

### INVESTIGATING OFFICER'S REPORT

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

1a. <b>FROM:</b> <i>(Name of Investigating Officer - Last, First, MI)</i>  McCarron, Paula, B.	b. GRADE  O-5	c. ORGANIZATION  440 AW/JA, Pope Field, NC	d. DATE OF REPORT  26 Jun 12
2a. <b>TO:</b> <i>(Name of Officer who directed the investigation - Last, First, MI)</i>  Zobrist, Scott, J.	b. TITLE  Commander	c. ORGANIZATION  31 FW Aviano AB, Italy	
3a. NAME OF ACCUSED <i>(Last, First, MI)</i>  Wilkerson, James, H.	b. GRADE  O-5	c. SSN  (b)(6)	d. ORGANIZATION  31 OG, Aviano AB, Italy
			e. DATE OF CHARGES  14 Jun 12

*(Check appropriate answer)*

	YES	NO	
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)	X		
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 <i>(Last, First, MI)</i> Wennrich, Pilar G	b. GRADE O-4	8a. NAME OF ASSISTANT DEFENSE COUNSEL <i>(If any)</i>	b. GRADE
c. ORGANIZATION <i>(If appropriate)</i> AFLOA/SDC, RAF Lakenheath, UK		c. ORGANIZATION <i>(If appropriate)</i>	
d. ADDRESS <i>(If appropriate)</i> UNIT 5275, BOX 415 APO (RAF LAKENHEATH) AE 09461-5415		d. ADDRESS <i>(If appropriate)</i>	
9. <i>(To be signed by accused if accused waives counsel. If accused does not sign, investigating officer will explain in detail in Item 21.)</i>			
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		
	YES	NO
10. AT THE BEGINNING OF THE INVESTIGATION I INFORMED THE ACCUSED OF: <i>(Check appropriate answer)</i>		
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 <i>(If the accused or counsel were absent during any part of the presentation of evidence, complete b below.)</i>	X	
b. STATE THE CIRCUMSTANCES AND DESCRIBE THE PROCEEDINGS CONDUCTED IN THE ABSENCE OF ACCUSED OR COUNSEL N/A		

**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
Manning, Tanya, L.	O-3	31 AMDS, Aviano AB	X	
(b)(6)		31 AMDS, Aviano AB	X	
Dunnivant, Danielle, D.	E-7	31 MDSS, Aviano AB	X	
Berrong, Suzanne, L.		31 MDG, Aviano AB	X	
Ostovich, Dean	O-6	31 FW, Aviano AB	X	
Lowe, Albert, F.	O-4	510 FS, Aviano AB	X	
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 (If not attached)			
1. Charge Sheet	31 FW/JA, Aviano AB (copy attached)		X	
2. Manning AF Form 1168, dated 18 Apr 12	AFOSI Det 531 (copy attached)		X	
3. (b)(6) AF Form 1168, dated 17 Apr 12	AFOSI Det 531 (copy attached)		X	
4. (b)(6) sketch of Wilkerson residence			X	
5. Dunnivant AF Form 1168 dated 20 Apr 12	AFOSI Det 531 (copy attached)		X	
6. Dunnivant transcribed 1168			X	
b. EACH ITEM CONSIDERED, OR A COPY OR 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 (If Yes, specify in Item 21 below.)				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	
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 <input type="checkbox"/> SUMMARY <input type="checkbox"/> SPECIAL <input checked="" type="checkbox"/> GENERAL COURT-MARTIAL				
b. <input 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.) The accused has two detailed counsel. The accused voluntarily waived the appearance of one only for the purposes of this investigation. The defense did not submit any objections.				
22a. TYPED NAME OF INVESTIGATING OFFICER		b. GRADE	c. ORGANIZATION	
Paula B. McCarron		O-5	440 AW/JA Pope Field, NC	
d. SIGNATURE OF INVESTIGATING OFFICER (b)(6)			e. DATE 26 Jun 12	

Continuation of Item 12a:

Name	Grade	Org/Address	YES	NO
Wilkerson, Beth, R.		Via Vittorio Venato #2	x	
Newbill, Angela		PSCing to VA	x	
Pone, Cheryl		Unknown	x	
Goldsberry, Gerremy, L.	O-4	510 FS, Aviano AB	x	

Continuation of Item 13a:

IO Ex	Description	Location	YES	NO
7	Berrong AF Form 1168, dated 19 and 20 Apr 12	AFOSI Det 531 (copy attached)	x	
8	Berrong Transcribed 1168		x	
9	Ostovich AF Form 1168, dated 23 Apr 12	AFOSI Det 531 (copy attached)		
10	Ostovich Testimonial Immunity	31 FW/JA (copy attached)	x	
11	Lowe AF Form 1168, dated 28 Apr 12	AFOSI Det 531 (copy attached)	x	
12	Photos of Wilkerson House		x	
13	B. Wilkerson, AF Form 1168, dated 19 Apr 12	AFOSI Det 531 (copy attached)	x	
14	Goldsberry, AF Form 1168, dated 24 Apr 12	AFOSI Det 531 (copy attached)	x	
15	Goldsberry Transcribed 1168		x	
16	Manning Testimonial Immunity	31 FW/JA (copy attached)	x	
17	Goldsberry Text Messages	ADC (copy attached)	x	
18	Brock AF Form 1168, dated 18 Apr 12	AFOSI Det 531 (copy attached)	x	
19	Gatlin AF Form 1168, dated 17 May 12	AFOSI Det 531 (copy attached)	x	
20	O'Keefe AF Form 1168, dated 25 Apr 12	AFOSI Det 531 (copy attached)	x	
21	Accused AF Form 1168, dated 19 Apr 12	AFOSI Det 531 (copy attached)	x	
22	Accused videotaped OSI interviews 4 DVDs	AFOSI Det 531 (copy attached)	x	
23	Manning Summarized Testimony		x	
24	(b)(6) Summarized Testimony		x	
25	Dunnivant Summarized Testimony		x	
26	Berrong Summarized Testimony		x	
27	Ostovich Summarized Testimony		x	
28	Lowe Summarized Testimony		x	
29	B. Wilkerson Summarized Testimony		x	
30	Newbill Summarized Testimony		x	
31	Pone Summarized Testimony		x	
32	Goldsberry Summarized Testimony		x	
33	Personal Data Sheet		x	

Continuation of Item 21, Investigation Officer's Report, DD Form 457, 26 Jun 12

**a. Case Synopsis.**

(1) On the evening of 23 Mar 12, (b)(6) Capt Tanya Manning, Capt Dawn Brock, and MSgt Danielle Dunnivant, attended the Seether concert at Aviano AB. Also at the concert were Col Dean Ostovich, 31 FW/CV at the time, Maj Gerremy Goldsberry, Maj Albert Lowe, and the accused. Prior to the concert, Ms. (b)(6) Capt Manning, Capt Brock and MSgt Dunnivant consumed some alcohol.

(2) After the concert, Ms. (b)(6) Capt Manning and Capt Brock went to the La Bella Vista Club on base. MSgt Dunnivant went to the club initially, but shortly thereafter, left. They all drank at the club.

(3) Ms. (b)(6) Capt Manning and Capt Brock ran in to Col Ostovich, Maj Goldsberry, Maj Lowe and the accused. At some point, the seven individuals decided that Col Ostovich would drive them to the accused's house. Col Ostovich's car was not built to accommodate seven, and there were not enough seat belts for all passengers (IO Ex 14).

(4) There are varying estimates of the time they got to the accused's, but it appears to have been about 2130 hours. At the residence when they arrived were Beth Wilkerson, the accused's wife, their son (b)(6) and two other boys who were spending the night.

(5) The adults all consumed alcohol at the accused's residence. Some had wine and some had Jack Daniels and a mixer (either "Jack and ginger" or "Jack and Coke").

(A) Most who observed or talked to Ms. (b)(6) described her as drunk, slurring her words and stumbling. She describes herself as "out of it," and admittedly does not remember many details of the evening (IO Ex 24). She had some concerns that she had been drugged and was tested for illegal drugs and GHB/Rohypnol the following day. All tests came back negative (IO Ex 24).

(B) The accused drank but says he was not "inebriated" (IO Ex 22). He stated he felt severely hungover the next day (IO Ex 21, 22). Col Ostovich, who saw the accused the next day, commented on the accused's hungover appearance (IO Ex 27).

(6) By approximately midnight all but Ms. Hanks had left the accused's residence. Mrs. Wilkerson drove Capt Brock to the Aviano gate, Col Ostovich and Capt Manning left together, and Maj Goldsberry and Maj Lowe left together.

(7) Mrs. Wilkerson offered Ms. (b)(6) a ride to the Aviano gate, but Ms. (b)(6) had misplaced her shoes and she didn't want to walk past the guards intoxicated (IO Ex 24). Mrs. Wilkerson offered to let Ms. (b)(6) spend the night, and Ms. (b)(6) agreed.

(A) Mrs. Wilkerson says she put Ms. (b)(6) in the basement "playroom" which has a made up daybed in it (IO Ex 12, pages 11 – 13).

(B) Ms. (b)(6) recalls Mrs. Wilkerson making up a small twin bed in a room she believed was off the kitchen and which had a couple of steps down into it (IO Ex 24).

(8) Mrs. Wilkerson testified (IO Ex 29) that everyone had gone to bed, she and the accused upstairs on the third floor of the house, and Ms. (b)(6) in the basement. Mrs. Wilkerson did not go to sleep, but the accused did. Sometime after midnight, Mrs. Wilkerson heard Ms. (b)(6) downstairs talking. When she went to investigate, she discovered Ms. (b)(6) talking on the phone in the kitchen. She asked her to be quiet (the boys who were spending the night were asleep in a guest room off the kitchen) and ended up making Ms. (b)(6) tea and herself

coffee. This is corroborated by Suzanne Berrong, who received a phone call from Ms. (b)(6) after midnight. Ms. Berrong testified (IO Ex 26) that Ms. (b)(6) was slurring her words and kept repeating things. Ms. Berrong heard a woman's voice in the background (Ms. (b)(6) called her "the wife") and Ms. (b)(6) said something about tea. Mrs. Wilkerson testified she and Ms. (b)(6) both went back to bed after their tea and coffee.

(9) After this, there are three accounts of what followed:

(A) The accused, over the course of two OSI interviews on 19 and 26 Apr 12, says his wife was not happy when they all showed up at his house after the concert. He did not know the three females. When they all got to his house, he opened some wine. He was drinking Jack Daniels, but was not too drunk. He says his wife made it clear that she wanted everyone out of the house. When it was time for the two children (the Pone children) who were staying at the house to go to bed, he read them a story. He says Ms. (b)(6) followed him into the room and sat on the bed while he read. At some point during the night, his wife told him to go to bed and he did. She also told him that Ms. (b)(6) was too drunk, so she offered to let her spend the night. He went to bed in a T-shirt and jeans and woke up in boxer shorts. The next morning, he asked his wife what happened to Ms. (b)(6). His wife said she had been up and down throughout the night, so she asked Ms. (b)(6) to leave. After Ms. (b)(6) left, his wife said she felt bad, so she went to look for her but didn't find her. He denies sexually assaulting Ms. (b)(6). It isn't something he would do. He said his wife is a light sleeper and would have heard him going downstairs. He speculates that the reason Ms. (b)(6) is making the allegations against him is because she is mad she got kicked out.

(B) Mrs. Wilkerson testified (IO Ex 29) that she heard Ms. (b)(6) downstairs a second time. Mrs. Wilkerson went back downstairs. Ms. (b)(6) was near the children's room. Mrs. Wilkerson asked Ms. (b)(6) what she was doing, and gave Ms. (b)(6) two choices – either go back down to bed or leave. She says Ms. (b)(6) opened to back door, grabbed her purse and glasses and left. Mrs. Wilkerson buzzed the walking gate open so Ms. (b)(6) could leave even though she didn't think she would. IO exhibit 12, pages 18, 20 and 21, are photos and measurements of the wall surrounding the Wilkerson property. When she realized Ms. (b)(6) was actually leaving, she put a shirt on over her pajamas and got in the accused's car to look for Ms. (b)(6). She didn't find her. When she got back, she also searched the yard, but again, didn't find Ms. (b)(6). She then says she waited up to see if Ms. (b)(6) returned. She went to bed at around 0400 hours.

(C) Ms. (b)(6) testified (IO Ex 24) that Mrs. Wilkerson told her several times to spend the night. Ms. (b)(6) suddenly became very tired. The Wilkersons walked her part way to the room and Ms. (b)(6) went straight to bed in her clothes. Her next memory is that she felt like she was having a dream, on her back, floating. It was very quiet. She then felt being touched over her clothes on her breasts and stomach. Her next memory is feeling a bit of pain on the left side of her inner labia near her vagina. She felt a finger go partially in her vagina. The finger felt like it uncurled and curled in her vagina. Then, it got really bright. She rolled over on her left side and felt a hand come out of her pants. She heard a guy yell "what the hell is going on?" She saw a man's face 6 inches from hers. They were both under the covers. Initially, she didn't know who the face belonged to or where she was. He rolled off the bed. It was the

accused. She then heard Mrs. Wilkerson say “get the hell out of my house.” Ms. (b)(6) sat up. Her belt was still buckled and her clothes were still on. Mrs. Wilkerson told her to leave the house. She does not know where the accused went. She walked past Mrs. Wilkerson and a few feet outside the house when she realized she didn’t have her wallet or glasses. She saw them on the counter and grabbed them. She went over a stucco wall, got to the street and started walking. She does not remember calling Ms. Berrong three times.

(10) It is clear is that at around 0300 on 24 Mar 12, Ms. (b)(6) left the Wilkerson house. She reached MSgt Dunnivant who came to pick her up in Roveredo. MSgt Dunnivant took Ms. (b)(6) to billeting where she had a room. Ms. (b)(6) told MSgt Dunnivant some of her account of what happened.

(11) When Ms. (b)(6) woke up in the morning, she spoke to Ms. Berrong. Ms. (b)(6) told Ms. Berrong some of her account of what happened. Ms. Berrong took Ms. (b)(6) to the clinic where Maj Michael O’Keefe ordered tests for Ms. (b)(6) for drugs and GHB/Rohypnol. Ms. Berrong then took Ms. (b)(6) back to her apartment.

(12) At the Wilkerson residence, the accused woke up and made breakfast. Mrs. Wilkerson told the accused her account of what happened with Ms. (b)(6) The accused, in his 19 Apr 12 interview with OSI (IO Ex 22), said he believed that Mrs. Wilkerson did in fact take his car sometime because it was parked in a different place and the seat was forward. The accused stated he felt awful, had a bad headache, and wondered whether he had been drugged.

## **b. Elements of the Offenses Charged.**

(1) Specification 1 of Charge I alleges abusive sexual contact upon Ms. (b)(6) when she was substantially incapable of appraising the act, in violation of Article 120, UCMJ. The elements of this offense are:

(A) That on or about 24 Mar 12 at or near Roveredo in Piano, Italy, the accused engaged in sexual contact, to wit: fondling the breasts with his hands, with (b)(6) and,

(B) That the accused did so when (b)(6) was substantially incapable of appraising the nature of the sexual contact.

(2) Specification 2 of Charge I alleges aggravated sexual assault upon Ms. (b)(6) (b)(6) when she was substantially incapable of appraising the act, in violation of Article 120, UCMJ. The elements of this offense are:

(A) That on or about 24 Mar 12 at or near Roveredo in Piano, Italy, the accused engaged in a sexual act, to wit: digital penetration of the vagina, with (b)(6) and,

(B) That the accused did so when (b)(6) was substantially incapable of appraising the nature of the sexual act.

(3) Specification 1 of Charge II alleges conduct unbecoming an officer, in violation of Article 133, UCMJ. The elements of this offense are:

(A) That on or about 24 Mar 12 at or near Roveredo in Piano, Italy, the accused, a married man, wrongfully entered a bed occupied by (b)(6) a woman not his wife; and,

(B) That, under the circumstances, this act constituted conduct unbecoming an officer and gentlemen.

(4) Specification 2 of Charge II alleges conduct unbecoming an officer, in violation of Article 133, UCMJ. The elements of this offense are:

(A) That or about 24 Mar 12 at or near Roveredo in Piano, Italy, the accused, a married man, wrongfully engaged in sexual contact with (b)(6) a woman not his wife, by fondling her breasts with his hands; and,

(B) That, under the circumstances, this act constituted conduct unbecoming an officer and gentlemen.

(5) Specification 3 of Charge II also alleges conduct unbecoming an officer, in violation of Article 133, UCMJ. The elements of this offense are:

(A) That or about 24 Mar 12 at or near Roveredo in Piano, Italy, the accused, a married man, wrongfully engaged in a sexual act with (b)(6) a woman not his wife, by digital penetration of her vagina; and,

(B) That, under the circumstances, this act constituted conduct unbecoming an officer and gentlemen.

(6) Definitions:

(A) "Sexual contact" means the intentional touching, either directly or through the clothing, of the breast.

(B) "Substantially incapable" means that level of mental impairment due to consumption of alcohol, drugs, or similar substance; while asleep or unconscious; or for other reasons; which rendered the alleged victim unable to appraise the nature of the sexual conduct at issue.

(C) "Sexual act" means the penetration, however slight, of the genital opening of another by a hand or finger, with an intent to arouse or gratify the sexual desire of any person.

### **c. Discussion of the Evidence.**

(1) Ms. (b)(6) testimony is sufficient to establish the elements of the charged offenses.

(2) I will say at the outset that there was plenty of poor judgment exercised by several individuals on 23 – 24 Mar 12. From the Vice Wing Commander piling seven individuals in his sedan to drive to the accused's and taking a female captain home with him, to Ms. (b)(6) friends/co-workers abandoning her at a stranger's house, to one or both of the Wilkersons allowing an incoherent, shoeless woman to leave her house on foot at 0300, and culminating in the stunning lack of concern on the part of the Vice Wing Commander when he learned of same.

(3) Credibility of the witnesses. Unless the accused testifies, this case will essentially boil down to the testimony of two witnesses:

(A) Ms. (b)(6) demeanor when testifying was fairly straight forward. She freely admits she does not recall many details of the night after she got to the Wilkerson's. She became teary on a few occasions, but was otherwise composed. She did, oddly, doodle when she was being questioned by defense counsel, but, she was able to answer defense counsel's questions. Her recollection of the alleged assault, in contrast to other details of the night, is very detailed to include describing the finger uncurling and curling inside her. She told MSgt Dunnivant, Ms. Berrong and Maj O'Keefe almost immediately some of the details of her account.

(B) Beth Wilkerson makes a good witness. She had little to drink that night and her recollection of her account of the evening was clear. I did find it odd that she buzzed the gate open for Ms.(b)(6) when she didn't think Ms. (b)(6) would leave.

(4) The accused is an O-6 select (IO Ex 22), with just over 20 years of service, and no prior disciplinary history (IO Ex 33). He has over 280 combat flying hours (IO Ex 33).

(5) This case all comes down to what happened between midnight and 0300 on 24 Mar 12. In the end, what compels my recommendation that there are "reasonable grounds...to believe that the accused committed the offenses alleged" (RCM 405 (j)(2)(H)) is the absence of any apparent motive on the part of Ms. (b)(6) to fabricate the allegations. She had never met the accused prior to that night, was not in a relationship she felt she needed to protect, does not display any malice about being told to leave the house, has not told anyone she was mad at the Wilkersons, or have any other apparent reason to make up her allegations.

#### **d. Legal Issues.**

(1) The defense did not submit objections to the investigation.

(2) The government representative had one objection to IO Ex 17 in that I do not consider any comments in the text messages relating to Ms.(b)(6) being "nuts." I did not consider those statements.

(3) The defense asked for my assistance in producing the following. The defense did not wish to delay the investigation to secure them:

(A) Ms.(b)(6) mental health records. I have no authority to order the production of those records pursuant to MRE 513. If the case is referred to trial, I expect the defense will request those records.



(B) Email communications between leadership (e.g., BG Zobrist, NAF leadership and email in IG channels) not protected by a privilege. I asked the government representative to gather responsive documents. To date, they have not been provided.

(C) OSI agent notes. I asked the government representative to acquire them. They were emailed to myself and defense counsel on 22 Jun 12 (after the close of the investigation and while I was preparing the report). They were not considered for this report.

(D) A sketch of the floor plan of the Wilkerson's house drawn by Maj Goldsberry. It was provided to the defense, but I was not asked to consider it.

(3) Charge I, specification 1 and Charge II, specification 2, while not multiplicitous for purposes of findings, may be multiplicitous for purposes of sentencing if the accused is convicted of both. The same applies to Charge I, specification 2 and Charge II, specification 3.

**e. Recommendations:** I do not recommend any changes to the charges.

**f. Chronology:**

19 Jun 12 – Appointed IO. Notified defense counsel of hearing 19 Jun 12 at 0800.

20 Jun 12 – Investigation began at 0800. Investigation ended at 1800.

21 – 22, 26 Jun 12 – Prepared summaries and wrote report.

26 Jun 12 – Report typed in final. Signed. Electronic copy delivered to SJA on 26 Jun.

**CHARGE SHEET**

**I. PERSONAL DATA**

1. NAME OF ACCUSED ( <i>Last, First, MI</i> ) WILKERSON, JAMES H.		2. SSN [426594] (b)(6)	3. GRADE OR RANK Lt Col	4. PAY GRADE O-5
5. UNIT OR ORGANIZATION 31st Operations Group (USAFE) Aviano Air Base, Italy			6. CURRENT SERVICE	
			a. INITIAL DATE 15 February 1992	b. TERM N/A
7. PAY PER MONTH			8. NATURE OF RESTRAINT OF ACCUSED	
a. BASIC \$8,199.30	b. SEA/FOREIGN DUTY \$0.00	c. TOTAL \$8,199.30	None	
			9. DATE(S) IMPOSED N/A	

**II. CHARGES AND SPECIFICATIONS**

10. CHARGE I: Violation of the UCMJ, Article 120

Specification 1: In that LIEUTENANT COLONEL JAMES H. WILKERSON, United States Air Force, 31st Operations Group, Aviano Air Base, Italy, did, at or near Roveredo in Piano, Italy, on or about 24 March 2012, engage in sexual contact with Ms. (b)(6) to wit: fondling her breasts with his hands, doing so when Ms. (b)(6) was substantially incapable of appraising the nature of the sexual contact.

Specification 2: In that LIEUTENANT COLONEL JAMES H. WILKERSON, United States Air Force, 31st Operations Group, Aviano Air Base, Italy, did, at or near Roveredo in Piano, Italy, on or about 24 March 2012, engage in a sexual act with Ms. (b)(6) to wit: digital penetration of her vagina, doing so when Ms. (b)(6) was substantially incapable of appraising the nature of the sexual act.

CHARGE II: Violation of the UCMJ, Article 133

Specification 1: In that LIEUTENANT COLONEL JAMES H. WILKERSON, United States Air Force, 31st Operations Group, Aviano Air Base, Italy, a married man, did, at or near Roveredo in Piano, Italy, on or about 24 March 2012, wrongfully enter a bed occupied by Ms. (b)(6) a woman not his wife, which act, under the circumstances, constituted conduct unbecoming an officer and a gentleman.

Specification 2: In that LIEUTENANT COLONEL JAMES H. WILKERSON, United States Air Force, 31st Operations Group, Aviano Air Base, Italy, a married man, did, at or near Roveredo in Piano, Italy, on or about 24 March 2012, wrongfully engage in sexual contact with Ms. (b)(6) a woman not his wife, to wit: fondling her breasts with his hands, which act, under the circumstances, constituted conduct unbecoming an officer and a gentleman.

**III. PREFERRAL**

11a. NAME OF ACCUSER ( <i>Last, First, MI</i> ) WEBER, ERIC N.	b. GRADE O-4	c. ORGANIZATION OF ACCUSER 31st Fighter Wing
d. SIGNATURE OF ACCUSER (b)(6)	e. DATE 14 June 2012	

AFFIDAVIT: Before me, the undersigned, authorized by law to administer oath in cases of this character, personally appeared the above named accuser this 14th day of June, 2012, and signed the foregoing charges and specifications under oath that he/she is a person subject to the Uniform Code of Military Justice and that he/she either has personal knowledge of or has investigated the matters set forth therein and that the same are true to the best of his/her knowledge and belief.

\_\_\_\_\_  
R. AUBREY DAVIS III  
*Typed Name of Officer*

\_\_\_\_\_  
Major  
*Grade*

\_\_\_\_\_  
(b)(6)  
*Signature*

\_\_\_\_\_  
31st Fighter Wing  
*Organization of Officer*

\_\_\_\_\_  
Deputy Staff Judge Advocate  
*Official Capacity to Administer Oath*  
(See R.C.M. 307(b)(1) - must be commissioned officer)

page 1 of 3

12. On ~~19 June~~ <sup>19 June</sup> 20 ~~12~~ <sup>12</sup>, the accused was informed of the charges against him/~~her~~ and of the names(s) of the accuser(s) known to me (See R.C.M. 308(a)). (See R.C.M. 308 if notification cannot be made.)

DAVID W. WALKER  
Type Name of Immediate Commander  
Colonel  
(b)(6)  
Signature

31<sup>st</sup> Operations Group  
Organization of Immediate Commander

IV. RECEIPT BY SUMMARY COURT MARTIAL CONVENING AUTHORITY

13. The sworn charges were received at 1710 hours, <sup>19 June</sup> 20 June, 20 12, at 31st Fighter Wing  
Designation of Command or  
Aviano Air Base, Italy  
Officer Exercising Summary Court-Martial Jurisdiction (See R.C.M. 403)

FOR THE <sup>1</sup> COMMANDER

BRYAN D. WATSON  
Type Name of Officer  
Lieutenant Colonel  
Grade  
(b)(6)  
Signature

Staff Judge Advocate  
Official Capacity of Officer Signing

V. REFERRAL, SERVICE OF CHARGES

14a. DESIGNATION OF COMMAND OF CONVENING AUTHORITY      b. PLACE      c. DATE

Referred for trial to the \_\_\_\_\_ court-martial board convened by \_\_\_\_\_  
\_\_\_\_\_, 20 \_\_\_\_\_, subject to the following instructions: <sup>2</sup> \_\_\_\_\_

By \_\_\_\_\_ of \_\_\_\_\_  
Command or Order

Typed Name of Officer      Official Capacity of Officer Signing  
Grade  
Signature

15. On \_\_\_\_\_, 20 \_\_\_\_\_, I (caused to be) served a copy hereof on (each of) the above named accused.

Typed Name of Trial Counsel      Grade or Rank of Trial Counsel  
Signature

FOOTNOTES: 1 - When an appropriate commander signs personally, inapplicable words are stricken.  
2 - See R.C.M. 601(e) concerning instructions. If none, so state.

CHARGE SHEET

(Continuation)

CHARGES AND SPECIFICATIONS

Specification 3: In that LIEUTENANT COLONEL JAMES H. WILKERSON, United States Air Force, 31st Operations Group, Aviano Air Base, Italy, a married man, did, at or near Roveredo in Piano, Italy, on or about 24 March 2012, wrongfully engage in a sexual act with Ms. (b)(6) a woman not his wife, to wit: digital penetration of her vagina, which act, under the circumstances, constituted conduct unbecoming an officer and a gentleman.

1. NAME OF ACCUSED (Last, First, MI)  
WILKERSON, JAMES H.

2. SSN

(b)(6)

I.O. Exhibit 1

page 3 of 3

**STATEMENT OF SUSPECT/WITNESS/COMPLAINANT**

SUSPECT  
 WITNESS/COMPLAINANT

**PRIVACY ACT STATEMENT**

**AUTHORITY:** 10 U.S.C. 8013; 44 U.S.C. 3101; and EO 9397.

**PRINCIPAL PURPOSES:** Used to record information and details of criminal activity which may require investigative action by commanders, supervisors, security police, AFOSI special agents, etc.; and to provide information to appropriate individuals within DoD organizations who ensure proper legal and administrative action is taken.

**ROUTINE USES:** Information may be disclosed to local, county, state, and federal law enforcement/investigative authorities for investigation and possible criminal prosecution or civil court action. Information extracted from this form may be used in other related criminal and/or civil proceedings.

**DISCLOSURE IS VOLUNTARY:** SSN is used to positively identify the individual making the statement.

**I. STATEMENT INFORMATION**

DATE (YYYYMMDD) <b>20200418</b>	TIME <b>1400</b>	LOCATION AND INSTALLATION (Bldg/Room No) <b>Bldg 600 Aviano AB Italy</b>	UNIT TAKING STATEMENT <b>ACOSI Det 531</b>	REPEAT (If known) <input type="checkbox"/>
				OFFENSE <input type="checkbox"/>
				COMPLAINT <input checked="" type="checkbox"/>

**II. PERSONAL IDENTIFICATION (Print or Type)**

NAME (Last, First, Middle Initial) <b>MANNING, TANYA L</b>	SSN <b>(b)(6)</b>	STATUS/GRADE <b>AD/O-3</b>
LOCAL ADDRESS (Include Zip Code) <b>(b)(6)</b>	DATE AND PLACE OF BIRTH (If required) <b>(b)(6)</b>	TELEPHONE HOME <b>(b)(6)</b> DUTY <b>632-7806</b>
PERMANENT ADDRESS OR HOME OF RECORD (Include Zip Code) <b>(b)(6)</b>	MILITARY ORGANIZATION/EMPLOYER <b>31 AMDS /SSOZ</b>	DEROS <b>JAN 14</b>

**SPONSOR INFORMATION**

NAME (Last, First, Middle Initial)	GRADE	SSN <b>Self</b>	ORGANIZATION	DUTY PHONE

**III. ACKNOWLEDGEMENT OF OFFENSES AND 5TH AMENDMENT/ARTICLE 31 RIGHTS ADVISEMENT (Suspect Only)**

*I have been advised that I am suspected of the following offenses:*

ADVISED BY (Full Name and Rank) \_\_\_\_\_ INDIVIDUAL IDENTIFIED HIMSELF/HERSELF AS A (SF, special agent, etc.)

SUSPECT INITIALS \_\_\_\_\_ and advised me that I have the following rights according to the 5th Amendment of the U.S. Constitution/Article 31 of the Uniform Code of Military Justice.

- I have the right to remain silent - that is to say nothing at all.
- Any statement I make, oral or written, may be used as evidence against me in a trial or in other judicial, non-judicial, or administrative proceedings.
- I have the right to consult with a lawyer.
- I have the right to have a lawyer present during this interview.
- I may obtain a civilian lawyer of my own choice at no expense to the government.
- I may request a lawyer any time during this interview.
- If I decide to answer questions with or without a lawyer present, I may stop the questioning at any time.
- MILITARY ONLY: If I want a military lawyer, one will be appointed for me free of charge.
- CIVILIANS ONLY: If I cannot afford a lawyer and want one, a lawyer will be appointed for me by civilian authorities.

SUSPECT INITIALS \_\_\_\_\_ *I have read my rights as listed above and I fully understand my rights. No promises, threats, or inducements of any kind have been made to me. No pressure or coercion has been used against me. I make the following choice (Initial One)*

- I do not want a lawyer. I am willing to answer questions or make a statement or both, about the offense(s) under investigation.
- I do not want a lawyer and I do not wish to make a statement or answer any questions.
- I want a lawyer. I will not make any statement or answer any questions until I talk to a lawyer.

*I fully understand my rights and that my signature does not constitute an admission of guilt.*

SIGNATURE OF SUSPECT \_\_\_\_\_ SIGNATURE OF WITNESS/INTERVIEWER \_\_\_\_\_

I.O. Exhibit 2

page 1 of 4

TM

Name of Individual Making Statement: MANNING

Date: 18 APR 12

ON MARCH 23<sup>RD</sup> (FRIDAY) I LEFT WORK (NAWC) AROUND 1700. I WENT DIRECTLY TO APP (AREA I) TO PICK-UP MY SON. I DROPPED HIM OFF AT A B-DAY PARTY IN BODOIA (OVERNIGHT PARTY). I WENT HOME (POLCENICO) TO PICK UP STUFF FOR OVERNIGHT AND CHANGED MY CLOTHES. I LEFT HOME AND PROCEEDED TO AREA F TO CHECK INTO BILIBING (TLE). I MET UP WITH DAWN BROCK AND WE HEADED TO PAMA TO SEE A CONCERT. ON THE WAY OVER WE MET UP WITH (b)(6) (? LAST NAME) AND MSgt DUNNIVANT AND BOB BRADON (? LAST NAME) THERE WAS A GROUP OF PEOPLE WALKING BEHIND US AS WELL. WE ARRIVED CONCERT AROUND 1830 AND CONCERT STARTED AROUND 1900. WE STAYED AT CONCERT UNTIL IT WAS OVER. I LEFT WITH DAWN BROCK AND WALKED TO THE AVIANO CLUB. WE RAN INTO (b)(6), BOB, AND MSgt DUNNIVANT AT THE PORTA-POTTY BUT TOLD THEM WE WOULD MEET THEM AT CLUB. DAWN AND I BOUGHT A FEW DRINKS (4) AND WHEN (b)(6) + MSgt DUNNIVANT ARRIVED WE GAVE 2 DRINKS TO THEM. WE STAYED AT THE CLUB FOR ABOUT AN HOUR. I HAD ORDERED ANOTHER 2 DRINKS AND GAVE ONE TO DAWN. WE WERE TALKING TO MSgt DUNNIVANT WHEN COL OSTOVICH WALKED UP. DAWN WAS TALKING TO COL OSTOVICH AND I WAS TALKING TO GREGORY BOLDNERDY AT THE TIME. (b)(6) WAS STANDING BEHIND ME TALKING TO COL WILKERSON AND ANOTHER GUY (DONT KNOW NAME). NOT SURE WHO'S IDEA IT WAS BUT WE DECIDED TO LEAVE THE CLUB AND GO SOMEWHERE ELSE. I WAS WITH DAWN + (b)(6) AND KNOW GREGORY PRETTY WELL (FRIENDS WITH WIFE AND KIDS WERE ON SAME BASEBALL TEAM). SO I FEEL OK WITH LEAVING WITH THEM. WE LEFT WITH COL OSTOVICH, LT COL WILKERSON, GREGORY, WE WENT TO LT COL WILKERSON'S HOUSE. WHEN WE ARRIVED I HAD A GLASS OF PROSECCO WITH (b)(6) LT COL WILKERSON OFFERED TO GIVE A TOUR OF HIS HOUSE TO DAWN AND I. THIS TOUR LASTED ABOUT 10-15 MIN. I THEN ENDED UP ON BALCONY AT END OF TOUR. COL OSTOVICH WAS ON THE PHONE. AS HE FINISHED HIS PHONE CALL I STAYED ON BALCONY TALKING WITH COL OSTOVICH. PRIOR TO TOUR OF HOUSE, I FORGOT TO MENTION I HAD A CONVERSATION WITH LT COL WILKERSON IN THE KITCHEN. AS I WAS ON THE BALCONY WITH COL OSTOVICH, DAWN + (b)(6) HAD TOLD ME THEY WERE LEAVING AND HAD RIDES (NOT SURE WHO TOLD ME FIRST, BUT THEY WERE CLOSE TO SAME TIME) I ASSUMED THEY LEFT TOGETHER SINCE THEY BOTH HAD ROOMS ON BASE (AVIANO). ABOUT 30 MIN LATER I LEFT WITH COL OSTOVICH. THE ONLY PERSON I REMEMBER STILL AT ~~THE~~ THE HOUSE WAS COL WILKERSON'S WIFE BETH (? NAME) SO HE GAVE ME A RIDE BACK TO BILIBING TO HIS HOUSE AND LATER TO BILIBING. DRINKS CONSUMED BY ME OVER THE EVENING WAS A 20oz BOTTLE (WATER BOTTLE) OF MIXED GRAPE JUICE + VODKA. THIS WAS SHARED BETWEEN ME AND (b)(6) PRIOR TO CONCERT, 2 BANGORRY + VODKA (8oz GLASS) AT CLUB, AND 1 GLASS OF PROSECCO AT HOUSE.

Signature of Individual Making Statement: (b)(6)

Page 3 of 5

I.O. Exhibit 2  
page 2 of 4

THE TONE/ATMOSPHERE AT THE HOUSE WAS IN MY OPINION NOTHING OUT OF THE ORDINARY. THERE WERE A FEW DIFFERENT CONVERSATIONS GOING ON IN DIFFERENT AREAS OF THE HOUSE (IE LIVING ROOM, KITCHEN AND BALCONY.) IT WAS NOT A "PARTY" TYPE ATMOSPHERE MORE RELAXED, QUIET AND A BIT OF WORK CHATTER. AT THE TIME I LEFT I DON'T KNOW WHERE EVERYONE ELSE HAD GONE. LIKE I SAID I THOUGHT DAN AND (b)(6) LEFT TOGETHER AND THE ONLY ONE I REMEMBER STILL AT THE HOUSE WAS LT COL WILKESONS WIFE. COL OSTOVICH OFFERED TO GIVE ME A RIDE AND I FELT OK WITH THAT. TO CLARIFY MY STATEMENTS REGARDING COL OSTOVICH AND MYSELF I DID LEAVE THE HOUSE AND KNOWINGLY & WILLINGLY WENT TO HIS HOUSE THAT NIGHT. WHERE THIS MAY HAVE NOT BEEN THE BEST DECISION ON EITHER PART. THIS IS WHAT HAPPENED. I STAYED THE NIGHT AND HE TOOK ME BACK TO BILLETING THE NEXT MORNING AROUND 1100. I DID NOT FEEL PRESSURED IN ANY WAY. MOST OF THE CONVERSATIONS WERE WORK RELATED OR JUST CASUAL DISCUSSIONS ABOUT BEING AT AVIANO. COL OSTOVICH AND I THAT NIGHT JUST HAPPENED TO BE TWO PEOPLE THAT HAVE SOME THINGS IN COMMON. WE ARE BOTH AD OFFICERS, CLOSE TO SAME AGE, DIVORCED, AND HAVE CHILDREN AROUND THE SAME AGE. AT THE TIME I DID NOT THINK I HAD POOR JUDGEMENT LEAVING WITH HIM. IN MY MIND HE WAS NOT IN MY CHAIN OF COMMAND. I SAW IT NO DIFFERENTLY THAN HIM HANGING OUT WITH SOME OF THE OTHER GUYS. I CAN SEE NOW (NOT CLOUDED WITH ALCOHOL - NOT SOLE BLAME) THAT MAY HAVE NOT BEEN THE BEST DECISION THAT NIGHT. THE FACT THAT I WENT HOME WITH COL OSTOVICH DOES NOT CHANGE MY STORY. EVERYTHING IN MY STATEMENT UP TO THAT POINT IS CORRECT TO THE BEST OF MY KNOWLEDGE. // CONTINUED ON NEXT PAGE //

TWR

TM

Signature of Individual Making Statement: (b)(6)

\* THE NEXT DAY (MARCH 24<sup>th</sup>) I SENT A TEXT MESSAGE TO BOTH DAWN AND (b)(6) TO MAKE SURE THEY HAD MADE IT HOME OK. DAWN RESPONDED BUT (b)(6) DID NOT. THAT IS WHEN I FOUND OUT THEY DID NOT LEAVE TOGETHER, SINCE (b)(6) DID NOT RESPOND I ATTEMPTED TO CALL HER. IT HAD SOUNDED LIKE SHE PICK-UP BUT THE CALL DISCONNECTED. I TRIED AGAIN LATER BUT THERE WAS NO ANSWER. ON MONDAY (POSSIBLY TUESDAY) I HAD STOPPED IN TO CHECK UP ON (b)(6). SHE WAS VERY WELCOMING. SHE MADE A STATEMENT TO THE EFFECT OF "WHAT A NIGHT... WHAT HAPPENED." I WAS NOT SURE WHAT SHE MEANT SINCE NOTHING OUT OF THE ORDINARY HAPPENED. SHE THEN TOLD ME SHE DOES NOT REMEMBER MUCH AFTER GOING TO THE HOUSE. I ASKED HOW SHE GOT HOME AND SHE TOLD ME SHE DID NOT REMEMBER. WE HAD PLANNED ON A FUTURE TRIP TO SPAIN TOGETHER AND SHE TOLD ME SHE DID NOT THINK SHE WANTED TO GO AND THAT SHE "MAY BE TOO OLD FOR THE PARTY SCENE". AT THAT TIME HER MOOD DROPPED. I NOTICED THE CHANGE IMMEDIATELY AND ASKED "ARE YOU OK?" SHE RESPONDED WITH "I DON'T WANT TO TALK ABOUT IT". I ASKED "DID SOMETHING HAPPEN?" SHE SAID AGAIN "I DON'T WANT TO TALK ABOUT IT, I AM OK. I WILL BE OK". SHE HAD AN AWKWARD / NON-COMVINCING SMILE. I TOLD HER IF SHE WANTED TO TALK I AM AVAILABLE AND TO CALL ME ANYTIME. SHE THANKED ME. I STILL DON'T KNOW WHAT HAPPENED BUT THE WHOLE CONVERSATION WAS VERY AWKWARD. I THINK I EVEN ASKED HER IF SHE THINKS SHE WAS DRUGGED. SHE SAID "I DON'T KNOW." AT THAT POINT SHE WAS TOLD SHE HAD ANOTHER PATIENT HERE I HAD TO LEAVE BUT I TOLD HER TO CALL ME ANYTIME. I HAVE SENT A FEW EMAILS AND HAVE SEEN HER ONE OTHER TIME SINCE THEN. IT WAS BRIEF, SHE GAVE ME A HUG AND KISS ON THE CHEEK. NOT SURE WHAT FOR. ANYWAY, WE ARE SUPPOSED TO GET TOGETHER FOR DINNER SOON TO TALK HER BROTHER IS HERE AND I WAS ON A CRUISE LAST WK. I AM PLANNING TO GET TOGETHER WITH HER SOON. SOMETHING WAS NOT RIGHT ABOUT THAT CONVERSATION WAS DEAD. I WANT TO BE THREE FOR ONE BUT I DON'T WANT TO PUSH TOO MUCH. WHEN SHE IS READY... I WILL BE THREE FOR ONE? // END OF STATEMENT // A TW

Signature of Individual Making Statement: (b)(6)

Page 5 of 5



STATEMENT OF SUSPECT/WITNESS/COMPLAINANT

SUSPECT

WITNESS/COMPLAINANT

PRIVACY ACT STATEMENT

AUTHORITY: 10 U.S.C. 8013; 44 U.S.C. 3101; and EO 9397

PRINCIPAL PURPOSES: Used to record information and details of criminal activity which may require investigative action by commanders, supervisors, security police, AFOSI special agents, etc.; and to provide information to appropriate individuals within DoD organizations who ensure proper legal and administrative action is taken.

ROUTINE USES: Information may be disclosed to local, county, state, and federal law enforcement/investigative authorities for investigation and possible criminal prosecution or civil court action. Information extracted from this form may be used in other related criminal and/or civil proceedings.

DISCLOSURE IS VOLUNTARY: SSN is used to positively identify the individual making the statement.

I. STATEMENT INFORMATION

DATE (YYYYMMDD)	TIME	LOCATION AND INSTALLATION (Bldg/Room No)	UNIT TAKING STATEMENT	REPEAT (If known)
20120417	1205	Bldg 600 AFOSI	Det 531 AFOSI	OFFENSE COMPLAINT

II. PERSONAL IDENTIFICATION (Print or Type)

NAME (Last, First, Middle Initial)	SSN	STATUS/GRADE
(b)(6)	(b)(6)	CIV
LOCAL ADDRESS (Include Zip Code)	DATE AND PLACE OF BIRTH (If required)	TELEPHONE
(b)(6)	(b)(6)	HOME (b)(6) DUTY 632-3998
PERMANENT ADDRESS OR HOME OF RECORD (Include Zip Code)	MILITARY ORGANIZATION/EMPLOYER	DEROS
(b)(6)	AMDS/SGPM independent contractor	31 AUG 2014

SPONSOR INFORMATION

NAME (Last, First, Middle Initial)	GRADE	SSN	ORGANIZATION	DUTY PHONE
		NA		

III. ACKNOWLEDGEMENT OF OFFENSES AND 5TH AMENDMENT/ARTICLE 31 RIGHTS ADVISEMENT (Suspect Only)

I have been advised that I am suspected of the following offenses:

(b)(6)

ADVISED BY (Full Name and Rank)	INDIVIDUAL IDENTIFIED HIMSELF/HERSELF AS A (SF, special agent, etc.)
---------------------------------	--

SUSPECT INITIALS	and advised me that I have the following rights according to the 5th Amendment of the U.S. Constitution/Article 31 of the Uniform Code of Military Justice.
	I have the right to remain silent - that is to say nothing at all.
	Any statement I make, oral or written, may be used as evidence against me in a trial or in other judicial, non-judicial, or administrative proceedings.
	I have the right to consult with a lawyer.
	I have the right to have a lawyer present during this interview.
	I may obtain a civilian lawyer of my own choice at no expense to the government.
	I may request a lawyer any time during this interview.
	If I decide to answer questions with or without a lawyer present, I may stop the questioning at any time.
	MILITARY ONLY: If I want a military lawyer, one will be appointed for me free of charge.
	CIVILIANS ONLY: If I cannot afford a lawyer and want one, a lawyer will be appointed for me by civilian authorities.

SUSPECT INITIALS	I have read my rights as listed above and fully understand my rights. No promises, threats, or inducements of any kind have been made to me. No pressure or coercion has been used against me. I make the following choice. (Initial One)
	I do not want a lawyer. I am willing to answer questions or make a statement or both, about the offense(s) under investigation.
	I do not want a lawyer and I do not wish to make a statement or answer any questions.
	I want a lawyer. I will not make any statement or answer any questions until I talk to a lawyer.
	I fully understand my rights and that my signature does not constitute an admission of guilt.

(b)(6)	SIGNATURE OF SUSPECT	SIGNATURE OF WITNESS/INTERVIEWER
--------	----------------------	----------------------------------

IV. STATEMENT

(b)(6)

// SEE ATTACHED //

(b)(6)

OATH/SIGNATURE

"I hereby voluntarily and of my own free will make this statement without having been subjected to any coercion, unlawful influence, or unlawful inducement. I swear (or affirm) I have read this statement, initialed all pages and corrections, and it is true and correct to the best of my knowledge."

(b)(6)

SIGNATURE OF PERSON MAKING STATEMENT

(b)(6)

SIGNATURE OF WITNESSES/INTERVIEWER

(b)(6)

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 17 day of Apr, 2012 (year).

SIGNATURE OF PERSON ADMINISTERING OATH

(b)(6)

VI. INSTRUCTIONS FOR CONTINUATION PAGE(S)

Use plain bond paper (both sides optional). At the top right of each page, print or type "(Last name of individual making the Statement) on (Date)." At the bottom of each page, print or type: "Page \_\_\_ of \_\_\_ Pages." The individual must initial the top and bottom entries and sign his/her name at the bottom of each page.

~~I.O. Exhibit~~  
I.O. Exhibit  
7 of 7  
2012

(b)(6)

3 Mar 17:30 - Met friends at TLF where we'd reserved rooms (5 other people) - 2 I know well, 3 fairly new acquaintances.

19:00 - walked over to USO concert

time? 20:30-21:00 - walked to La Bella Vista after concert

3 people went home of our group (including my two friends).

We were talking with some people the other 2 women knew. I know one of them peripherally. They wanted to go somewhere, I thought I heard them mention the pub, and thought we were going there where some friends of mine were. One of the women asked me to come and I said yes.

time? Instead we drove to someone's house, the man who sat in the front passenger seat. I asked how we were going to get home and where were we to one of the people in the car and he said he wasn't sure.

The man who lived there \* I asked someone today prior to this appointment with OSI the name of person who lived there \*

Wilkerson - poured us a glass of wine and we toasted. We all met his wife Beth. The others went outside, I was not comfortable there, I didn't know anyone very well and did not want to drink more so I hung out with Beth, her friend who was visiting and their kids.

time? At some point I told both women I'd come with that I was ready to go home whenever they were, and went back to talk with Beth and the kids.

2 March

? 00:30-01:00 - Beth told me the people I came with left without me. She explained they could drive me back to the TLF but would have to drop me off outside the gate, and that they had done that for one of the other women. The second woman had gotten a ride home with the person who drove us over. She asked me to stay over but I didn't want to.

00:30 Beth went off to do something - make up abed I think her husband asked me if I wanted a drink. Initially I said no but I may have had a glass of prosecco or asked for a non-alcoholic drink, I can't remember.

00:45-01:00 called my girlfriend. I didn't remember calling her until she told me - she said "you were slurring your words - you were making sense and sort of not making sense, it didn't sound like you." I remember telling her I didn't know where I was but that it is too late and too far to drive and I will stay there. Beth made a twin bed up in a downstairs room and said they would get me up in time to check out of the TLF. I was so tired, I remember crawling into the bed fully clothed and turning out the light and went to sleep (b)(6)

(b)(6)

(b)(6)

(b)(6)

I.O. Exhibit 3 (b)(6)

4 Mar 2003 0300-0320

I was having a dream, it felt like I was floating, and I was being touched over my body. I felt a little initial pain when being touched between my legs.

A very bright light came on, I rolled over to cover my eyes and I heard a man say loudly "what the hell is going on?" I woke up and felt ahead that was down the front of my pants being removed. I opened my eyes and saw a man about 6 inches from my face squinting with his eyes closed.

I didn't know at first who he was or where I was. I heard

"Get the Hell out of my house," looked up and saw Beth at the light. I realized where I was. I don't know if her husband was dressed or not or what he did, I didn't look at him. I sat on the side of the bed and felt very woozy. I looked down and saw I was still fully clothed, with my belt buckled.

She asked me to get up and leave, I didn't know where my shoes or sweater were. I started to walk out of the door she had open and saw my wallet and glasses on the counter. I went back in. She said "I really liked you" I said I really liked her too and of course I was leaving. I checked my phone it was I think 0320.

0320-20415

I had to climb over their low wall in front and walked into some town in my socks. I do not remember but was told I called twice the same friend I called before. I do remember calling one of my friends I had gone to the concert with, who had gone home early. I was really foggy, crying and didn't know where I was! There was a group of English speaking young men walking down the street luckily, they told my friend where I was and stayed with me until she got there to pick me up.

0430-0730

Back at TLF I slept, got a phone call from the friend I'd called but did not remember. She was concerned I hadn't seemed myself, as was I, and I still felt out of it, and we decided to go to the clinic to get tested.

0900 - my friend drove me to clinic where I requested a full drug panel including GHB (? spelling) and Rohypnol.

I have had a follow up appt. with PCM Maj. O'Keefe (who was working the sat. clinic)  
I have had 2 meetings with Mlt Tom Moran for issues regarding the assault.  
I have met 3 times with SARC (b)(6)

(b)(6)

(b)(6)

(b)(6)

(b)(6)

(b)(6)

Continuation of what I have provided the OSI officers

I fell asleep fully clothed. I was dreaming that I was on my back floating and was being touched. I don't remember any talking. I was touched over my breasts but can't recall if under clothes just dream-like.

I felt pain initially being touched on the left inner labia, then it stopped hurting and I felt being touch just inside my vagina with (b)(6)

When the light got really bright I rolled over to my left and heard a man say, "What the Hell's going on?" and his hand was inside the front of my pants and his finger was in my vagina and he pulled his hand out. It didn't feel like his entire finger, it was curled/flexed and felt like perhaps to middle interphalangeal joint. (b)(6)

(b)(6)

(b)(6)

(b)(6)

Signature of Individual Making Statement

(b)(6)

(b)(6)

a continuation of what I have provide the OSI ~~concern~~ officers,

Names of people:

- friends < Tsgt Danielle Dunivant - went back to TLF after Seether Concert
- < Ctr Bob Pearson - walked <sup>(b)(6)</sup> ~~walked~~ to BV club but left early.
- acquaintances < Cpt Tanya Manning - went to concert, BV club and house - brought home by ~~her~~
- < Cpt Dawn Brock - went to concert BV club and house - driven home by Beth or husband?
- et with group friend of < SA? Michelle - works in Pharmacy - she left after Seether Concert
- Dunivants.
- friend - Suzanne Berrong Ctr in Public Safety - called her @ 0045 and twice @ 0330 she drove me to Saturday clinic on base at 0900.
- (b)(6) Danielle Dunivant picked me up and took me to TLF at around 0415-0430.
- Col. Dean Ostovich (spelling) - I just met him briefly, we talked about his kids being in Colorado. He ~~and~~ drove us to Wilkerson's house, Wilkerson in passenger seat.
- Jeremy (spelling) Goldsberry - I don't know his rank but he is a flier my co-worker's husband - was at BV club and sat in back of car on way to Wilkerson's house (b)(6)

(b)(6)

(b)(6)

(b)(6)

Signature of Individual Making Statement: (b)(6)

(b)(6)

(b)(6) In Continuation of what I have provided the OSI officers -

Food: breakfast burrito  
- lunch ? sandwich  
no dinner

Alcohol: 1/2 bottle mulled red wine from Raffa's - 1730-1900 23 Mar  
1 1/2 plastic cups draft beer from BV club . 2100 -  
1 sip Gatorade (grape juice?) and vodka 1730-1900  
1 small glass white wine at Wilkersons - about 4oz ≈ 2200?  
unsure if prosecco or non-alcoholic around 0030 24 March  
drank part of a cheap light beer from ≈ 0415  
young airmen waiting with me - no water (b)(6) END of Statement (b)(6)

(b)(6)

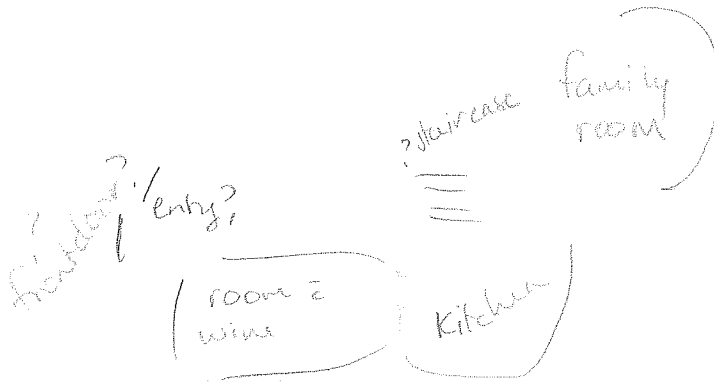
(b)(6)

Signature of Individual Making Statement (b)(6)

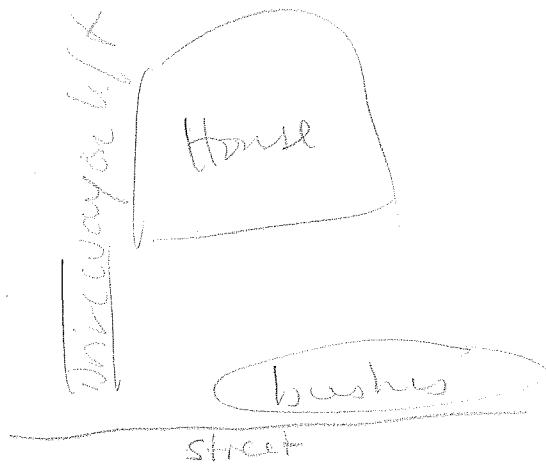
(b)(6)

inside

Some barn upstairs



Outside





**STATEMENT OF SUSPECT/WITNESS/COMPLAINANT**

SUSPECT	<input type="checkbox"/>
WITNESS/COMPLAINANT	<input checked="" type="checkbox"/>

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20120420	1700	Bldg 600, Aviano AB, Italy	AFOSI Det 531	<input checked="" type="checkbox"/> OFFENSE <input type="checkbox"/> COMPLAINT

**II. PERSONAL IDENTIFICATION (Print or Type)**

NAME (Last, First, Middle Initial)	SSN	STATUS/GRADE
Dunnivant, Danielle, D	(b)(6)	AD/E-7
LOCAL ADDRESS (Include Zip Code)	DATE AND PLACE OF BIRTH (If required)	TELEPHONE
(b)(6)	(b)(6)	HOME (b)(6) DUTY 632-5070
PERMANENT ADDRESS OR HOME OF RECORD (Include Zip Code)	MILITARY ORGANIZATION/EMPLOYER	DEROS
(b)(6)	USAF 31 MDSS /SGSX	Feb 13

**SPONSOR INFORMATION**

NAME (Last, First, Middle Initial)	GRADE	SSN	ORGANIZATION	DUTY PHONE
		Self		

**III. ACKNOWLEDGEMENT OF OFFENSES AND 5TH AMENDMENT/ARTICLE 31 RIGHTS ADVISEMENT (Suspect Only)**

I have been advised that I am suspected of the following offenses:

ADVISED BY (Full Name and Rank) \_\_\_\_\_ INDIVIDUAL IDENTIFIED HIMSELF/HERSELF AS A (SF, special agent, etc.) \_\_\_\_\_

SUSPECT INITIALS \_\_\_\_\_ and advised me that I have the following rights according to the 5th Amendment of the U.S. Constitution/Article 31 of the Uniform Code of Military Justice.

- I have the right to remain silent - that is to say nothing at all.
- Any statement I make, oral or written, may be used as evidence against me in a trial or in other judicial, non-judicial, or administrative proceedings.
- I have the right to consult with a lawyer.
- I have the right to have a lawyer present during this interview.
- I may obtain a civilian lawyer of my own choice at no expense to the government.
- I may request a lawyer any time during this interview.
- If I decide to answer questions with or without a lawyer present, I may stop the questioning at any time.
- MILITARY ONLY: If I want a military lawyer, one will be appointed for me free of charge.
- CIVILIANS ONLY: If I cannot afford a lawyer and want one, a lawyer will be appointed for me by civilian authorities.

SUSPECT INITIALS \_\_\_\_\_ I have read my rights as listed above and I fully understand my rights. No promises, threats, or inducements of any kind have been made to me. No pressure or coercion has been used against me. I make the following choice. (Initial One)

- I do not want a lawyer. I am willing to answer questions or make a statement or both, about the offense(s) under investigation.
- I do not want a lawyer and I do not wish to make a statement or answer any questions.
- I want a lawyer. I will not make any statement or answer any questions until I talk to a lawyer.

I fully understand my rights and that my signature does not constitute an admission of guilt.

SIGNATURE OF SUSPECT \_\_\_\_\_ SIGNATURE OF WITNESS/INTERVIEWER \_\_\_\_\_

I.O. Exhibit 5  
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