

<b>RIGHTS WARNING PROCEDURE AND WAIVER CERTIFICATE</b>	<b>IMPORTANT:</b> Read Privacy Act Statement before completing this form.	REPORT NUMBER
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**PRIVACY ACT STATEMENT**

1. **AUTHORITY:** Section 21, Internal Security Act of 1950 (*Public Law 8-831*); DoD Instruction 5200.22, Reporting of Security and Criminal Violations; and Deputy Secretary of Defense Memorandum dated 7 May 1974.

2. **PURPOSE:** Documents the advice given to a suspect concerning his or her rights against self-incrimination and the suspect's waiver or non-waiver of those rights.

3. **ROUTINE USES:** Information may be disclosed for those routine uses listed in DLA System Notice S160.50DLA-I as follows:  
For any of the DLA blanket routine uses set forth at the beginning of DLA's listing of systems of records notices.

4. **WHETHER DISCLOSURE IS MANDATORY OR VOLUNTARY AND EFFECT ON INDIVIDUAL OF NOT PROVIDING INFORMATION:** Disclosure is voluntary.

LOCATION		DATE	TIME
LAST NAME, FIRST NAME, MIDDLE NAME		PLACE OF BIRTH ( <i>City and State or Country</i> )	DATE OF BIRTH
GRADE/STATUS	NAME OF ORGANIZATION OR HOME ADDRESS		

**RIGHTS**

(For convenience in reading, standard pronoun gender usage will be followed: Where such pronouns as "he" or "his", etc., are used, it should be understood to include "she" or "her", etc.)

The investigator whose name appears below told me that he is with (Name or Organization): \_\_\_\_\_

\_\_\_\_\_

and wanted to question me about the following offense(s) of which I am suspected/accused: \_\_\_\_\_

\_\_\_\_\_

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

1. I do not have to answer any questions or say anything.
2. (For military personnel subject to the Uniform Code of Military Justice (UCMJ): Anything I say or do can be used as evidence against me in a trial by Court Martial or in other judicial or administrative proceedings. I have the right to talk to a lawyer and to have a lawyer present during this interview. I have the right to a military legal counsel free of charge. In addition to military counsel, I am entitled to civilian counsel of my own choosing, at my own expense.
2. (For civilians not subject to the Uniform Code of Military Justice (UCMJ): Anything I say or do can be used as evidence against me in a criminal trial or administrative proceedings. I have the right to talk to a lawyer and to have a lawyer present during this interview. If I cannot afford a lawyer, and want one, arrangements will be made to obtain a lawyer free of charge.
3. I may request a lawyer at any time during this interview. If I decide to answer questions, I may stop the questioning at any time.

INVESTIGATOR:

\_\_\_\_\_

(Typed or Printed Name) \_\_\_\_\_  
(Signature)

WITNESSES (*If available*):

\_\_\_\_\_

(Typed or Printed Name and Signature) \_\_\_\_\_  
(Typed or Printed Name and Signature)

\_\_\_\_\_

(Name of Organization or Home Address) \_\_\_\_\_  
(Name of Organization or Home Address)

**WAIVER**

I understand my rights as stated above. I am now willing to discuss the offense(s) under investigation without a lawyer being present.

\_\_\_\_\_

(Signature of Interviewee)

**NON-WAIVER**

I do not want to give up my rights and:

I want a lawyer.

I do not want to be questioned or say anything.

\_\_\_\_\_

(Signature of Interviewee)

## RIGHTS WARNING PROCEDURE

### 1. THE WARNING:

a. Inform the suspect/accused of:

- (1) Your official position.
- (2) Nature of offense(s).
- (3) The fact that he is a suspect/accused. (For convenience in reading, standard pronoun gender usage will be followed: Where such pronouns as "he" or "his", etc., are used, it should be understood "she" or "her", etc.)

b. Then advise the suspect/accused of his rights as follows: "BEFORE I ASK YOU ANY QUESTIONS, YOU MUST UNDERSTAND YOUR RIGHTS."

- (1) "YOU DO NOT HAVE TO ANSWER ANY QUESTIONS OR SAY ANYTHING."
- (2) (For military personnel subject to the Uniform Code of Military Justice (UCMJ)) "ANYTHING YOU SAY OR DO CAN BE USED AS EVIDENCE AGAINST YOU IN A TRIAL BY COURT MARTIAL OR IN OTHER JUDICIAL OR ADMINISTRATIVE PROCEEDINGS. YOU HAVE THE RIGHT TO TALK TO A LAWYER AND TO HAVE A LAWYER PRESENT DURING THIS INTERVIEW. YOU HAVE THE RIGHT TO A MILITARY LEGAL COUNSEL FREE OF CHARGE. IN ADDITION TO MILITARY COUNSEL, YOU ARE ENTITLED TO CIVILIAN COUNSEL OF YOUR OWN CHOOSING, AT YOUR OWN EXPENSE."
- (2) (For civilians not subject to the Uniform Code of Military Justice (UCMJ)) "ANYTHING YOU SAY OR DO CAN BE USED AS EVIDENCE AGAINST YOU IN A CRIMINAL TRIAL OR ADMINISTRATIVE PROCEEDINGS. YOU HAVE THE RIGHT TO TALK TO A LAWYER AND TO HAVE A LAWYER PRESENT DURING THIS INTERVIEW. IF YOU CANNOT AFFORD A LAWYER, AND WANT ONE, ARRANGEMENTS WILL BE MADE TO OBTAIN A LAWYER FREE OF CHARGE."
- (3) "YOU MAY REQUEST A LAWYER AT ANY TIME DURING THIS INTERVIEW. IF YOU DECIDE TO ANSWER QUESTIONS, YOU MAY STOP THE QUESTIONING AT ANY TIME."

**NOTE: Make certain the suspect/accused fully understands his rights.**

### 2. THE WAIVER:

a. After advising the suspect/accused of his rights, ask him the following:

- (1) "DO YOU WANT A LAWYER AT THIS TIME?"

**NOTE: If the suspect/accused says "YES", stop the questioning until he has a lawyer. If the suspect/accused says "NO", ask him the following question.**

- (2) "AT THIS TIME, ARE YOU WILLING TO DISCUSS THE OFFENSE(S ) UNDER INVESTIGATION?"

**NOTE: If the suspect/accused says "NO", stop the interview and have him read and sign Non-Waiver Part of Certificate on reverse. If suspect/accused says "YES", have him read and sign Waiver Part of Certificate on reverse.**

### 3. SPECIAL INSTRUCTIONS:

- a. WHEN SUSPECT/ACCUSED REFUSES TO SIGN WAIVER CERTIFICATE: If the suspect/accused orally waives his rights but refuses to sign the Waiver Certificate, you may proceed with the questioning. Make notations on the Waiver Certificate to the effect that he has stated that he understands his rights, does not want a lawyer, wants to discuss the offense(s) under investigation, and refuses to sign the Waiver Certificate.
- b. IF WAIVER CERTIFICATE CANNOT BE COMPLETED IMMEDIATELY: In all cases the Waiver Certificate must be completed as soon as possible. Every effort should be made to complete the Waiver Certificate before any questioning begins. If the Waiver Certificate cannot be completed at once, as in the case of street interrogation, completion may be temporarily postponed. Notes should be kept on the circumstances.
- c. PRIOR INCRIMINATING STATEMENTS:
  - (1) If the suspect/accused has made spontaneous incriminating statements before being properly advised of his rights, he should be told that such statements do not obligate him to answer further questions.
  - (2) If the suspect/accused was questioned as such previously without being properly advised of his rights, he should be told that statements made at that time cannot be used against him and do not obligate him to answer further questions.

**NOTE: If (1) or (2) apply, the fact that the suspect/accused was advised accordingly should be noted on the Waiver Certificate and initialed by the suspect/accused.**