UNITED STATES OF AMERICA	)	
	)	
v.	)	**GOVERNMENT RESPONSE**
	)	**TO DEFENSE MOTION TO**
Manning, Bradley E.	)	**COMPEL WITNESSES**
PFC, U.S. Army,	)	
HHC, U.S. Army Garrison,	)	**Enclosure 2**
Joint Base Myer-Henderson Hall	)	
Fort Myer, Virginia 22211	)	**12 December 2012**

Fein, Ashden MAJ USA JFHQ-NCR/MDW SJA

From: David Coombs [coombs@armycourtmartialdefense.com]
Sent: Wednesday, May 30, 2012 2:58 PM
To: Fein, Ashden MAJ USA JFHQ-NCR/MDW SJA
Cc: Hurley, Thomas F MAJ USARMY (US)
Subject: Security Expert
Attachments: 100917-Appointment of Defense Security Expert.pdf; 101012-Appointment of 2d Defense Security Expert Hall.pdf; Security Expert Memo.docx

Ashden,

As discussed in today's 802 hearing, our experts are frequently tasked to perform other duties by their respective commands. These duties result in them not being available to perform their duties as defense experts. I have just finished speaking with them about this issue.

Mr. Hall and Mr. Ganiel have asked me to obtain a court order or memorandum from COL Lind that they can use to show to their individual directors to avoid future conflicts. I told them that I didn't believe COL Lind needed to weigh in on the issue, and that it was something that the convening authority could resolve with memorandum similar to his appointment memorandum. I have typed up a memorandum that I believe should avoid future availability issues.

If our experts continue to have difficulty with their respective chain of commands after the memorandum, then the Defense would request direct contact with the chain of command on this issue with defense counsel being present. Let me know if you have any questions.

Best,

David

David E. Coombs, Esq.
Law Office of David E. Coombs
11 South Angell Street, #317
Providence, RI 02906

Toll Free: 1-800-588-4156

Local: (508) 689-4616

Fax: (508) 689-9282
coombs@armycourtmartialdefense.com <mailto:coombs@armycourtmartialdefense.com>

www.armycourtmartialdefense.com <http://www.armycourtmartialdefense.com/>

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DEPARTMENT OF THE ARMY
JOINT BASE MYER-HENDERSON HALL
204 LEE AVENUE
FORT MYER, VIRGINIA 22211-1199

REPLY TO
ATTENTION OF

IMND-MHH-ZA

17 September 2010

MEMORANDUM FOR Mr. David E. Coombs, Civilian Defense Counsel

SUBJECT: Appointment of Defense Security Expert Consultant- U.S. v. PFC Bradley Manning

I appoint Mr. Charles Ganiel, U.S. Army Test and Evaluation Command, as an expert consultant in security matters for the defense in the above-named case. I further direct that Mr. Ganiel be designated a member of the defense team under U.S. v. Toledo, 25 M.J. 270 (C.M.A. 1987) and Military Rule of Evidence 502. This expert appointment is at no expense to the United States beyond mileage reimbursement, if applicable.

CARL R. COFFMAN, JR.
COL, AV
Commanding

DEPARTMENT OF THE ARMY
JOINT BASE MYER-HENDERSON HALL
204 LEE AVENUE
FORT MYER, VIRGINIA 22211-1199

REPLY TO
ATTENTION OF

IMND-MHH-ZA

12 OCT [illegible]

MEMORANDUM FOR Mr. David E. Coombs, Civilian Defense Counsel

SUBJECT: Appointment of Additional Defense Security Expert Consultant – U.S. v. PFC Bradley Manning

In response to your request for an additional security expert dated 28 September 2010, I appoint Mr. Cassius N. Hall, U.S. Army Intelligence and Security Command, as an additional expert consultant in security matters for the defense in the above-named case. I further direct that Mr. Hall be designated a member of the defense team under U.S. v. Toledo, 25 M.J. 270 (C.M.A. 1987) and Military Rule of Evidence 502. This expert appointment is at no expense to the United States beyond mileage reimbursement, if applicable.

CARL R. COFFMAN, JR
COL, AV
Commanding

DEPARTMENT OF THE ARMY
JOINT BASE MYER-HENDERSON HALL
204 LEE AVENUE
FORT MYER, VIRGINIA 22211-1199

REPLY TO ATTENTION OF:

IMND-MHH-ZA

30 May 2012

MEMORANDUM FOR Mr. David E. Coombs, Civilian Defense Counsel

SUBJECT: Duties as Defense Security Experts – U.S. v. PFC Bradley Manning

On 17 September 2010 and 12 October 2010, I appointed Mr. Charles Ganiel, U.S. Army Test and Evaluation Command and Mr. Cassius Hall, U.S. Army Intelligence and Security Command, as expert consultants for the defense in the above-named case. I also designated both individuals as members of the defense team under U.S. v. Toledo, 25 M.J. 270 (C.M.A. 1987) and Military Rule of Evidence 502. This Expert appointment was at no expense to the United States beyond mileage reimbursement, if applicable.

Mr. Ganiel and Mr Hall's obligations as security experts for the defense include, reviewing motions and other materials for classified information; accompanying defense counsel on witness interviews where classified information may be discussed; accompanying defense counsel whenever required to do so in order to view classified information provided to the defense in discovery; being present in the courtroom during any session; and acting as expert consultants or if the defense wishes, expert witnesses for the defense. This duty takes precedence over Mr. Ganiel and Mr. Hall's normal duties.

CARL R. COFFMAN, JR.
COL, AV
Commanding

Fein, Ashden MAJ USA JFHQ-NCR/MDW SJA

From: Fein, Ashden MAJ USA JFHQ-NCR/MDW SJA
Sent: Wednesday, May 30, 2012 3:40 PM
To: David Coombs
Cc: Hurley, Thomas F MAJ USARMY (US); Morrow III, JoDean, CPT USA JFHQ-NCR/MDW SJA; Overgaard, Angel M. CPT USA JFHQ-NCR/MDW SJA; Whyte, Jeffrey H. CPT USA JFHQ-NCR/MDW SJA; von Elten, Alexander S. CPT USA JFHQ-NCR\MDW SJA; Ford, Arthur D. CW2 USA JFHQ-NCR/MDW SJA
Subject: RE: Security Expert

Tracking:

Recipient	Delivery	Read
David Coombs		
Hurley, Thomas F MAJ USARMY (US)		
Morrow III, JoDean, CPT USA JFHQ-NCR/MDW SJA	Delivered: 5/30/2012 3:40 PM	Read: 5/30/2012 3:47 PM
Overgaard, Angel M. CPT USA JFHQ-NCR/MDW SJA	Delivered: 5/30/2012 3:40 PM	
Whyte, Jeffrey H. CPT USA JFHQ-NCR/MDW SJA	Delivered: 5/30/2012 3:40 PM	Read: 5/30/2012 3:40 PM
von Elten, Alexander S. CPT USA JFHQ-NCR\MDW SJA	Delivered: 5/30/2012 3:40 PM	Read: 5/30/2012 3:43 PM
Ford, Arthur D. CW2 USA JFHQ-NCR/MDW SJA	Delivered: 5/30/2012 3:40 PM	Read: 5/30/2012 3:44 PM
Bradley, Princeton L. SGT USA JFHQ-NCR/MDW SJA	Delivered: 5/30/2012 3:40 PM	
Feito, Beatriz SGT USA JFHQ-NCR/MDW SJA	Delivered: 5/30/2012 3:40 PM	
Parra, Jairo A. CW2 USA JFHQ-NCR/MDW SJA	Delivered: 5/30/2012 3:40 PM	Read: 5/30/2012 3:41 PM
Waybright, Daniel W. SGT USA JFHQ-NCR/MDW SJA	Delivered: 5/30/2012 3:40 PM	Read: 5/30/2012 3:55 PM
(b) (6) [redacted]		

David,

Thank you. We understand the issue and are working on it immediately. MTF.

v/r
Ashden

-----Original Message-----
From: David Coombs [mailto:coombs@armycourtmartialdefense.com]
Sent: Wednesday, May 30, 2012 2:58 PM
To: Fein, Ashden MAJ USA JFHQ-NCR/MDW SJA
Cc: Hurley, Thomas F MAJ USARMY (US)
Subject: Security Expert

Ashden,

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If our experts continue to have difficulty with their respective chain of commands after the memorandum, then the Defense would request direct contact with the chain of command on this issue with defense counsel being present. Let me know if you have any questions.

Best,

David

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11 South Angell Street, #317
Providence, RI 02906

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Local: (508) 689-4616

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Fein, Ashden MAJ USA JFHQ-NCR/MDW SJA

From: David Coombs [coombs@armycourtmartialdefense.com]
Sent: Wednesday, May 30, 2012 3:41 PM
To: Fein, Ashden MAJ USA JFHQ-NCR/MDW SJA
Cc: Hurley, Thomas F MAJ USARMY (US); Morrow III, JoDean, CPT USA JFHQ-NCR/MDW SJA; Overgaard, Angel M. CPT USA JFHQ-NCR/MDW SJA; Whyte, Jeffrey H. CPT USA JFHQ-NCR/MDW SJA; von Elten, Alexander S. CPT USA JFHQ-NCR\MDW SJA; Ford, Arthur D. CW2 USA JFHQ-NCR/MDW SJA
Subject: RE: Security Expert

Ashden,

Thank you.

Best,
David

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-----Original Message-----
From: Fein, Ashden MAJ USA JFHQ-NCR/MDW SJA
[mailto:(b) (6) [redacted]
Sent: Wednesday, May 30, 2012 3:40 PM
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Cc: Hurley, Thomas F MAJ USARMY (US); Morrow III, JoDean, CPT USA JFHQ-NCR/MDW SJA; Overgaard, Angel M. CPT USA JFHQ-NCR/MDW SJA; Whyte, Jeffrey H. CPT USA JFHQ-NCR/MDW SJA; von Elten, Alexander S. CPT USA JFHQ-NCR\MDW SJA; Ford, Arthur D. CW2 USA JFHQ-NCR/MDW SJA
Subject: RE: Security Expert

David,

Thank you. We understand the issue and are working on it immediately. MTF.

v/r
Ashden

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Sent: Wednesday, May 30, 2012 2:58 PM
To: Fein, Ashden MAJ USA JFHQ-NCR/MDW SJA
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Fein, Ashden MAJ USA JFHQ-NCR/MDW SJA

From: Fein, Ashden MAJ USA JFHQ-NCR/MDW SJA
Sent: Friday, June 01, 2012 7:36 PM
To: David Coombs
Cc: Hurley, Thomas F MAJ USARMY (US); Tooman, Joshua J CPT USARMY (US); Santiago, Melissa S CW2 USARMY (US); Morrow III, JoDean, CPT USA JFHQ-NCR/MDW SJA; Overgaard, Angel M. CPT USA JFHQ-NCR/MDW SJA; Whyte, Jeffrey H. CPT USA JFHQ-NCR/MDW SJA; von Elten, Alexander S. CPT USA JFHQ-NCR\MDW SJA; Ford, Arthur D. CW2 USA JFHQ-NCR/MDW SJA
Subject: RE: Security Expert
Attachments: Security Expert Memo.docx; 110114-SPCMCA Approval Defense Expert in IA Smith.pdf; 101012-Appointment of 2d Defense Security Expert Hall.pdf; 101028-Defense Request for IA Expert.pdf; 100928-Defense Request for 2d Security Expert.pdf; 100917-Appointment of Defense Security Expert.pdf

Tracking:

Recipient	Delivery	Read
David Coombs		
Hurley, Thomas F MAJ USARMY (US)		
Tooman, Joshua J CPT USARMY (US)		
Santiago, Melissa S CW2 USARMY (US)		
Morrow III, JoDean, CPT USA JFHQ-NCR/MDW SJA	Delivered: 6/1/2012 7:36 PM	
Overgaard, Angel M. CPT USA JFHQ-NCR/MDW SJA	Delivered: 6/1/2012 7:36 PM	
Whyte, Jeffrey H. CPT USA JFHQ-NCR/MDW SJA	Delivered: 6/1/2012 7:36 PM	
von Elten, Alexander S. CPT USA JFHQ-NCR\MDW SJA	Delivered: 6/1/2012 7:36 PM	Read: 6/2/2012 10:53 PM
Ford, Arthur D. CW2 USA JFHQ-NCR/MDW SJA	Delivered: 6/1/2012 7:36 PM	
Bradley, Princeton L. SGT USA JFHQ-NCR/MDW SJA	Delivered: 6/1/2012 7:36 PM	
Feito, Beatriz SGT USA JFHQ-NCR/MDW SJA	Delivered: 6/1/2012 7:36 PM	
Parra, Jairo A. CW2 USA JFHQ-NCR/MDW SJA	Delivered: 6/1/2012 7:36 PM	Read: 6/1/2012 7:36 PM
Waybright, Daniel W. SGT USA JFHQ-NCR/MDW SJA	Delivered: 6/1/2012 7:36 PM	Read: 6/2/2012 7:03 AM
(b) (6) [redacted]		

David,

Based on your request, we reached out to the different chains of command of the experts to receive input, including Ms. Smith's. We have realized that each of the defense's referenced experts were appointed approximately 1.5 years ago, and as you know were appointed as expert consultants in their respective fields. See Requests and Appointment documents. Based on the draft memorandum you provided, it appears that their jobs have morphed since their original appointment as consultants.

We recommend that you turn your draft memorandum into a request to the GCMCA for reappointment. This request should reflect the scope of the responsibilities you anticipate

these experts will provide, the reasons why these experts are necessary, an estimate of how much time their obligation to the defense team will take, and request their position as a defense expert consultant take priority over all other work. We will take this request to their chains of commands, obtain approval / disapproval / support, and then route it to the GCMCA for action.

Once we receive the requests, we will start routing them immediately. This should be sufficient to ensure that the defense is receiving the proper support and the right person is providing that support based on the scope. Additionally, we can ensure that they will not have any difficulty with their respective chains of command by having the commands sign-off on the reappointment.

Please let me know if you have any questions/concerns.

V/r
Ashden

-----Original Message-----
From: David Coombs [mailto:coombs@armycourtmartialdefense.com]
Sent: Wednesday, May 30, 2012 2:58 PM
To: Fein, Ashden MAJ USA JFHQ-NCR/MDW SJA
Cc: Hurley, Thomas F MAJ USARMY (US)
Subject: Security Expert

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DEPARTMENT OF THE ARMY
JOINT BASE MYER-HENDERSON HALL
204 LEE AVENUE
FORT MYER, VIRGINIA 22211-1199

REPLY TO
ATTENTION OF

IMND-MHH-ZA

14 JAN 2011

MEMORANDUM FOR Mr. David E. Coombs, Civilian Defense Counsel

SUBJECT: Appointment of Defense Expert Consultant in Information Assurance - U.S. v. PFC Bradley Manning

I reviewed your request for appointment of an expert consultant in information assurance for the defense in the above-named case. After careful consideration, the defense request is:

(✓) approved. I appoint Ms. Lillian Smith, U.S. Army Information Technology Agency, as an expert consultant in the above-named case. I further direct that Ms. Smith be designated a member of the defense team under U.S. v. Toledo, 25 M.J. 270 (C.M.A. 1987) and Military Rule of Evidence 502. This expert appointment is at no expense to the United States beyond mileage reimbursement, if authorized.

( ) disapproved.

CARL R. COFFMAN, JR.
COL, AV
Commanding

28 September 2010

MEMORANDUM THRU Staff Judge Advocate, Office of the Staff Judge Advocate, US Army Military District of Washington, Fort Lesley J. McNair, Washington D.C. 30219

FOR Commander, US Army Garrison, Joint Base Myer-Henderson Hall, Fort Myer, Virginia 22211

SUBJECT: Preliminary Classification Review of the Accused's Mental Impressions – *United States v. PFC Bradley Manning*

1. The defense has received your superseding preliminary classification order dated 22 September 2010. The defense has discussed this order with PFC Bradley Manning and with the defense appointed security expert, Mr. Charles Ganiel.

2. Based upon the defense's discussions with Mr. Ganiel, the preliminary classification review cannot be started until the following issues have been resolved:

a. Approved Facility: Mr. Ganiel does not believe that the Quantico Confinement Facility has the required area in order to speak to PFC Manning about any classified information. Specifically, for any Sensitive Compartmented Information (SCI), the discussion and storage of the information received must be in a facility that meets the structural and security requirements for a Sensitive Compartmented Information Facility (SCIF). SCI material cannot be viewed or discussed unless in a SCIF in accordance with DoD 5105-21-M-1, chapter 3, page 3-1, paragraph A(4). Therefore, unless Mr. Ganiel conducts his discussions with PFC Manning in an approved SCIF, he will not be able to begin his preliminary classification review.

b. Limited Access: It is likely that PFC Manning's access to classified information has been suspended due to the preferred charges. Mr. Ganiel will not be able to discuss or validate any classified information with PFC Manning unless PFC Manning is given an interim clearance. Additionally, PFC Manning will not have access to any secured sites, specifically a SCIF, unless he has the requisite security clearance. *See* DoD 5105-21-M-1.

c. Storage: Mr. Ganiel will need the government to provide him with a Government Service Administration (GSA) approved security container to store Secret and Confidential information. Additionally, Mr. Ganiel will need the same GSA approved security container with the requisite additional security precautions for the storage of Top Secret information in accordance with Army Regulation 380-5, chapter 7, paragraph 7-4. Finally, Mr. Ganiel will need to have access to a SCIF to store any Special Access Program (SAP) or SCI information in accordance with DoD 5105-21-M-1, chapter 3, page 3-10.

d. Verification: Anything revealed to Mr. Ganiel has to be verified before he can make a determination whether it is classified and, if necessary, its level of classification. This is a time consuming process that Mr. Ganiel does not believe can be completed within the time restrictions listed in the preliminary classification review order.

e. Additional Security Expert: Given the task required by the preliminary classification review order, Mr. Ganiel has requested that an additional security expert be appointed to the defense team. Mr. Ganiel believes that the additional expert will help expedite the process by assisting him in reviewing the information, conducting document verification, conducting document preparation, and by providing a second opinion regarding information that is either SCI or is part of a SAP.

3. The POC is the undersigned at (401) 744-3007 or by e-mail at coombs@armycourtmartialdefense.com.

DAVID E. COOMBS
Civilian Defense Counsel

DEPARTMENT OF THE ARMY
JOINT BASE MYER-HENDERSON HALL
204 LEE AVENUE
FORT MYER, VIRGINIA 22211-1199

REPLY TO
ATTENTION OF

IMND-MHH-ZA

17 September 2010

MEMORANDUM FOR Mr. David E. Coombs, Civilian Defense Counsel

SUBJECT: Appointment of Defense Security Expert Consultant- U.S. v. PFC Bradley Manning

I appoint Mr. Charles Ganiel, U.S. Army Test and Evaluation Command, as an expert consultant in security matters for the defense in the above-named case. I further direct that Mr. Ganiel be designated a member of the defense team under U.S. v. Toledo, 25 M.J. 270 (C.M.A. 1987) and Military Rule of Evidence 502. This expert appointment is at no expense to the United States beyond mileage reimbursement, if applicable.

CARL R. COFFMAN, JR.
COL, AV
Commanding

DEPARTMENT OF THE ARMY
JOINT BASE MYER-HENDERSON HALL
204 LEE AVENUE
FORT MYER, VIRGINIA 22211-1199

REPLY TO ATTENTION OF:

IMND-MHH-ZA

30 May 2012

MEMORANDUM FOR Mr. David E. Coombs, Civilian Defense Counsel

SUBJECT: Duties as Defense Security Experts – U.S. v. PFC Bradley Manning

On 17 September 2010 and 12 October 2010, I appointed Mr. Charles Ganiel, U.S. Army Test and Evaluation Command and Mr. Cassius Hall, U.S. Army Intelligence and Security Command, as expert consultants for the defense in the above-named case. I also designated both individuals as members of the defense team under U.S. v. Toledo, 25 M.J. 270 (C.M.A. 1987) and Military Rule of Evidence 502. This Expert appointment was at no expense to the United States beyond mileage reimbursement, if applicable.

Mr. Ganiel and Mr Hall's obligations as security experts for the defense include, reviewing motions and other materials for classified information; accompanying defense counsel on witness interviews where classified information may be discussed; accompanying defense counsel whenever required to do so in order to view classified information provided to the defense in discovery; being present in the courtroom during any session; and acting as expert consultants or if the defense wishes, expert witnesses for the defense. This duty takes precedence over Mr. Ganiel and Mr. Hall's normal duties.

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COL, AV
Commanding

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JOINT BASE MYER-HENDERSON HALL
204 LEE AVENUE
FORT MYER, VIRGINIA 22211-1199

REPLY TO ATTENTION OF

IMND-MHH-ZA

12 OCT 2

MEMORANDUM FOR Mr. David E. Coombs, Civilian Defense Counsel

SUBJECT: Appointment of Additional Defense Security Expert Consultant – U.S. v. PFC Bradley Manning

In response to your request for an additional security expert dated 28 September 2010, I appoint Mr. Cassius N. Hall, U.S. Army Intelligence and Security Command, as an additional expert consultant in security matters for the defense in the above-named case. I further direct that Mr. Hall be designated a member of the defense team under U.S. v. Toledo, 25 M.J. 270 (C.M.A. 1987) and Military Rule of Evidence 502. This expert appointment is at no expense to the United States beyond mileage reimbursement, if applicable.

CARL R. COFFMAN, JR
COL, AV
Commanding

28 October 2010

MEMORANDUM THRU Staff Judge Advocate, Office of the Staff Judge Advocate, US Army Military District of Washington, Fort Lesley J. McNair, Washington D.C. 30219

FOR Commander, US Army Garrison, Joint Base Myer-Henderson Hall, Fort Myer, Virginia 22211

SUBJECT: Request for Appointment of an Expert with Expertise in Information Assurance to Assist the Defense in the case of *United States v. Manning*

1. **Purpose.** Pursuant to R.C.M. 703(d), the accused, PFC Bradley Manning, requests an Information Assurance expert be designated as a member of the defense team under Military Rule of Evidence M.R.E. 502, and *United States v. Toledo*, 25 M.J. 270 (CMA 1987).

2. **Law.** A military accused has, as a matter of Equal Protection and Due Process, a right to expert assistance when necessary to present an adequate defense. *United States v. Garries*, 22 M.J. 288 (CMA 1986); *United States v. Robinson* 39 M.J. 88 (CMA 1994), and *Ake v. Oklahoma*, 470 U.S. 226 (1971). The Court of Appeals for the Armed Forces has embraced a three-part test for determining whether government-funded expert assistance is necessary. The defense must show: "First, why the expert assistance is needed. Second, what would the expert assistance accomplish for the accused. Third, why is the defense unable to gather the evidence that the expert assistant would be able to develop." *United States v. Gonzalez*, 39 M.J. 459 (1994).

3. **Basis.** Mr. Charles Ganiel and Mr. Cassius Hall, defense security experts, are in the process of conducting their preliminary classification review pursuant to your order dated 22 September 2010. On 27 October 2010, Mr. Ganiel and Mr. Hall met with PFC Manning. During their discussion they obtained information from PFC Manning that they believe necessitates the assistance of an Information Assurance expert.

a. **Why Is Expert Assistance Needed?** Expert assistance is needed to assist the defense team in completing the preliminary classification review in a timely manner. Mr. Hall and Mr. Ganiel have informed the defense that they do not have the requisite expertise to deal with some of the issues that they have identified based upon the disclosures of PFC Manning. The knowledge required to address the issues identified by Mr. Hall and Mr. Ganiel are specialized, and concerns knowledge which is beyond the scope of their expertise.

b. **What Would the Expert Assistance accomplish for the Accused?** An information assurance expert would assist the defense's security experts in completing their preliminary classification review. Specifically, it would allow them to understand the policies and procedures for protecting the systems that were in place at the time of the alleged disclosures and thus the level of information PFC Manning could have dealt with at that time.

c. **Why is the Defense Unable to Gather this Evidence on Their Own?** The defense's security experts have indicated that they have neither the experience nor expertise to adequately

assess some of the information assurance issues that have been raised during the course of their preliminary classification review. The resolution to the issues identified will assist the defense experts in determining the answers to the preliminary classification review order.

4. **Conclusion.** For the above reasons, the defense requests that you issue an order appointing an information assurance expert to the defense team; that you instruct this individual that he/she is a "defense representative" and thus part of the defense team, and that matters related to him/her during the course of his/her employment as a member of the defense team will be confidential.

5. The POC is the undersigned at (401) 744-3007 or by e-mail at coombs@armycourtmartialdefense.com.

DAVID E. COOMBS
Civilian Defense Counsel

Fein, Ashden MAJ USA JFHQ-NCR/MDW SJA

From: David Coombs [coombs@armycourtmartialdefense.com]
Sent: Saturday, June 02, 2012 8:47 AM
To: Fein, Ashden MAJ USA JFHQ-NCR/MDW SJA
Cc: Hurley, Thomas F MAJ USARMY (US); 'Tooman, Joshua J CPT USARMY (US)'; 'Santiago, Melissa S CW2 USARMY (US)'; Morrow III, JoDean, CPT USA JFHQ-NCR/MDW SJA; Overgaard, Angel M. CPT USA JFHQ-NCR/MDW SJA; Whyte, Jeffrey H. CPT USA JFHQ-NCR/MDW SJA; von Elten, Alexander S. CPT USA JFHQ-NCR\MDW SJA; Ford, Arthur D. CW2 USA JFHQ-NCR/MDW SJA
Subject: RE: Security Expert

Follow Up Flag: Follow up
Flag Status: Completed

Ashden,

I am not for sure what you mean by their jobs have "morphed." All of the listed duties are implicit as their role as experts for the Defense. Additionally, the added roles of reviewing motions and other materials for classified information; accompanying defense counsel on witness interviews where classified information may be discussed; accompanying defense counsel whenever required to do so in order to view classified information provided to the defense in discovery; being present in the courtroom during any session are requirements based upon the Government's request.

I am also not for sure what you are asking the Defense to do in this new memorandum that you suggest we write. All I need from the Convening Authority is something that will ensure Mr. Hall and Mr. Ganiel's chain of command understand that their duties as experts for the defense must take priority over other duties.

Although I did not ask for the Government to reach out to the chains of command for Mr. Hall, Mr. Ganiel, and Ms. Smith what did you learn from doing so? This issue might be resolved if you were able to successfully convey to the chains of command the importance of the Defense experts' duties.

Please let me know if you have any questions or concerns.

Best,
David

David E. Coombs, Esq.
Law Office of David E. Coombs
11 South Angell Street, #317
Providence, RI 02906
Toll Free: 1-800-588-4156
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-----Original Message-----
From: Fein, Ashden MAJ USA JFHQ-NCR/MDW SJA
[mailto(b) (6) [redacted]]
Sent: Friday, June 01, 2012 7:36 PM
To: David Coombs
Cc: Hurley, Thomas F MAJ USARMY (US); Tooman, Joshua J CPT USARMY (US); Santiago, Melissa S CW2 USARMY (US); Morrow III, JoDean, CPT USA JFHQ-NCR/MDW SJA; Overgaard, Angel M. CPT USA JFHQ-NCR/MDW SJA; Whyte, Jeffrey H. CPT USA JFHQ-NCR/MDW SJA; von Elten, Alexander S. CPT USA JFHQ-NCR\MDW SJA; Ford, Arthur D. CW2 USA JFHQ-NCR/MDW SJA
Subject: RE: Security Expert

David,

Based on your request, we reached out to the different chains of command of the experts to receive input, including Ms. Smith's. We have realized that each of the defense's referenced experts were appointed approximately 1.5 years ago, and as you know were appointed as expert consultants in their respective fields. See Requests and Appointment documents. Based on the draft memorandum you provided, it appears that their jobs have morphed since their original appointment as consultants.

We recommend that you turn your draft memorandum into a request to the GCMCA for reappointment. This request should reflect the scope of the responsibilities you anticipate these experts will provide, the reasons why these experts are necessary, an estimate of how much time their obligation to the defense team will take, and request their position as a defense expert consultant take priority over all other work. We will take this request to their chains of commands, obtain approval / disapproval / support, and then route it to the GCMCA for action.

Once we receive the requests, we will start routing them immediately. This should be sufficient to ensure that the defense is receiving the proper support and the right person is providing that support based on the scope. Additionally, we can ensure that they will not have any difficulty with their respective chains of command by having the commands sign-off on the reappointment.

Please let me know if you have any questions/concerns.

V/r
Ashden

-----Original Message-----
From: David Coombs [mailto:coombs@armycourtmartialdefense.com]
Sent: Wednesday, May 30, 2012 2:58 PM
To: Fein, Ashden MAJ USA JFHQ-NCR/MDW SJA
Cc: Hurley, Thomas F MAJ USARMY (US)
Subject: Security Expert

Ashden,

As discussed in today's 802 hearing, our experts are frequently tasked to perform other duties by their respective commands. These duties result in them not being available to perform their duties as defense experts. I have just finished speaking with them about this issue.

Mr. Hall and Mr. Ganiel have asked me to obtain a court order or memorandum from COL Lind that they can use to show to their individual directors to avoid future conflicts. I told them that I didn't believe COL Lind needed to weigh in on the issue, and that it was something that the convening authority could resolve with memorandum similar to his appointment memorandum. I have typed up a memorandum that I believe should avoid future availability issues.

If our experts continue to have difficulty with their respective chain of commands after the memorandum, then the Defense would request direct contact with the chain of command on this issue with defense counsel being present. Let me know if you have any questions.

Best,

David

David E. Coombs, Esq.
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11 South Angell Street, #317
Providence, RI 02906

Toll Free: 1-800-588-4156

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Fein, Ashden MAJ USA JFHQ-NCR/MDW SJA

From: Fein, Ashden MAJ USA JFHQ-NCR/MDW SJA
Sent: Monday, June 04, 2012 11:08 PM
To: 'David Coombs'
Cc: Hurley, Thomas F MAJ USARMY (US); 'Tooman, Joshua J CPT USARMY (US)'; 'Santiago, Melissa S CW2 USARMY (US)'; Morrow III, JoDean, CPT USA JFHQ-NCR/MDW SJA; Overgaard, Angel M. CPT USA JFHQ-NCR/MDW SJA; Whyte, Jeffrey H. CPT USA JFHQ-NCR/MDW SJA; von Elten, Alexander S. CPT USA JFHQ-NCR\MDW SJA; Ford, Arthur D. CW2 USA JFHQ-NCR/MDW SJA
Subject: Updates

Tracking:

Recipient	Read
'David Coombs'	
Hurley, Thomas F MAJ USARMY (US)	
'Tooman, Joshua J CPT USARMY (US)'	
'Santiago, Melissa S CW2 USARMY (US)'	
Morrow III, JoDean, CPT USA JFHQ-NCR/MDW SJA	Read: 6/5/2012 7:38 AM
Overgaard, Angel M. CPT USA JFHQ-NCR/MDW SJA	
Whyte, Jeffrey H. CPT USA JFHQ-NCR/MDW SJA	Read: 6/5/2012 6:40 AM
von Elten, Alexander S. CPT USA JFHQ-NCR\MDW SJA	Read: 6/5/2012 7:37 AM
Ford, Arthur D. CW2 USA JFHQ-NCR/MDW SJA	Read: 6/5/2012 6:22 AM
Bradley, Princeton L. SGT USA JFHQ-NCR/MDW SJA	
Feito, Beatriz SGT USA JFHQ- NCR/MDW SJA	Read: 6/5/2012 9:54 AM
Parra, Jairo A. CW2 USA JFHQ-NCR/MDW SJA	Read: 6/5/2012 6:58 AM
Waybright, Daniel W. SGT USA JFHQ-NCR/MDW SJA	Read: 6/11/2012 6:41 AM
(b) (6) [redacted]	

David,

1. Based on receiving CPT Tooman's acknowledgment on 1 June 2012 and the prosecution receiving all defense counsel acknowledgments, we produced in classified discovery the Department of Energy damage assessment (BATES: 00449241-00449242). Today, we sent a copy to NWC to be ready for your review when you return (Tracking: 7936 3594 2020). Additionally, we can deliver a second copy to the Fort Meade TDS office tomorrow, or wait to deliver the second copy to Fort Myer after this week's motions hearing. Please let us know which the defense would prefer.

2. Based on your previous question for us to give you an update on CW2 Santiago's replacement, it is our understanding that this is being coordinated through TDS channels. MDW was informed that the Chief, TDS coordinated directly or indirectly with you for personnel issues concerning the defense. After confirming with the Chief Warrant Officer of the Corps, it is our understanding that all future personnel requests for any personnel, will be handled through TDS channels.

3. CW2 Ford and Mr. Boardman will meet the defense outside the Courthouse at 0930 hours tomorrow morning with the Department of State damage assessment, as per our scheduled time. Please let us know the next time any defense team member would like to review the material again.

4. As for your defense experts the command is fully committed to providing the defense adequate support based on the defense's needs; however as in every jurisdiction, the defense is required to request expert support from the government. The original appointment was for experts to fulfill the duties the defense requested and that is was the basis for the current

experts appointments more than one year ago. There is no question that, except for testifying as expert witnesses, the duties listed in the your proposed memorandum are reflected in the Court's orders and other requirements for properly handling classified information; however the government cannot estimate the amount of time required to accomplish these tasks. As previously stated, if the defense wants the Convening Authority to require your experts to prioritize consulting on the defense team over all other duties, then the Convening Authority needs a request which asks the Convening Authority to do so and provide reasons and a basis for your request. A persuasive reason would likely be the extent of their duties and the time commitment involved. The original Requests, which authorized their detail to the defense as mere consultants, did not contemplate how time-consuming your experts' work is, and no one knows how time-consuming your experts' work is but you and your experts. Submitting this request is also a good way to ensure that you have the appropriate experts on your team, i.e., those who can give you the requisite time whenever you need them. Finally, this request can be used by the Convening Authority to ensure the leadership of your experts, which work outside the command of the Convening Authority, also adopt the expert appointment over all other duties precedence. In order to best effect what the defense is seeking, we recommend submitting this request, which we will immediately forward to the defense experts chains of command, and then to our Convening Authority for action.

v/r
Ashden

Fein, Ashden MAJ USA JFHQ-NCR/MDW SJA

From: David Coombs [coombs@armycourtmartialdefense.com]
Sent: Tuesday, June 05, 2012 8:03 AM
To: Fein, Ashden MAJ USA JFHQ-NCR/MDW SJA
Cc: Hurley, Thomas F MAJ USARMY (US); 'Tooman, Joshua J CPT USARMY (US)'; 'Santiago, Melissa S CW2 USARMY (US)'; Morrow III, JoDean, CPT USA JFHQ-NCR/MDW SJA; Overgaard, Angel M. CPT USA JFHQ-NCR/MDW SJA; Whyte, Jeffrey H. CPT USA JFHQ-NCR/MDW SJA; von Elten, Alexander S. CPT USA JFHQ-NCR\MDW SJA; Ford, Arthur D. CW2 USA JFHQ-NCR/MDW SJA
Subject: RE: Updates

Ashden,

1. Please deliver the second copy to Fort Myer after this week. In general, does this CD just contain the one classified damage assessment, or does it contain other damage assessments? If so, please provide the BATES number range of what is on the CD and its general content.

2. I will reach out to TDS to confirm that they are tracking on this issue. It may still be that the Government needs to obtain a warrant and assign him or her to TDS as they did with Chief Santiago.

3. Looking forward to some light reading.

4. I disagree. The duties listed in the proposed memorandum are reflected in the Court's orders and the Convening Authority's original appointment of these individuals as members of the defense team. Please have the proposed memorandum signed by the Convening Authority. If you will not do this, please inform me of this fact, and your basis so that it can be raised in a motion for appropriate relief.

If we do need to litigate the issue, then in the interim, as the Court directed, please appoint an additional security expert to the Defense team. We will need someone that can be on call whenever we need to interview a witness or inspect classified information (when having such a person present is a requirement by the Government).

Best,
David

David E. Coombs, Esq.
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Sent: Monday, June 04, 2012 11:08 PM
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Subject: Updates

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2. Based on your previous question for us to give you an update on CW2 Santiago's replacement, it is our understanding that this is being coordinated through TDS channels. MDW was informed that the Chief, TDS coordinated directly or indirectly with you for personnel issues concerning the defense. After confirming with the Chief Warrant Officer of the Corps, it is our understanding that all future personnel requests for any personnel, will be handled through TDS channels.

3. CW2 Ford and Mr. Boardman will meet the defense outside the Courthouse at
0930 hours tomorrow morning with the Department of State damage assessment, as per our scheduled time. Please let us know the next time any defense team member would like to review the material again.

4. As for your defense experts the command is fully committed to providing the defense adequate support based on the defense's needs; however as in every jurisdiction, the defense is required to request expert support from the government. The original appointment was for experts to fulfill the duties the defense requested and that is was the basis for the current experts appointments more than one year ago. There is no question that, except for testifying as expert witnesses, the duties listed in the your proposed memorandum are reflected in the Court's orders and other requirements for properly handling classified information; however the government cannot estimate the amount of time required to accomplish these tasks. As previously stated, if the defense wants the Convening Authority to require your experts to prioritize consulting on the defense team over all other duties, then the Convening Authority needs a request which asks the Convening Authority to do so and provide reasons and a basis for your request. A persuasive reason would likely be the extent of their duties and the time commitment involved. The original Requests, which authorized their detail to the defense as mere consultants, did not contemplate how

time-consuming your experts' work is, and no one knows how time-consuming your experts' work is but you and your experts. Submitting this request is also a good way to ensure that you have the appropriate experts on your team, i.e., those who can give you the requisite time whenever you need them.

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v/r
Ashden

Fein, Ashden MAJ USA JFHQ-NCR/MDW SJA

From: Fein, Ashden MAJ USA JFHQ-NCR/MDW SJA
Sent: Friday, June 15, 2012 6:12 PM
To: David Coombs
Cc: Hurley, Thomas F MAJ USARMY (US); 'Tooman, Joshua J CPT USARMY (US)'; 'Santiago, Melissa S CW2 USARMY (US)'; Morrow III, JoDean, CPT USA JFHQ-NCR/MDW SJA; Overgaard, Angel M. CPT USA JFHQ-NCR/MDW SJA; Whyte, Jeffrey H. CPT USA JFHQ-NCR/MDW SJA; von Elten, Alexander S. CPT USA JFHQ-NCR\MDW SJA; Ford, Arthur D. CW2 USA JFHQ-NCR/MDW SJA
Subject: Update

Tracking:

Recipient	Delivery	Read
David Coombs		
Hurley, Thomas F MAJ USARMY (US)		
'Tooman, Joshua J CPT USARMY (US)'		
'Santiago, Melissa S CW2 USARMY (US)'		
Morrow III, JoDean, CPT USA JFHQ-NCR/MDW SJA	Delivered: 6/15/2012 6:12 PM	
Overgaard, Angel M. CPT USA JFHQ-NCR/MDW SJA	Delivered: 6/15/2012 6:12 PM	
Whyte, Jeffrey H. CPT USA JFHQ-NCR/MDW SJA	Failed: 6/15/2012 6:12 PM	
von Elten, Alexander S. CPT USA JFHQ-NCR\MDW SJA	Delivered: 6/15/2012 6:12 PM	Read: 6/15/2012 6:13 PM
Ford, Arthur D. CW2 USA JFHQ-NCR/MDW SJA	Delivered: 6/15/2012 6:12 PM	Read: 6/15/2012 6:20 PM
Bradley, Princeton L. SGT USA JFHQ-NCR/MDW SJA	Delivered: 6/15/2012 6:12 PM	
Feito, Beatriz SGT USA JFHQ-NCR/MDW SJA	Delivered: 6/15/2012 6:12 PM	Read: 6/15/2012 10:15 PM
Parra, Jairo A. CW2 USA JFHQ-NCR/MDW SJA	Delivered: 6/15/2012 6:12 PM	Read: 6/15/2012 9:38 PM
Waybright, Daniel W. SGT USA JFHQ-NCR/MDW SJA	Delivered: 6/15/2012 6:12 PM	
Diefenbach, Katherine M. CPT USA JFHQ-NCR/MDW SJA	Delivered: 6/15/2012 6:12 PM	
(b) (6) [redacted]		

David,

Below is an update on your questions and other issues.

1. Article 39(a). We will have PFC Manning at the courthouse at 0900 on 25 June.

2. Case Calendar. We intend to submit a case calendar update on Thursday with our other filings.

3. Motions. We intend to submit our two filings on Thursday, as per our discussion last week.

4. Sanitized Versions of Damage Assessments. We have provided the defense all the damage/impact assessments that exist within each agency or organization. The government did not produce unclassified versions of the damage assessments for the ones that are classified and which have been produced; therefore, there are no unclassified or sanitized versions to provide.

5. Department of Homeland Security Damage Assessment. As stated on Friday, we sent the request earlier this week and NWC received it on Wednesday. Additionally, CW2 Santiago signed for a copy on Wednesday. I apologize for not notifying you sooner of the tracking number or confirmed delivery.

6. Redactions. We will file with the Court tonight and we do not intend to request protective orders.

7. Replacement for Santiago. As previously stated, MDW was informed that the Chief, TDS coordinated directly or indirectly with you for personnel issues concerning the defense. After confirming with the Chief Warrant Officer of the Corps, it is our understanding that all future personnel requests for any personnel, will be handled through TDS channels. Please address any personnel issues through the military defense counsel and their RDC.

8. Defense Expert Request. We have not resolved the issue of the defense requesting that your experts have their time dedicated primarily to the defense. Does the defense intend to request this? Without a request which outlines the anticipated scope of their additional duties (which is already written in your proposed memo) and an estimate of the total time you anticipate you will need their services, we cannot go to their leadership and the convening authority for approval. The leaders must know how much time you anticipate will be needed and to what extent, so they can make informed decisions. Once we receive a request, we will immediately take the request to your experts' leadership and the convening authority for action.

Have a good weekend.

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Ashden

Fein, Ashden MAJ USA JFHQ-NCR/MDW SJA

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Subject: RE: Update

Follow Up Flag: Follow up
Flag Status: Completed

Ashden,

1) Thank you.

2) Why do you feel that Thursday is the agreed upon date for the case calendar?

3) Same as #2 - I don't recall any discussion that Thursday was the timeline for this issue. Not only would this give no time for the Defense to reply, it also does not provide the Court with time to consider the motions prior to the Article 39(a).

4) The Defense is requesting that the various agencies produce an unclassified version of their damage assessments. According to the defense security experts, this is not an unusual request.

5) Not a problem. Thank you.

6) Thank you.

7) As stated, TDS cannot provide a replacement warrant officer. I am requesting that the Government provide a replacement for CW2 Santiago. Please inform me if the Government's position is that it will not do so.

8) The Defense does not believe that any additional request detailing scope of work or timing commitments is necessary. If you disagree, as per our discussion with COL Lind, please provide an additional security expert to be available when our defense experts are not.

Best,
David

David E. Coombs, Esq.
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Subject: Update

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Have a good weekend.

v/r
Ashden

Fein, Ashden MAJ USA JFHQ-NCR/MDW SJA

From: Fein, Ashden MAJ USA JFHQ-NCR/MDW SJA
Sent: Monday, June 18, 2012 9:30 PM
To: David Coombs
Cc: Hurley, Thomas F MAJ USARMY (US); 'Tooman, Joshua J CPT USARMY (US)'; 'Santiago, Melissa S CW2 USARMY (US)'; Morrow III, JoDean, CPT USA JFHQ-NCR/MDW SJA; Overgaard, Angel M. CPT USA JFHQ-NCR/MDW SJA; Whyte, Jeffrey H. CPT USA JFHQ-NCR/MDW SJA; von Elten, Alexander S. CPT USA JFHQ-NCR\MDW SJA; Ford, Arthur D. CW2 USA JFHQ-NCR/MDW SJA
Subject: RE: Update

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'Tooman, Joshua J CPT USARMY (US)'		
'Santiago, Melissa S CW2 USARMY (US)'		
Morrow III, JoDean, CPT USA JFHQ-NCR/MDW SJA	Delivered: 6/18/2012 9:30 PM	Read: 6/19/2012 7:55 AM
Overgaard, Angel M. CPT USA JFHQ-NCR/MDW SJA	Delivered: 6/18/2012 9:30 PM	
Whyte, Jeffrey H. CPT USA JFHQ-NCR/MDW SJA	Delivered: 6/18/2012 9:30 PM	Read: 6/19/2012 7:57 AM
von Elten, Alexander S. CPT USA JFHQ-NCR\MDW SJA	Delivered: 6/18/2012 9:30 PM	Read: 6/19/2012 7:29 AM
Ford, Arthur D. CW2 USA JFHQ-NCR/MDW SJA	Delivered: 6/18/2012 9:30 PM	
Bradley, Princeton L. SGT USA JFHQ-NCR/MDW SJA	Delivered: 6/18/2012 9:30 PM	
Feito, Beatriz SGT USA JFHQ-NCR/MDW SJA	Delivered: 6/18/2012 9:30 PM	
Parra, Jairo A. CW2 USA JFHQ-NCR/MDW SJA	Delivered: 6/18/2012 9:30 PM	Read: 6/19/2012 12:31 AM
Waybright, Daniel W. SGT USA JFHQ-NCR/MDW SJA	Delivered: 6/18/2012 9:30 PM	Read: 6/19/2012 9:38 AM
Diefenbach, Katherine M. CPT USA JFHQ-NCR/MDW SJA	Delivered: 6/18/2012 9:30 PM	
(b) (6) [redacted]		

David,

1. Case Calendar. OBE w/ the Court.

2. Motions. OBE w/ the Court.

3. Unclassified Assessments. If the defense is requesting information in discovery, then please provide a discovery request with the proper authority. We have provided (or are working to provide) the defense all the damage/impact assessments that exist within each agency or organization. The government did not produce unclassified versions of the damage assessments for the ones that are classified and which have been produced; therefore, there are no unclassified or sanitized versions to provide.

4. CW2 Santiago's Replacement. Although we are standing by to assist, MDW will not provide assistance, unless we receive different guidance from the Chief, TDS, because TDS is the lead for all defense personnel issues. As previously stated, please address any personnel issues through the military defense counsel and their RDC.

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Tracking:

Recipient	Delivery	Read
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Hurley, Thomas F MAJ USARMY (US)		
'Tooman, Joshua J CPT USARMY (US)'		
'Santiago, Melissa S CW2 USARMY (US)'		
Morrow III, JoDean, CPT USA JFHQ-NCR/MDW SJA	Delivered: 6/19/2012 8:39 PM	Read: 6/20/2012 7:52 AM
Overgaard, Angel M. CPT USA JFHQ-NCR/MDW SJA	Delivered: 6/19/2012 8:39 PM	
Whyte, Jeffrey H. CPT USA JFHQ-NCR/MDW SJA	Delivered: 6/19/2012 8:39 PM	Read: 6/20/2012 7:50 AM
von Elten, Alexander S. CPT USA JFHQ-NCR\MDW SJA	Delivered: 6/19/2012 8:39 PM	Read: 6/20/2012 7:52 AM
Ford, Arthur D. CW2 USA JFHQ-NCR/MDW SJA	Delivered: 6/19/2012 8:39 PM	Read: 6/19/2012 8:41 PM
Bradley, Princeton L. SGT USA JFHQ-NCR/MDW SJA	Delivered: 6/19/2012 8:39 PM	
Feito, Beatriz SGT USA JFHQ-NCR/MDW SJA	Delivered: 6/19/2012 8:39 PM	Read: 6/20/2012 10:22 AM
Parra, Jairo A. CW2 USA JFHQ-NCR/MDW SJA	Delivered: 6/19/2012 8:39 PM	Read: 6/20/2012 7:37 AM
Waybright, Daniel W. SGT USA JFHQ-NCR/MDW SJA	Delivered: 6/19/2012 8:39 PM	Read: 6/20/2012 9:27 AM
Diefenbach, Katherine M. CPT USA JFHQ-NCR/MDW SJA	Delivered: 6/19/2012 8:39 PM	
(b) (6) [redacted]		

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3. Unclassified Assessments. If the defense is requesting information in discovery, then please provide a discovery request with the proper authority.
We have provided (or are working to provide) the defense all the damage/impact assessments that exist within each agency or organization. The government did not produce unclassified versions of the damage assessments for the ones that are classified and which have been produced; therefore, there are no unclassified or sanitized versions to provide.

4. CW2 Santiago's Replacement. Although we are standing by to assist, MDW will not provide assistance, unless we receive different guidance from the Chief, TDS, because TDS is the lead for all defense personnel issues. As previously stated, please address any personnel issues through the military defense counsel and their RDC.

5. Defense Security Experts. As the prosecution, we are not situated to estimate how the defense intends to employ their experts (scope) and how much time that employment might take (cost of employment); therefore since 30 May 12, we have asked the defense to submit a request. On 30 May 12, the defense did not submit a request, but rather a proposed memorandum for the SPCMCA to order your experts duties take precedence over their normal duties. We are standing by to assist the defense with any challenges you may have with security experts; however the convening authority will not act on expert issues without a defense request, especially considering the defense is requesting government employees perform their duties as a top priority and/or another expert be detailed to the defense. IAW with RCM 703(d), for either of your requests, please "submit a request to the convening authority to authorize the employment and to fix the compensation for the expert." Please include "a complete statement of reasons why employment of the expert is necessary and the estimated cost of employment." Once we receive an adequate request, we will act immediately on the request, by coordinating through your experts' leadership to provide their input and the defense's request to the appropriate convening authority for action.

v/r
Ashden

-----Original Message-----
From: David Coombs [mailto:coombs@armycourtmartialdefense.com]
Sent: Friday, June 15, 2012 6:31 PM
To: Fein, Ashden MAJ USA JFHQ-NCR/MDW SJA
Cc: Hurley, Thomas F MAJ USARMY (US); 'Tooman, Joshua J CPT USARMY (US)'; 'Santiago, Melissa S CW2 USARMY (US)'; Morrow III, JoDean, CPT USA JFHQ-NCR/MDW SJA; Overgaard, Angel M. CPT USA JFHQ-NCR/MDW SJA; Whyte, Jeffrey H. CPT USA JFHQ-NCR/MDW SJA; von Elten, Alexander S. CPT USA JFHQ-NCR\MDW SJA; Ford, Arthur D. CW2 USA JFHQ-NCR/MDW SJA
Subject: RE: Update

Ashden,

1) Thank you.

2) Why do you feel that Thursday is the agreed upon date for the case calendar?

3) Same as #2 - I don't recall any discussion that Thursday was the timeline for this issue. Not only would this give no time for the Defense to reply, it also does not provide the Court with time to consider the motions prior to the Article 39(a).

4) The Defense is requesting that the various agencies produce an unclassified version of their damage assessments. According to the defense security experts, this is not an unusual request.

5) Not a problem. Thank you.

6) Thank you.

7) As stated, TDS cannot provide a replacement warrant officer. I am requesting that the Government provide a replacement for CW2 Santiago. Please inform me if the Government's position is that it will not do so.

8) The Defense does not believe that any additional request detailing scope of work or timing commitments is necessary. If you disagree, as per our discussion with COL Lind, please provide an additional security expert to be available when our defense experts are not.

Best,
David

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-----Original Message-----
From: Fein, Ashden MAJ USA JFHQ-NCR/MDW SJA
[mailto:(b) (6) [redacted]]
Sent: Friday, June 15, 2012 6:12 PM
To: David Coombs
Cc: Hurley, Thomas F MAJ USARMY (US); Tooman, Joshua J CPT USARMY (US); Santiago, Melissa S CW2 USARMY (US); Morrow III, JoDean, CPT USA JFHQ-NCR/MDW SJA; Overgaard, Angel M. CPT USA JFHQ-NCR/MDW SJA; Whyte, Jeffrey H. CPT USA JFHQ-NCR/MDW SJA; von Elten, Alexander S. CPT USA JFHQ-NCR\MDW SJA; Ford, Arthur D. CW2 USA JFHQ-NCR/MDW SJA
Subject: Update

David,

Below is an update on your questions and other issues.

1. Article 39(a). We will have PFC Manning at the courthouse at 0900 on 25 June.

2. Case Calendar. We intend to submit a case calendar update on Thursday with our other filings.

3. Motions. We intend to submit our two filings on Thursday, as per our discussion last week.

4. Sanitized Versions of Damage Assessments. We have provided the defense all the damage/impact assessments that exist within each agency or organization. The government did not produce unclassified versions of the damage assessments for the ones that are classified and which have been produced; therefore, there are no unclassified or sanitized versions to provide.

5. Department of Homeland Security Damage Assessment. As stated on Friday, we sent the request earlier this week and NWC received it on Wednesday. Additionally, CW2 Santiago signed for a copy on Wednesday. I apologize for not notifying you sooner of the tracking number or confirmed delivery.

6. Redactions. We will file with the Court tonight and we do not intend to request protective orders.

7. Replacement for Santiago. As previously stated, MDW was informed that the Chief, TDS coordinated directly or indirectly with you for personnel issues concerning the defense. After confirming with the Chief Warrant Officer of the Corps, it is our understanding that all future personnel requests for any personnel, will be handled through TDS channels. Please address any personnel issues through the military defense counsel and their RDC.

8. Defense Expert Request. We have not resolved the issue of the defense requesting that your experts have their time dedicated primarily to the

defense. Does the defense intend to request this? Without a request which outlines the anticipated scope of their additional duties (which is already written in your proposed memo) and an estimate of the total time you anticipate you will need their services, we cannot go to their leadership and the convening authority for approval. The leaders must know how much time you anticipate will be needed and to what extent, so they can make informed decisions. Once we receive a request, we will immediately take the request to your experts' leadership and the convening authority for action.

Have a good weekend.

v/r
Ashden