



**UNITED STATES MARINE CORPS**

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IN REPLY REFER TO:  
5800  
MJO/ED  
7 Jul 10

From: Trial Counsel  
To: Defense Counsel

Subj: MRE 404(B)/413 NOTICE IN THE CASE OF UNITED STATES V. CAPT  
DOUGLAS WACKER, XXX XX 3913 USMC

Ref: (a) MRE 404(b), MCM (2008 ed.)  
(b) MRE 413, MCM (2008 ed.)

1. Pursuant to the references, the government hereby provides notice that it intends to introduce evidence that on or about December 2006, in Seattle, Washington, the accused engaged in a sexual act with Ms. Nicole Cusack, who was substantially incapacitated at the time of the act. For a synopsis of expected testimony regarding this prior act, please see the sworn statement of Ms. Cusack dated 6 January 2009, which has previously been provided to defense counsel.

//s//  
E. S. DAY

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served on detailed defense counsel by electronic mail on 7 July 2010.

//s//  
E. S. DAY