

**INVESTIGATING OFFICER'S REPORT**  
(Of Charges Under Article 32, UCMJ and R.C.M. 405, Manual for Courts-Martial)

1a. FROM: (Name of Investigating Officer – Last, First, MI) Ware, Paul J.		b. GRADE LtCol	c. ORGANIZATION Western Pacific Judicial Circuit	d. DATE OF REPORT 23 August 2007
2a. TO: (Name of Officer who directed the investigation – Last, First, MI) Mattis, James T.			b. TITLE Commanding General	c. ORGANIZATION I Marine Expeditionary Force
3a. NAME OF ACCUSED (Last, First, MI) Tatum, Stephen B.	b. GRADE LCpl	c. SSN XXX-XX-2278	d. ORGANIZATION HqCo, 1st MAR, 1st MarDiv, MarForPac, CamPen, CA	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
5. THE ACCUSED WAS REPRESENTED BY COUNSEL (If not, see 9 below)	X	
6. COUNSEL WHO REPRESENTED THE ACCUSED WAS QUALIFIED UNDER R.C.M. 405(d)(2), 502(d)	X	

7a. NAME OF DEFENSE COUNSEL (Last, First, MI) Cord, Matthew, W.	b. GRADE LtCol	8a. NAME OF ASSISTANT DEFENSE COUNSEL (If any) Zimmerman, Jack B.	b. GRADE CIV
c. ORGANIZATION (If appropriate) 1st MLG, CLR-17, LSSS-C (Defense)		c. ORGANIZATION (If appropriate) Zimmerman & Sampson, P.C.	
d. ADDRESS (If appropriate) Bldg 22163, Box 555607, Camp Pendleton, CA 92055		d. ADDRESS (If appropriate) Zimmerman & Sampson, P.C. 770 South Post Oak Ln, Suite 620 Houston, TX 77056 www.texasdefenselawyers.com	

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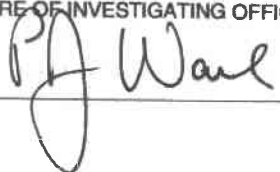
I HAVE BEEN INFORMED OF MY RIGHT TO BE REPRESENTED IN THIS INVESTIGATION BY COUNSEL, INCLUDING MY RIGHT TO CIVILIAN OR MILITARY COUNSEL OF MY CHOICE IF REASONABLY AVAILABLE. I WAIVE MY RIGHT TO COUNSEL IN THIS INVESTIGATION.

c. SIGNATURE OF ACCUSED

10. AT THE BEGINNING OF THE INVESTIGATION I INFORMED THE ACCUSED OF: (Check appropriate answer)	Yes	No
a. THE CHARGE(S) UNDER INVESTIGATION	X	
b. THE IDENTITY OF THE ACCUSER	X	
c. THE RIGHT AGAINST SELF-INCRIMINATION UNDER ARTICLE 31	X	
d. THE PURPOSE OF THE INVESTIGATION	X	
e. THE RIGHT TO BE PRESENT THROUGHOUT THE TAKING OF EVIDENCE	X	
f. THE WITNESSES AND OTHER EVIDENCE KNOWN TO ME WHICH I EXPECTED TO PRESENT	X	
g. THE RIGHT TO CROSS EXAMINE WITNESSES	X	
h. THE RIGHT TO HAVE AVAILABLE WITNESSES AND EVIDENCE PRESENTED	X	
i. THE RIGHT TO PRESENT ANYTHING IN DEFENSE, EXTENUATION OR MITIGATION	X	
j. THE RIGHT TO MAKE A SWORN OR UNSWORN STATEMENT, ORALLY OR IN WRITING	X	

11a. THE ACCUSED AND ACCUSED'S COUNSEL WERE PRESENT THROUGHOUT THE PRESENTATION OF EVIDENCE (If the accused or counsel were absent during any part of the presentation of evidence, complete (b) below.)

b. STATE THE CIRCUMSTANCES AND DESCRIBE THE PROCEEDINGS CONDUCTED IN THE ABSENCE OF ACCUSED OR COUNSEL  
With consent of accused, Maj Munoz (assistant detailed DC) was absent for a period of approximately 15 minutes during one day of testimony

12a. THE FOLLOWING WITNESSES TESTIFIED UNDER OATH: <i>(Check appropriate answer)</i>				
NAME <i>(Last, First, MI)</i>	GRADE <i>(If any)</i>	ORGANIZATION / ADDRESS <i>(Whichever is appropriate)</i>	Yes	No
See attached witness list.				
b. THE SUBSTANCE OF THE TESTIMONY OF THESE WITNESSES HAS BEEN REDUCED TO WRITING AND IS ATTACHED.			X	
13a. THE FOLLOWING STATEMENTS, DOCUMENTS, OR MATTERS WERE CONSIDERED. THE ACCUSED WAS PERMITTED TO EXAMINE EACH.				
DESCRIPTION OF ITEM	LOCATION OF ORIGINAL <i>(If not attached)</i>			
See attached exhibit list.				
b. EACH ITEM CONSIDERED, OR A COPY OF THE RECITAL OF THE SUBSTANCE OR NATURE THEREOF, IS ATTACHED.			X	
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).]				X
15. THE DEFENSE DID REQUEST OBJECTIONS TO BE NOTED IN THIS REPORT. <i>(If Yes, specify in Item 21, below.)</i>				X
16. ALL ESSENTIAL WITNESSES WILL BE AVAILABLE IN THE EVENT OF TRIAL.				X
17. THE CHARGES AND SPECIFICATIONS ARE IN PROPER FORM.			X	
18. REASONABLE GROUNDS EXIST TO BELIEVE THAT THE ACCUSED COMMITTED THE OFFENSE(S) ALLEGED.			X	X
19. I AM NOT AWARE OF ANY GROUNDS, WHICH WOULD DISQUALIFY ME FROM ACTING AS INVESTIGATING OFFICER. [See R.C.M. 405(d)(1).]			X	
20. I RECOMMEND:				
a. TRIAL BY	SUMMARY	SPECIAL	GENERAL COURT-MARTIAL	
b. OTHER <i>(Specify in Item 21 below)</i>				
21. REMARKS <i>(Include, as necessary, explanation for any delays in the investigation, and explanation for any "No" answers above.)</i>				
Defense requested delay until 3 August 2007 to submit written argument. Delay granted and excluded under RCM 707. See accompanied report for analysis of reasonable grounds and recommendation.				
22a. TYPED NAME OF INVESTIGATING OFFICER	b. GRADE	c. ORGANIZATION		
Paul J. Ware	LtCol	Western Pacific Judicial District		
d. SIGNATURE OF INVESTIGATING OFFICER			e. DATE	
			23 August 2007	

12a The following witnesses testified under oath:

LtCol Elizabeth Rouse, USAF	4301 Jones Bridge Road, Bethesda, MD 20814-4799
Capt Kathryn Navin	HQBN, Camp Pendleton, CA
SSgt Travis Fields	Instructor, School of Infantry-West
SSgt Justin Laughner	Combat Logistics Regiment 17, Service Company
Sgt Sanick Dela Cruz	Attorney Daniel Marino 1275 Pennsylvania Ave NW, Washington DC 20006, (202) 383-1062
Cpl Robert Stafford	Weapons Training Battalion, Marine Corps Recruit Depot, Parris Island, SC
HM3 Matthew Lopez	13th MEU
LCpl Humberto Mendoza	Attorney Jamie McCall 1701 Market Street, Philadelphia, PA 19103- 2921
Mr. Daniel Callaway	10200 Belle Rive Blvd, #4204, Jacksonville, FL 32256
Mr. Trent Aaron Graviss	9800 Wilton Dr, Fairdale, KY
Mr. Lucian Reed	508 East 12th Street, Apt #22, New York, NY 1009
Mr. Hashim Malek	PO Box 251381, Glendale, CA 91225-1381
Special Agent Brian Brittingham	NCIS, Washington D.C.

Investigator Tony Flores	NCIS, Camp Pendleton, CA
Special Agent Michael S. Maloney	NCIS, Far East Region, Okinawa Japan
Special Agent Michael Wright	NCIS, Norfolk, VA
Special Agent Kelly Garbo	NCIS, Washington, D.C.
Special Agent Thomas Brady	NCIS, Washington, D.C.
Special Agent Nayda M. Mannle	NCIS, Washington, D.C.
Special Agent Matthew Marshall	NCIS, Camp Pendleton CA
Special Agent Mark Platt	NCIS, Washington, D.C.

13a. The following statements, documents or matters were considered; the accused was permitted to examine each. The defense objected to several documents based on relevance and that the document was unsworn. The objections to unsworn statement were sustained. Additionally, the defense objected to alleged statements made by LCpl Tatum to NCIS agents on 9 and 17 May 2007 under MRE 305 incorporating MRE 304. I denied that motion but am including within the legal issues discussion advice that such statements are likely subject to further litigation and are not necessarily admissible at trial. All documents not considered based on sustaining objections or because they were later withdrawn by either party were not considered. For clarity in the report, admitted exhibits were not renumbered. Those that were not considered and not part of my analysis are listed below as "removed".

1. Charge Sheet & Appointing Order
2. Email between LtCol Sullivan and Col Chester dtd 06 Feb 07 through 07 Feb 07, RE: Excludable Delay
3. LtCol Sullivan's ltr 5800 TC/SMS of 05 Mar 07
4. LtGen Mattis' ltr 5800 LSST-C of 07 Mar 07
5. Maj Erickson ltr 5811 LSST-C of 19 Jun 07, RE: Request for Continuance

6. Trial Counsel email to Defense Counsel dtd 21 June 2007, RE: request by LCpl Tatum for other charged Marines to testify
7. Email by Defense Counsel for LtCol Chessani dtd 21 June 2007, RE: denial of request by LCpl Tatum for LtCol Chessani to testify
8. Email by Defense Counsel for Capt McConnell dtd 21 June 2007, RE: denial of request by LCpl Tatum for Capt McConnell to testify
9. Email by Defense Counsel for SSgt Wuterich dtd 21 June 2007, RE: denial of request by LCpl Tatum for SSgt Wuterich to testify
10. Memorandum for Record dtd 01 May 07, RE: Tim McGirk
11. Testimonial Immunity Documents, RE: SSgt Laughner
12. Testimonial Immunity Documents, RE: Sgt Dela Cruz
13. Testimonial Immunity Documents, RE: LCpl Mendoza
14. OMPF of LCpl Tatum
15. Service Record Book of LCpl Tatum
16. Results of Review of Photographs and Video Provided by Khalid Salman Rasif / 30 Mar 06 (12 Sept 06 ROI, Ex. 381) (House #1 and House #2 photos)
17. RCFL review of Maj Hyatt's Image Hard Drive (12 Sept 06 ROI, Ex. 424) (House #1 and House #2 photos)
18. Death certificates of House #1 and House #2 victims (12 Apr 06 ROI, Ex. 48)
19. Translation of Death certificates of House #1 and House #2 victims (3 Aug 06 ROI, Ex. 377)
20. Medical Examination of House #1 and House #2 victims (3 Aug 06 ROI, Ex. 378)
21. House #1 and House #2 victim photos pre-death (12 Sept ROI, Ex. 491, pp. 897-903, 906, 909-912, and 917-918)

22. House #1 and House #2 victim photos post-death from LCpl Wright (12 Sept ROI, Ex. 412, pp. 295-322)
23. House #1 and House #2 victim photos post-death from SSgt Laughner(12 Sept ROI, Ex. 455, pp. 556-565, 584, and 602-619)
24. Eman Waleed Al Hameed U.S. Navy Medical Records
25. Al-Rahman Waleed Al-Hameed U.S. Navy Medical Records
26. Removed
27. Removed
28. Removed
29. Deposition transcript of 1stLt William Kallop taken 7 May 2006
30. Statement of SSgt Frank D. Wuterich with Rights Advisement and Rights Waiver dtd 21 Feb 06
31. Removed
32. Removed
33. Removed
34. Statement of Sgt Sanick Dela Cruz with Rights Advisement and Rights Waiver dtd 19 Feb 06
35. Removed
36. Removed
37. Removed
38. Removed
39. Removed
40. Removed
41. Statement of Sgt Hector R. Salinas with Rights Advisement and Rights Waiver dtd 19 Feb 06
42. Statement of Sgt Hector R. Salinas with Rights Advisement and Rights Waiver dtd 18 Mar 06
43. Statement of Sgt Hector R. Salinas with Rights Advisement and Rights Waiver dtd 19 Mar 06
44. Statement of Sgt Hector R. Salinas with Rights Advisement and Rights Waiver dtd 24 Mar 06