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			PRIV	ACY ACT STATEMENT			*		
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	CLAIM FOR DAMAGE, INJURY, OR DEATH	supply information reque	read carefully the instruct ested on both sides of the side for additional instruct	form. Use additional sh				
1	Submit To Appropriate Federal Agency:		(See instructions on re	verse.) (Number, stree	sonal representative, if any. c, city, State and Zip Code)  (F4-Hea)			
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3	. TYPE OF EMPLOYMENT 4. DATE OF BIF	TH 5. MARITAL STATUS	2 0	•	7. TIME (A.M. or P.M.)			
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9		PROPERTY	DAMAGE		·			
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NSN 7540-00-634-4046

STANDARD FORM 95 (Rev. 7-85) (B

## DEPARTMENT OF DEFENSE



COMBINED/JOINT TASK FORCE (CJTF-76)
OFFICE OF THE STAFF JUDGE ADVOCATE
BAGRAM AIRFIELD, AFGHANISTAN APO AE 09354

REPLY TO ATTENTION OF

CJTF-76-JA-CL

MEMORANDUM FOR RECOR	MORANDUM FO	OR RECORT	D
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21 July 2006

SUBJECT: Foreign Claim Investigation, Claim # A1U-06-081 (	
1. Identifying Information.	
a. Claimant: The claimant is a local national, living in Afghanistan.	hereinafter "the claimant")

- b. Amount: The claimant filed a claim for 2,500,000 Afghani on 26 June 2006.
- c. The claimant states on 29 May 2006, that his son was shot and killed after a riot began after a U.S. Forces HEMMT vehicle lost brake control upon entering the city of Kabul.
  - d. Investigation Completed: 19 July 2006.
- 2. <u>Jurisdiction</u>. The claimant filed his claim in a timely manner in the form of an SF 95. The claimant is a foreign national. The claimant is a proper claimant under the Foreign Claims Act IAW DA PAM 27-162, para. 10-2.

## 3. Statement of Facts.

- a. The claimant states on 29 May 2006, his son was shot and killed after a riot started as a result of a U.S. Forces HEMMT losing brake control.
- b. A convoy was enroute from Bagram to Kabul on 29 May 2006. As they began to enter the town of Kabul, there is a very long steep graded slope on which the HEMMT within the convoy began lose control of its brakes. The HEMMT, out of control, entered town and made contact with several vehicles until it finally came to a complete stop. Damage consisted of numerous vehicles, personal injuries, and a one casualty. As the local nationals began to congregate a riot ensued. Shots were fired from the local Afghan national police and U.S. personnel fatally wounding several local nationals.
- c. The claimant submitted an SF 95 indicating damages of 2,500,000 Afghani for the loss of his son.

## 4. Legal Analysis.

- a. Legal Rules. Under AR 27-20, para. 10-3, the incident that forms the basis for the claim must arise in a foreign country and be a result of either noncombat activities of the U.S. armed forces or the negligent or wrongful acts of civilian employees or military members. "Noncombat activity" is defined in the Glossary of AR 27-20, as "authorized activities essentially military in nature, having little parallel in civilian pursuits, which historically have been considered as furnishing the proper basis for payment of claims. Activities excluded are those incident to combat, whether in time of war or not, and use of military personnel and civilian employees in connection with civil disturbances."
- b. Application of Rules. In this case, the claim arose in Afghanistan, a foreign country. An investigation is being completed between U.S. Forces and the local Afghanistan police. After the incident, U.S. Forces and Afghani law enforcement conducted separate investigations. Evidence supports the negligence of the U.S. Forces and therefore the claimant should be compensated accordingly.
- 5. <u>Damages.</u> The claimant filed an SF 95 on 26 June 2006. The SF 95 requests compensation for the loss of the son.
- 6. <u>Proposed Settlement or Action.</u> This claim is payable under the Foreign Claims Act because the loss occurred as a result of a U.S. government personnel's negligence. This claim should be settled for 200,000 Afghani to compensate the family for their loss.

7.	Point of	contact is	the	undersigned at	(318	) 231-4603.
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CPT, JA

Foreign Claims Commissioner

Encls.

## FOREIGN CLAIMS COMMISSION DECISION MEMORANDUM

1.	CASE No. #: A1U-06-081	2. DATE RI	EQUEST FILI	ED: 21 July 20	006
			•		

- 3. NAME AND ADDRESS OF CLAIMANT:
- 4. NAME AND ADDRESS OF REPRESENTATIVE: N/A
- 5. DATE AND PLACE OF INCIDENT: 29 May 2006, Afghanistan
- 6. AMOUNT REQUESTED: 2,500,000 Afghani
- 7. EQUIVALENT IN US CURRENCY: Current Exchange Rate
- 8. FACTS: See investigation memo
- 9. LIABILITY: The request is cognizable and considered meritorious
- 10. QUANTUM:

Amount requested: 2,500,000 Afghani

Amount Approved: 200,000 Afghani

11. FUND CITE # 2162020 22-0204 P436099.22-4200 VFRE F3203 S99999 APC:

K226(83) A1U

- 12. ACTION: Claimant paid for substantiated loss
- 13 PAYMENT AMOUNT: 200,000 Afghani
- 14. EQUIVALENT IN US CURRENCY: Current exchange rate
- 15. COMMISSIONER'S SIGNATURE/DATE:

CPT. JA

Foreign Claims Commissioner