reverse side)

Section B. Waiver

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

WITNESSES (if available)		3. SIGNATURE OF INTERVIEWEE
1a. NAME (Type or Print)		4. SIGNATURE OF INVESTIGATOR
b. ORGANIZATION OR ADDRESS AND PHONE		5. TYPED NAME OF INVESTIGATOR SA RICHARD P. POTTER
2a. NAME (Type or Print)		6. ORGANIZATION OF INVESTIGATOR 8TH MP DET (CID) APO AE 09354
b. ORGANIZATION OR ADDRESS AND PHONE		

Section C. Non-waiver

- I do not want to give up my rights:
☐ I want a lawyer. ☐ I do not want to be questioned or say anything.

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

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