

**DEPARTMENT OF THE AIR FORCE
UNITED STATES AIR FORCE JUDICIARY**

UNITED STATES)	
)	
v.)	MILITARY RULE OF
)	EVIDENCE UPDATED
)	404(b) NOTICE #1
FIRST LIEUTENANT TRAVIS C. BAKER)	
DELTA 4, DETACHMENT 2 (SpOC))	
Buckley SFB, Colorado)	28 May 2023

1. Pursuant to Military Rule of Evidence (“Mil. R. Evid.”) 404(b)(3), the prosecution provides notice of the following crimes, wrongs, or other acts of the accused, which the prosecution intends to admit for a non-pendency purpose:

a. On or about 14 October 2022, the accused refused to step out of his vehicle after being ordered to exit his vehicle in order to be arrested. The prosecution intends to offer this evidence as the accused’s consciousness of guilt because the accused knew that he was guilty of drunk driving, for which he was being arrested, and he wanted to avoid the consequences of his choices. The accused’s refusal was also part of the facts and circumstances of the crimes.

b. On or about 14 October 2022, the accused forcibly moved away from [REDACTED] to avoid being handcuffed after exiting his vehicle. The prosecution intends to offer this evidence as the accused’s consciousness of guilt because the accused knew that he was guilty of drunk driving, for which he was being arrested, and he wanted to avoid the consequences of his choices. The accused’s moving avoiding handcuffing was also part of the facts and circumstances of the crimes.

c. On or about 14 October 2022, the accused apologized to [REDACTED] for disrespecting his authority and for “saying the stuff that I said” or words to that effect. The prosecution intends to offer this evidence as the accused’s consciousness of guilt because the accused knew that he was guilty of conduct unbecoming an officer and a gentleman and felt badly about how he treated [REDACTED]. The accused’s apology was also part of the facts and circumstances of the crimes.

d. On or about 14 October 2022, the accused refused to complete Standardized Field Sobriety Tests (SFSTs). The prosecution intends to offer this evidence as the accused’s consciousness of guilt because the accused knew that he was guilty of drunk driving, that the SFSTs would reveal this, and he wanted to avoid the consequences of his choices by not participating in the tests. The accused’s refusal was also part of the facts and circumstances of the crimes.

e. On or about 14 October 2022, the accused refused to complete a breathalyzer screening. The prosecution intends to offer this evidence as the accused’s consciousness

of guilt because the accused knew that he was guilty of drunk driving, that the breathalyzer screening would reveal this, and he wanted to avoid the consequences of his choices by not completing the test. The accused's refusal was also part of the facts and circumstances of the crimes.

f. On or about 14 October 2022, the accused expressed a desire to leave Peterson SFB, CO, threatened [REDACTED] that he would drive away, and tried to convince [REDACTED] to let him go in order to avoid being arrested. The prosecution intends to offer this evidence as the accused's consciousness of guilt because the accused knew that he was guilty of drunk driving and he wanted to avoid the consequences of his choices by avoiding arrest. The accused's attempt to flee Peterson SFB was also part of the facts and circumstances of the crimes.

g. Between on or about 1 July 2021 and on or about 18 October 2022, the accused came to work and arrived at ADAPT appointments under the influence of and smelling like alcohol. The prosecution intends to offer this evidence as the accused's plan because it demonstrates his efforts to skip work to drink and drive to his ADAPT appointment at Peterson SFB, CO. The accused's previous occasions of arriving to ADAPT appointments under the influence of alcohol is also part of the facts and circumstances of the crimes.

h. On or about 12 October 2022, the accused refused bloodwork at his ADAPT appointment at Peterson SFB, CO, after his provider suspected he had been drinking. The prosecution intends to offer this evidence as the accused's plan because it demonstrates his efforts to skip work and drink and drive to his ADAPT appointment at Peterson SFB, CO. This previous occasion of refusing bloodwork at his ADAPT appointment was also part of the facts and circumstances of the crimes.

i. On or about 14 October 2022 and on or about 18 October 2022, and on numerous occasions between on or about 1 July 2021 and on or about 18 October 2022, the accused wore a facemask to work. The prosecution intends to offer this as evidence of preparation and a plan because it demonstrates his efforts to conceal his intoxication while on duty. These occasions of wearing a facemask to work are also part of the facts and circumstances of the crimes.

j. On or about 14 October 2022, the accused smelled like mouthwash at work. The prosecution intends to offer this evidence as the accused's plan because it is evidence of his previous intoxication on duty and attempts to conceal it by consuming alcohol through the use of mouthwash. The accused smelling like mouthwash at work on or about 14 October 2022 is also part of the facts and circumstances of the crimes.

k. Since the accused was released from inpatient treatment for alcohol abuse on or about 1 January 2023, he has not worn a facemask to work. The prosecution intends to offer this evidence as the accused's plan because it demonstrates that the accused was only wearing a facemask on previous occasions in order to conceal his intoxication on duty.

l. On or about 14 October 2022, the accused refused to call the police regarding his alleged hit and run. The prosecution intends to offer this evidence as consciousness of guilt because the accused was lying about being in a hit and run, he fabricated the incident in order to avoid going to his ADAPT appointment and getting caught drinking and driving. The accused refusing to call the police regarding his alleged hit and run is also part of the facts and circumstances of the crimes.

m. Between on or about 1 July 2022 and on or about 31 July 2022, the accused refused to continue coming to work. The prosecution intends to offer this evidence as motive, intent, and plan because it reveals that the accused was attempting to avoid work in order to drink.

n. Between on or about 1 July 2021 and 14 October 2022, the accused refused to get a badge to be in the restricted area, as he was trained to do. The prosecution intends to offer this evidence as motive, intent, and plan because it reveals that the accused was attempting to avoid work in order to drink.

o. On or about 18 October 2022, the accused purchased a bottle of mouthwash at a 7-11. The prosecution intends to offer this evidence as intent and plan because it demonstrates the accused intended to drink and drive that day. The accused's purchase of mouthwash on 18 October 2022 is also a part of the facts and circumstances of the crimes.

p. Between on or about 24 October 2022 and on or about 26 October 2022, the accused purchased and drank bottles of mouthwash. The prosecution intends to offer this evidence as plan because it adds further proof that the accused purchased, drank, and smelled like mouthwash because he was using it to become intoxicated without being suspected of drinking alcohol.

q. On or about 18 October 2022, the accused arrived to work without proper rank on his cover and a broken strap. This evidence is part of the facts and circumstances of the crimes.

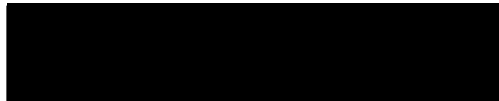
r. On or about 18 October 2022, the accused lied to [REDACTED] about where he was going. The prosecution intends to offer this as consciousness of guilt because the accused knew that if [REDACTED] questioned or spoke with him further there was a chance he would discover that the accused was intoxicated (on duty). The accused lying to [REDACTED] about where he was going is also a part of the facts and circumstances of the crimes.

s. On or about 18 October 2022, the accused refused to answer [REDACTED]'s questions, tried to ignore him, hid from him in a 7-11, tried to get away from him, and gave him the middle finger. The prosecution intends to offer this as consciousness of guilt because the accused knew that [REDACTED] suspected something was amiss with his behavior, and that if [REDACTED] questioned or spoke with him further there was a

chance he would discover that the accused was intoxicated (on duty). These actions are also a part of the facts and circumstances of the crimes.

t. On or about 18 October 2022, the accused had several containers with alcohol in them or previously in them in his truck. The prosecution intends to offer this evidence as preparation and plan because it shows that the accused intended to drink alcohol and drive on this day. The accused possession of containers with alcohol in them or previously in them in his truck is also a part of the facts and circumstances of the crimes.

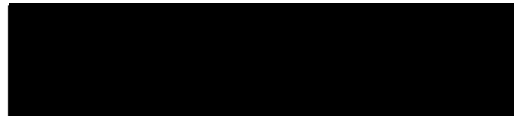
2. Any modification of this evidentiary notice will be provided as soon as practicable.



GLENN L. HOLMES, Capt, USAF
Trial Counsel

CERTIFICATE OF SERVICE

I hereby certify that I delivered a copy of this Mil. R. Evid. Updated 404(b) Notice #1 on Defense Counsel via e-mail [and e-filing] on 28 May 2023.



GLENN L. HOLMES, Capt, USAF
Trial Counsel