

INVESTIGATING OFFICER'S REPORT

(Of Charges Under Article 32, UCMJ and R.C.M. 405, Manual for Courts-Martial)

1a. FROM: <i>(Name of Investigating Officer - Last, First, MI)</i> Ware, Paul J.	b. GRADE LtCol	c. ORGANIZATION Navy-Marine Corps Trial Judiciary, WESTPAC Circuit	d. DATE OF REPORT 6 Jul 07
2a. TO: <i>(Name of Officer who directed the investigation - Last, First, MI)</i> Mattis, James T.	b. TITLE Commanding General	c. ORGANIZATION I Marine Expeditionary Force	
3a. NAME OF ACCUSED <i>(Last, First, MI)</i> Sharratt, Justin L.	b. GRADE LCpl	c. SSN 000-00-1095	d. ORGANIZATION HqCo, 1st MAR, 1st MarDiv
			e. DATE OF CHARGES 21 Dec 2006

(Check appropriate answer)

4. IN ACCORDANCE WITH ARTICLE 32, UCMJ, AND R.C.M. 405, MANUAL FOR COURTS-MARTIAL, I HAVE INVESTIGATED THE CHARGES APPENDED HERETO (Exhibit 1)	YES	NO	
	<input checked="" type="checkbox"/>		
5. THE ACCUSED WAS REPRESENTED BY COUNSEL (If not, see 9 below)	<input checked="" type="checkbox"/>		
6. COUNSEL WHO REPRESENTED THE ACCUSED WAS QUALIFIED UNDER R.C.M. 405(d) (2), 502(d)	<input checked="" type="checkbox"/>		
7a. NAME OF DEFENSE COUNSEL <i>(Last, First, MI)</i> Cosgrove, Brian G.	b. GRADE LtCol	8a. NAME OF ASSISTANT DEFENSE COUNSEL <i>(If any)</i> Myers, Gary	b. GRADE N/A
c. ORGANIZATION <i>(If appropriate)</i> 1st MLG, CLR-17, LSSS-C (Defense)		c. ORGANIZATION <i>(If appropriate)</i> Gary Myers & Associates	
d. ADDRESS <i>(If appropriate)</i> Bldg 22163, Box 555607, Camp Pendleton, CA 92055		d. ADDRESS <i>(If appropriate)</i> 78 Clark Mill Rd, Weare, NH 03281	

9. (To be signed by accused if accused waives counsel. If accused does not sign, investigating officer will explain in detail in Item 21.)

a. PLACE	b. DATE

I HAVE BEEN INFORMED OF MY RIGHT TO BE REPRESENTED IN THIS INVESTIGATION BY COUNSEL, INCLUDING MY RIGHT TO CIVILIAN OR MILITARY COUNSEL OF MY CHOICE IF REASONABLY AVAILABLE. I WAIVE MY RIGHT TO COUNSEL IN THIS INVESTIGATION.

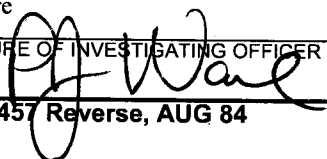
c. SIGNATURE OF ACCUSED

10. AT THE BEGINNING OF THE INVESTIGATION I INFORMED THE ACCUSED OF: <i>(Check appropriate answer)</i>	YES	NO
a. THE CHARGE(S) UNDER INVESTIGATION	<input checked="" type="checkbox"/>	
b. THE IDENTITY OF THE ACCUSER	<input checked="" type="checkbox"/>	
c. THE RIGHT AGAINST SELF-INCRIMINATION UNDER ARTICLE 31	<input checked="" type="checkbox"/>	
d. THE PURPOSE OF THE INVESTIGATION	<input checked="" type="checkbox"/>	
e. THE RIGHT TO BE PRESENT THROUGHOUT THE TAKING OF EVIDENCE	<input checked="" type="checkbox"/>	
f. THE WITNESSES AND OTHER EVIDENCE KNOWN TO ME WHICH I EXPECTED TO PRESENT	<input checked="" type="checkbox"/>	
g. THE RIGHT TO CROSS-EXAMINE WITNESSES	<input checked="" type="checkbox"/>	
h. THE RIGHT TO HAVE AVAILABLE WITNESSES AND EVIDENCE PRESENTED	<input checked="" type="checkbox"/>	
i. THE RIGHT TO PRESENT ANYTHING IN DEFENSE, EXTENUATION, OR MITIGATION	<input checked="" type="checkbox"/>	
j. THE RIGHT TO MAKE A SWORN OR UNSWORN STATEMENT, ORALLY OR IN WRITING	<input checked="" type="checkbox"/>	
11a. THE ACCUSED AND ACCUSED'S COUNSEL WERE PRESENT THROUGHOUT THE PRESENTATION OF EVIDENCE <i>(If the accused or counsel were absent during any part of the presentation of evidence, complete b below.)</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

b. STATE THE CIRCUMSTANCES AND DESCRIBE THE PROCEEDINGS CONDUCTED IN THE ABSENCE OF ACCUSED OR COUNSEL

Mr. Culp was absent, with the consent of the accused, for a short time during one session of the hearing. Mr. Myers and LtCol Cosgrove were present for all sessions.

NOTE: If additional space is required for any item, enter the additional material in Item 21 or on a separate sheet. Identify such material with the proper numerical and, if appropriate, lettered heading (Example: "7c"). Securely attach any additional sheets to the form and add a note in the appropriate item of the form: "See additional sheet."

12a. THE FOLLOWING WITNESSES TESTIFIED UNDER OATH: (Check appropriate answer)				
NAME (Last, First, MI)	GRADE (If any)	ORGANIZATION/ADDRESS (Whichever is appropriate)	YES	NO
See attached witness list.				
b. THE SUBSTANCE OF THE TESTIMONY OF THESE WITNESSES HAS BEEN REDUCED TO WRITING AND IS ATTACHED.			<input checked="" type="checkbox"/>	
13a. THE FOLLOWING STATEMENTS, DOCUMENTS, OR MATTERS WERE CONSIDERED; THE ACCUSED WAS PERMITTED TO EXAMINE EACH.				
DESCRIPTION OF ITEM	LOCATION OF ORIGINAL (If not attached)			
See attached exhibit list.				
b. EACH ITEM CONSIDERED, OR A COPY OR RECITAL OF THE SUBSTANCE OR NATURE THEREOF, IS ATTACHED			<input checked="" type="checkbox"/>	
14. THERE ARE GROUNDS TO BELIEVE THAT THE ACCUSED WAS NOT MENTALLY RESPONSIBLE FOR THE OFFENSE(S) OR NOT COMPETENT TO PARTICIPATE IN THE DEFENSE. (See R.C.M. 909, 916(k).)				<input checked="" type="checkbox"/>
15. THE DEFENSE DID REQUEST OBJECTIONS TO BE NOTED IN THIS REPORT (If Yes, specify in Item 21 below.)				<input checked="" type="checkbox"/>
16. ALL ESSENTIAL WITNESSES WILL BE AVAILABLE IN THE EVENT OF TRIAL				<input checked="" type="checkbox"/>
17. THE CHARGES AND SPECIFICATIONS ARE IN PROPER FORM			<input checked="" type="checkbox"/>	
18. REASONABLE GROUNDS EXIST TO BELIEVE THAT THE ACCUSED COMMITTED THE OFFENSE(S) ALLEGED				<input checked="" type="checkbox"/>
19. I AM NOT AWARE OF ANY GROUNDS WHICH WOULD DISQUALIFY ME FROM ACTING AS INVESTIGATING OFFICER. (See R.C.M. 405(d) (1).)			<input checked="" type="checkbox"/>	
20. I RECOMMEND:				
a. TRIAL BY <input type="checkbox"/> SUMMARY <input type="checkbox"/> SPECIAL <input type="checkbox"/> GENERAL COURT-MARTIAL				
b. <input checked="" type="checkbox"/> OTHER (Specify in Item 21 below)				
21. REMARKS (Include, as necessary, explanation for any delays in the investigation, and explanation for any "no" answers above.)				
14. Neither counsel presented evidence or indicated the accused was not mentally responsible. Additionally, my observations and interaction with accused satisfied me that he was mentally competent to participate in the defense.				
15. No written objections were filed although the defense did object to my consideration of the interviews of 4 Iraqi witnesses claiming the statements were not under oath. See attached pages for discussion of this objection.				
16. Government counsel represented that key Iraqi witnesses are willing to cooperate but was unsure if such cooperation included traveling to the United States to testify at a Courts-martial.				
18. Please see attached sheets with analysis.				
20. I recommend dismissal of the Charge and Specifications without prejudice.				
22a. TYPED NAME OF INVESTIGATING OFFICER		b. GRADE	c. ORGANIZATION	
Paul J. Ware		LtCol	Navy-Marine Corps Trial Judiciary, Western Pacific Judicial Circuit	
d. SIGNATURE OF INVESTIGATING OFFICER			e. DATE	
			6 Jul 07	