IN THE UNITED STATES ARMY
FIRST JUDICIAL CIRCUIT

UNITED STATES	)	
	)	**RULING: SPEEDY TRIAL**
v.	)	
	)	
MANNING, Bradley E., PFC	)	
U.S. Army, xxx-xx-(b)	)	
Headquarters and Headquarters Company,	)	
U.S. Army Garrison, Joint Base Myer-	)	DATED: 26 February 2013
Henderson Hall, Fort Myer, VA 22211	)	

Defense moved to dismiss all charges and their specifications for violation of the Accused's right to a speedy trial under Article 10, UCMJ, RCM 707, and the Sixth Amendment to the Constitution of the United States. The Court has considered the filings by the parties, the witnesses and evidence presented, and oral argument. The Court finds and rules as follows:

Findings of Fact – General

The Court adopts the stipulated chronology submitted by the parties with the modifications and additional chronology entries at attachment (1) to this ruling.

The Court further adopts the findings of fact and conclusions of law from the Article 13 Ruling (AE 461).

The Court takes judicial notice of the appellate exhibits and the case schedules that have been filed: 25 April 2012 schedule (AE LXX); 30 August 2012 schedule (AE CCLXXXVI); 18 October 2012 schedule (AE CCCLVIII); 8 November 2012 schedule (AE CCCLV); 20 December 2012 schedule (AE CDLIII); and 9 January 2013 schedule (AE CDLXVI). Each trial schedule was coordinated between the Court and the parties and implemented with the consent of both parties.

RCM 707 Timeline

The Accused was restrained for RCM 707 analysis on 27 May 2010. Charges were referred to trial on 3 February 2012. The Court received the referred charges on 3 February 2012. The Accused was arraigned on 23 February 2012. The period of time between 28 May 2010 and 23 February 2012 is 637 days.

The parties stipulate that the following 84 days count against the RCM 707 120 day speedy trial clock:

28 May 2010 – 11 July 2010 (45 days)
16 December 2011 – 23 December 2011 (8 days)
3 January 2012 – 6 January 2012 (4 days)
9 January 2012 – 3 February 2012 (26 days)
23 February 2012 (1 day)

APPELLATE EXHIBIT 494
PAGE REFERENCED:_____
PAGE___OF___PAGES

Defense concedes the following 220 days were properly excluded:

11 August 2010 – 3 March 2011 (205 days)
8 - 22 February 2012 (15 days) – In its motion, the Defense included the period between 4-22 February 2012 to count towards the RCM 707 120 day clock. At oral argument, Defense conceded the period between the date of the telephonic RCM 802 conference between the parties and the Court to set the arraignment (8 Feb 12) until the day prior to arraignment (22 February 2012) are excludable delay with the Defense consent.

The remaining 333 days includes the following disputed time periods:

12 July – 10 August 2010 (30 days)
4 March 2011 – 15 December 2011 (287 days)
24 December 2011 – 2 January 2012 (10 days); 7-8 January 2012 (2 days)
4 February – 7 February 2012 (4 days)

RCM 707 – The Law

RCM 707(a) requires in relevant part that the Accused to be brought to trial within 120 days after the imposition of restraint under RCM 304(a)(2)-(4) "Brought to trial" means the date of arraignment. The date of imposition of restraint does not count; however, the date of arraignment does count.

Before a case is referred, requests for pretrial delay, together with supporting reasons are submitted to the convening authority for decision. After referral, requests for delay are submitted to the military judge for resolution. All pretrial delay approved by a military judge or the convening authority is excluded from the 120 day period. A convening authority may delegate to an Article 32 investigating officer (IO) authority to grant excludable delay. The decision to grant or deny excludable delay is within the sole discretion of the convening authority, military judge, or Article 32 IO with delegated authority to grant delay. The discussion to RCM 707(b)(1) proposes examples of appropriate reasons to grant a delay including: the need for time to enable counsel to prepare for trial in complex cases; time to allow examination into the mental capacity of the accused; time to complete other proceedings related to the case, time requested by the defense, time to secure the availability of the accused, witnesses, or other evidence; time to obtain appropriate security clearances for access to classified information or time to declassify evidence or other good cause. The discussion further provides that pretrial delays should not be granted *ex parte*, and where practicable, the decision granting the delay, together with supporting reasons and dates covering the delay should be reduced to writing. Pretrial delay may be excluded after the delay occurs. *United States v. Thompson,* 46 M.J. 472 (C.A.A.F. 1997).

Approved pretrial delays by a convening authority, Article 32 IO with delegated authority, or a military judge are excluded from the 120 day time unless the person who granted the delay abused his or her discretion. *U.S. v. Lazauskas,* 62 M.J. 39, 41 (C.A.A.F. 2005). The authority granting the delay must make an independent determination as to whether there is good cause for a pretrial delay and grant the delay for only so long as necessary under the circumstances. *Thompson,* at 475. The issue is not which party is responsible for the delay but whether the decision to grant it was an abuse of discretion. There must be a causal connection between the cited justification or unusual event and the delay. Normal, recurring events which happen in almost every trial are not excludable. *United States v. Duncan*, 34 M.J. 1232, 1243 (A.C.M.R. 1992), *citing United States v. Longhofer*, 29 M.J. 22, 27 (C.M.A. 1989). A

"blanket" exclusion of time not tied to a specific event or events is an abuse of discretion. *United States v. Rowe,* 2003 WL 828986 (A.F. Ct. Crim. App. 2003).

"An Accused cannot be responsible for or agreeable to delay and later demand dismissal for violation of speedy trial for that same delay. *United States v. King,* 30 M.J. 59 (C.M.A. 1990); *U.S. v. MCCullough,* 60 M.J. 580 (A.Ct. Crim. App. 2004).

The Rules of Practice Before Army Courts-Martial, 15 September 2009, in effect on 23 February 2012 when the Accused was arraigned, provide that any period of delay from the military judge's receipt of referred charges until arraignment is considered pretrial delay approved by the judge unless the judge specifies to the contrary. Rule 1.1.

RCM 707 - Findings of Fact and Conclusions of Law – Disputed Time Periods

1. **12 July 2010 to 10 August 2010 (30 days)**

Findings of Fact:

The accused was placed in pretrial confinement at FOB Hammer, Iraq on 29 May 2010 and transferred to the Theatre Field Confinement Facility (TFCF), Kuwait on 31 May 2010.

In June 2010, the Accused was growing increasingly mentally unstable culminating in the 30 June 2010 incident where the Accused was placed in Maximum Custody/Administrative Segregation 1:1 suicide watch. On 4 July 2010, the CDR, Third Army/ARCENT ordered the Accused transferred from TFCF when an appropriate facility with adequate mental health resources would accept him.

On 11 July 2010, the Defense requested an RCM 706 inquiry into the mental capacity or mental responsibility of the Accused and a delay of the Article 32 investigation then scheduled to be held on 14 July 2010. On 11 July 2010, the Article 32 Investigating Officer (IO) denied the RCM 706 request. On 12 July 2010, the Defense requested delay of the Article 32 investigation until the RCM 706 board was complete and until the Accused could resolve issues relating to retaining civilian defense counsel (CDC) and Defense expert witnesses. On 12 July 2010, the Iraq Special Court Martial Convening Authority (SPCMCA) granted the Defense request for delay until 16 August 2010.

From 12-21 July 2010, Iraq TC were coordinating the transfer of the Accused out of the deployment theatre and coordinating up the chain of command to locate potential RCM 706 board members. Ultimately, on 28 July 2010, before the RCM 706 board could be appointed, jurisdiction of the case was transferred to the Military District of Washington (MDW) and the Accused was transferred to Marine Corps Brig Quantico (MCBQ).

On 25 August 2010, Mr. Coombs notified the Government that the Accused retained him as CDC.

Conclusions of Law:

The 12 July 2010 decision by the Iraq SPCMCA to grant the Defense request for delay until 16 August 2010 was not an abuse of discretion. The delay was directly related to the need to transfer the Accused out of the deployed theatre to a more established confinement facility where adequate mental health assets were available. Defense further requested the delay to allow the Accused time to make decisions

about retaining civilian counsel. His decision was not made and communicated to the Government until 25 August 2010. The time is excludible delay under RCM 707(c).

2. **24 December 2011 to 2 January 2012; 7 January 2012 to 8 January 2012 (10 days; 2 days)**

Findings of Fact:

1. A military judge from the U.S. army reserves was appointed as the IO to conduct the Article 32 investigation. The Article 32 investigation was conducted from 16 December 2011 through 22 December 2011. During that time, the IO was on active duty (AD) orders from 12 December to 23 December 2011 and from 3 January to 6 January 2012. Other "active status duty" (for pay) was performed from 9 January 2012 to 11 January 2012. In the 16 November 2011 order to restart the Article 32, the SPCMCA gave the IO a suspense of 60 days – on or about 16 January 2012 - to complete the Article 32 investigation.

2. During this period the IO excused two periods of delay pursuant to RCM 707(c) at the request of the Government. The first period of delay ran from 24 December 2011 through 2 January 2012. The IO testified that he excluded the periods from 24 December through 26 December 2011 and 31 December 2011 through 2 January 2012 because they were holiday periods and appropriate personnel were not available to monitor review of classified information in the case. However, the IO testified that the period of delay from 27 to 30 December 2011 was attributable to civilian work conflicts rather than conflicts with federal holidays.

3. The second period of delay excluded by the IO was 7 and 8 January 2012. For that period of delay, the IO testified that he did not perform work because he took his son to a swim meet in Pennsylvania.

4. The IO did not request input from the Defense prior to granting the delays.

Conclusions of Law:

1. The periods of excluded delay occurred during holidays where offices containing classified evidence required for review as part of the investigation were closed (or appropriate personnel at those offices necessary for review were unavailable) and are reasonable delay under RCM 707(c) and applicable case law. These periods include the delay from 24 – 26 December 2011 and the period from 31 December 2011 - 2 January 2012. These six days were properly excluded under RCM 707(c).

2. The periods of delay from 27 – 30 December 2012 and 7 - 8 January 2012, however, do not meet the "good cause" requirement and constitute an abuse of discretion. In both cases, the delays were based on purely personal circumstances – civilian work for the first period and personal travel for the second period – rather than inability to access necessary facilities or evidence. The IO's determinations were not made in a manner to permit the Defense to timely oppose the grant of delay.[1] Accordingly, these six days were improperly excluded from the 120-day speedy trial period.

---

[1] The IO testified in an Article 39a session that he drafted a memorandum regarding excludable delay at the Government's request and did not consider the Defense position as to whether or not the time should be excluded. In his excludable delay memorandum dated 11 January 2012, the IO cited as his sole reason for exclusion of time "federal holidays or weekend days."

3. **4 February 2012 to 7 February 2012 (4 days)**

Findings of Fact:

This case was referred on 3 February 2012. The Court received the referral on 3 February 2012. Also on 3 February 2012, the Government sent the Court its Electronic Docket Notification (EDN) requesting immediate arraignment but no sooner than 10 days after the Court sets arraignment date to allow for implementation of the OPORD to coordinate the Accused's travel, provide adequate security for the Accused, the parties, and the Court, and to finalize preparation of court-house infrastructure to accommodate the public. On 4 February 2012, the Court sent an email to the parties advising them to confer and select 6, 9, or 10 February 2012 for a telephonic RCM 802 conference to set an arraignment date. The Court further advised the parties that the Court was available for arraignment 14-17 or 22-25 February 2012. On 4 February 2012, the Court received an email from Mr. Coombs requesting arraignment either 24 or 25 February 2012. On 6 February 2012, the Court received the Defense EDN advising that DC were not available for arraignment 13-17 February 2012 and requesting arraignment 23 or 24 February 2012. Also on 6 February 2012, the Court received an email from the Government advising that the parties agreed to arraignment on 23 February 2012 at 1300. The Court docketed the 23 February 2012 arraignment on 6 February 2012.

Conclusions of Law:

The period between 4–7 February 2012 is excludable delay under RCM 707(c) by Rule 1.1 of **The Rules of Practice Before Army Courts-Martial,** 5 September 2009, in effect on 23 February 2012. This period also qualifies as excludable delay with the concurrence of the Defense.

4. **4 March 2011 to 15 December 2011 (287 days) –**

A. RCM 706 Board Requested Delay 4 March – 22 April 2011 (50 days)

Findings of Fact:

On 11 August 2010 the Defense requested a delay of the Article 32 investigation until completion of the sanity board. On 12 August 2010 the SPCMCA approved the request until the RCM 706 board was complete.

Starting on 25 August 2010, the Defense requested a series of delays of the RCM 706 board that were approved by the Convening Authority. The PCR was conducted. TS-SCI security clearances were obtained. Defense expert consultants were appointed.

The Defense does not contest the time period between 11 August 2010 and 3 March 2011 as excludable delay.

The SPCMCA ordered the RCM 706 board to resume on 3 February 2011 with a four week suspense date.

On 7 February 2011, civilian defense counsel emailed the board advising them that the suspense date was "aspirational" and requesting the board to take the time necessary to conduct a thorough and complete examination and that any request for extension of time would undoubtedly be granted.

The court agrees that a 4-week suspense for a routine RCM 706 board is aspirational. The RCM 706 board in this case had 3 members, was required to have TS-SCI clearances, was required to conduct additional neurological tests, and was required to interview the Accused in a SCIF and during a weekend for the Accused's privacy and security.

Between 9 – 11 February 2011, the RCM 706 board proposed a schedule of an unclassified interview with the Accused on 16 February 2011 followed by testing on 17 February 2011 and the classified interview in a SCIF on 1 March 2011.

On 21 February 2011, Civilian Defense Counsel (CDC) requested the Government to arrange for a SCIF to be available for Defense to interview the Accused before the RCM 706 board interview. CDC requested 14 days notice to purchase reasonably priced airline tickets.

On 25 February 2011, CDC advised the Government that the earliest the Defense would be available to meet with the Accused was the week of 7 March 2011. This was after the 4 March 2011 RCM 706 board suspense date.

From 25 February 2011 until 3 March 2011, the Government coordinated with INSCOM to make a SCIF available to the Defense and to the RCM 706 board. The RCM 706 board wanted to interview the accused on 11 March 2011 (a Friday). The Government arranged for interviews of the Accused at the SCIF to be on Saturdays when there would be few if any workers in the area.

On 5 March 2011, CDC requested from the Government that his meeting with the Accused take place on 11-12 March 2011 with alternative dates of 25-26 March 2011. The Government advised CDC that the Government had to confirm with the security detail and would know by 7 March 2011 (a Monday).

On 7 March 2011, CDC requested that the Defense interview with the Accused take place 25-26 March 2011. Meanwhile the RCM 706 board coordinated their classified interview with the Accused and proposed that it take place on 26 March 2011. Both the Defense and RCM 706 board interview required an entire day.

On 14 March 2011, the Government proposed 2 April 2011 as an alternate date for the RCM 706 board interview. All board members were available to conduct the interview of the Accused on 9 April 2011.

The RCM 706 board requested an extension on 14 March 2011 with a proposed suspense of 29 April 2011, requesting 3 weeks to finalize their report after the 9 April 2011 interview with the Accused. The SPCMCA approved an extension but only until 16 April 2011. The board advised the Government that the report could be finished by 16 April 2011 but it would be rushed.

The RCM 706 board was 98% complete on 15 April 2011, however, the board felt it necessary to meet and thoroughly review the results rather than "rush" the report to conclusion. On 15 April 2011, the board again requested an extension until 22 April 2011. The SPCMCA approved this extension. The board completed its report on 22 April 2011.

Conclusions of Law

The SPCMCA did not abuse his discretion in granting the extensions or in excluding either the 14 March 2011 or the 15 April 2011 requests by the RCM 706 board for delay or excluding the delay

under RCM 707(c). The initial suspense to the board was extremely short. The board had legitimate reasons to request each extension. Defense counsel advised the board that the Defense was more interested in a thorough RCM 706 board than a rush to complete the end product. The RCM 706 interview of the Accused was delayed to accommodate the Defense request to interview the Accused before the board did. The length of each delay was reasonable. The period of delay from 4 March 2011 – 22 April 2011 was properly excluded by the SPCMCA.

B. Government Requested Delays

Findings of Fact:

Military authorities were not aware that the Accused was allegedly involved in any disclosures of classified information to WikiLeaks until Adrian Lamo's 25 May 2010 report. Thus, the CID investigation began at that time in a combat zone.

When the Iraq Trial Counsel team preferred the original charges on 5 July 2010, the investigation was in its infancy. The Accused was charged with four specifications of violating a lawful general order in violation of Article 92, UCMJ, one specification in violation of 18 U.S.C. Section 793(e), three specifications in violation of 18 U.S.C. Section 1030(a)(1) and five specifications of violating 18 U.S.C. Section 1030(a)(2). These eight specifications were also in violation of Article 134, UCMJ. The Government was not aware of the scope and breadth of the alleged misconduct by the Accused when he was originally charged.

The originally charged offenses involved a video of a military operation filmed near Baghdad, Iraq on or about 12 July 2007, more than 50 classified DOS cables, a classified Microsoft PowerPoint presentation, a classified DOS cable entitled "Reykjavik 13", and more than 150 classified DOS cables.

In August 2010, the Government initially contacted DOS regarding classified review of the originally charged cables. In October 2010, the Government contacted CENTCOM regarding classification reviews of the originally charged documents. On 18 October 2010, the Government received the OCA review of the Apache video.

On 26 August 2010, the Defense requested the Government provide original classification reviews to include (1) the classification level of the information alleged to have been disclosed by the Accused when it was subject to compromise; (2) a determination whether another command requires review of the information; and (3) the general description of the impact of disclosure on affected operations. In its subsequent discovery requests, the Defense requested the CCIU forensic reports and other evidence the Government would use at trial.

During Fall 2010, while the PSR was ongoing and the RCM 706 board was on hold, investigative agencies were continuing to investigate the case, WikiLeaks made rolling disclosures of classified information allegedly provided by the Accused, and the Government was coordinating with DOJ and consulting Code 30, OTJAG, U.S. Navy Primer on Prosecuting, Defending, and Adjudicating Cases involving classified information. On or about 3 November 2010, CID conducted a second search of the Accused's aunt's house and discovered additional digital media: (1) hard disk drive, (3) SD memory cards, (1) smart media card; (14) CD-R discs, (2) CD-RW discs, (1) USB memory card. As the investigation matured and the Government became more fully informed of the potential scope of the

misconduct alleged to have been committed by the Accused, the Government coordinated with DOS and other equity holders of the information in the current charge sheet to receive approval to charge each equity holder's classified information. After receiving all the required approvals, the Government preferred the charges currently before the Court on 1 March 2011.

The Government sent out the following prudential search, preservation, and review requests:

30 September 2010 - preservation request to 2/10th Mountain Division
25 May 2011 - search requests to OGA1, DoD, DoS, OGA2, ODNI, and ONCIX.
6 June 2011 – search request to DoD
14 June 2011 – search request to DIA, DOS, OGA2, and ODNI
27-28 June 2011 – search request to FBI, DOJ, and DISA
On or about 21 July 2011 – DoD tasking responding to search request to DoD
16 August 2011 – search request to DOJ
6 October 2011 – Defense requested Locate and Preserve Evidence request
6 October 2011 – request to review damage assessments to DOS, FBI, ODNI, OGA1 and OGA2

The agencies receiving the prudential search requests (PSR) were creating records documenting damage from the WikiLeaks releases and mitigation efforts taken by the agency. The Government sent the PSRs to preserve potential discoverable information created after the accused's alleged misconduct rather than to preserve information or evidence created at or before the alleged misconduct by the Accused.

On 30 November 2010, the prosecution submitted a written request to DOD for a classification review of evidence it intended to use. On 18 March 2011, the Government submitted written requests to the following organizations for classification reviews of the records charged in the 1 March 2011 preferred charge sheet: CENTCOM, OGA#1, DOS, SOUTHCOM, DISA, CYBERCOM, ODNI, INSCOM, and OGA#2. The 18 March 2011 requests had a suspense date of 31 March 2011. The Government sent follow up written requests to each of these entities as set forth in the attached chronology. Each of the follow up requests had two week suspense dates, emphasized urgency, and explained the rights of the Accused to a speedy trial. Neither the prosecution team nor the SPCMCA had tasking authority over the Original Classification Authority (OCA) entities. [2]

A classification review requires a manual, line by line, review of a document and its classification markings to determine if a document has been properly classified, and is properly marked consistent with a source of classification or an OCA decision. Further, classification reviews require a determination of each particular word or phrase, in an effort to redact such words and phrases to create an unclassified document. Extensive inter-agency coordination is required to complete classification reviews. One document can have multiple sources of classification potentially from sources not under the authority of the organizational OCA. Each OCA with an equity in the classified information must review it. There is no correlation between the complexity of the review and the number of pages of the final OCA review product.

---

[2] It Government requested completion of the classification reviews multiple times. The government sent memoranda to the OCAs on 18 March 2011, 28 July 2011, 4 August 2011, 7 September 2011, and 6 October 2011, each time seeking completion of the classification reviews with a short suspense. In these memoranda, the government reminded the OCAs of their obligations under Article 10, UCMJ, and the Sixth Amendment, and noted "*Any* delay by your department to comply with this firm deadline may *severely* jeopardize the prosecution."

The majority of the evidence the Government intended to present at trial was classified or unclassified but sensitive. The Government's goal was obtain the OCA reviews and to obtain authority to disclose the charged documents, classification reviews, and CCIU forensic reports to the Defense to ensure that the Defense had all of the charged information and all of the evidence the Government intended to use in its case in chief at trial before the Article 32 investigation. This required contacting each of the potentially multiple equity holders of the classified information to receive approval to disclose the information. The Government believed that the OCA reviews were necessary to prove that the information at issue was classified, to ensure that the information was properly handled at trial, and to prove that there was an overriding interest in protecting against disclosure of classified information to justify closing portions of the Article 32 investigation. The Government believed that disclosure of the forensic reports to the defense prior to the Article 32 was necessary to show the Government theory of the case and that if the Article 32 occurred without the evidence linking the Accused to the charged misconduct the Government would likely fail in its burden of proof and open itself to challenge that the Article 32 was defective.

On 16 December 2010, the Secretary of the Army ordered a 15-6 investigation. On 14 February 2011, the SecArmy 15-6 was completed. On or about 15 March 2011, the Government submitted a request to review it, received approval to review it on 21 March 2011 and reviewed it from March – 30 May 2011. On 17 June 2011 the Government received authority to disclose the SecArmy 15-6 investigation to the Defense upon acknowledged receipt of SPCMCA protective order. On or about 12 July 2012, the Government produced the investigation to the Defense. The AR 380-5 investigation was complete on 16 June 2010. The Government learned of it in September 2010 and received a digital copy. The Government reviewed the investigation and disclosed it to the Defense on 9 February 2011.

The USACID Computer Crimes Investigative Unit (CCIU) generated an unclassified report and a classified report, both still ongoing. CID collected 50 individual digital media devices, of which initial forensic examinations revealed that 23 contained information relevant to Accused and required further examination. CID completed 22 final forensic reports: three unclassified reports of NIPRNET systems (15 September 2010, 20 September 2010, and 27 July 2011), one unclassified report of a SIPRNET system (22 September 2011), one unclassified report of digital media (22 September 2011) and 17 classified reports (22 September 2011 and 20 October 2011). Before releasing the final reports, CCIU produced 10 interim reports of approximate dates: 7 and 13 July 2010, 6 and 23 August 2010, 21 January 2011, 2 February 2011, 7 and 28 June 2011, 18 July 2011, and 22 September 2011. CID also collected multiple sets of audit data or "logs" for the computer networks from which the data on the devices came. Some of the logs contain only classified data, others contained both classified and unclassified data.

In addition to the classified information, the unclassified CID reports contained unclassified but protected information and classified information. This required DOJ to review the report for grand jury information and information obtained by sealed search warrants. On or about April 2011, the Government requested the Army G2 review the unclassified CID file to identify any potentially classified material. The Army G2 reviewed the reports and identified two major equity holders of classified information. The Government requested both equity holders to review the relevant portion of the CID file for classified information. Both discovered classified information. The Government then requested authority to disclose the information to the Defense and to have the documents properly marked as classified material. The Iraq TC team received approvals to disclose 200 pages. The information was disclosed to the Defense on 22 October 2010. The Government received further approvals on 16 June 2011contingent on the Defense executing an SPCMCA protective order. The

unclassified CID reports were disclosed to the Defense between 25 July 2011 and 3 August 2012. On or about 17 September 2011 all organizations approved disclosure of classified information from the original unclassified file. The Government received the information on 27 October 2011 and disclosed it to the Defense on 17 November 2011. CID continues to receive information and the Government continues to process it for release to the Defense.

On 12 March 2011, the Government requested that CID conduct an administrative review of all previously identified classified information in the case file to identify what equity holders may have classified information in the case file. The case file consisted of the classified and unclassified files and the forensic reports. The Government intended to receive approvals from the OCAs to disclose CID documents containing classified information and derivative reports, to include the forensic reports to the Defense. Authority to approve disclosure of the forensic reports was directly tied to approval to disclose the underlying evidence. The Government received final approval from all the equity holders on 28 October 2011. In total, the CCIU analyzed approximately eight terabytes of digital media containing classified information. Prior to producing the forensic images of the memory drives of the devices, the Government was required to coordinate with every government agency OCA that had data on the drives. The Government initially searched the drives with security experts to identify the agencies involved and the relevant OCAs.

On the following dates the Government submitted written requests to OCAs authorized to approve disclosures of the charged documents and other classified evidence to the Defense:

14 March 2011: DoD and DA (approved 30 March 2011 with final approval 28 October 2011 for all CCIU classified forensic reports and case file), DOS (approved 29 March 2011), ODNI (partial approval 9 August 2011, full approval of intelogs 4 October 2011), OGA1 (approved 29 March 2011) and OGA2 (approved 28 April 2011).
21 March 2011: DISA (approved 29 March 2011) and DIA (approved 7 April 2011)
23 June 2011: updated request to OGA1
23 June 2011 and 4 August 2011: updated requests to FBI, DoD (final approval 28 October 2011), and DIA (approved throughout Summer 2011)
11 August 2011: updated request to OGA1

On 3 October 2011, the Government received the final forensic reports from CCIU. On 4 October 2011, CCIU approved release of the reports after review to ensure none of the information was classified IAW CID's OCA authority. Between 3 and 26 October 2011, the Government processed the 330,000 page report and prepared it for production. On 26 October 2011, the Government requested the Army G2 for approval to disclose the Army CID forensic reports that involve DoD equities and equities of other agencies that have approved release. On 28 October 2011, the Government received from all relevant OCA approvals to disclose all images of digital data. On 4 November 2011 the Government disclosed that information to the Defense.

Apparently, as of 15 February 2011, the Government believed it would have all the OCA reviews and necessary approvals to disclose the CCIU forensic reports to the Defense before 15 March 2011 when the Government emailed the Article 32 IO advising him that the RCM 706 board had a 3 March 2011 suspense date and the Article 32 would be ready to begin on 15 March 2011 and last 3 days.

Beginning on 25 April 2011, the Government began requesting approximately monthly delays between 22 April 2011 and the restart of the Article 32 investigation (25 April 2011, 22 May 2011, 27 June

2011, 25 July 2011, 25 August 2011, 26 September 2011, 25 October 2011, and 16 November 2011). The Government developed a process of providing the SPCMCA with a monthly request for delay specifying the reasons for delay, the progress made in the case that month, and that an update would be provided by the Government to the SPCMCA in 30 days. The SPCMCA would request the views of the Defense, decide whether to approve the requested delay, and subsequently provide a monthly accounting memorandum documenting the period and reasons for the excludible delay.

Starting with a memorandum on 26 April 2011, the Defense objected to each delay. The 26 April 2011 memorandum requested to avoid delay of the Article 32 that the SPCMCA:

1. provide either a substitute for or a summary of the information for relevant classified documents;

2. allow the Defense to inspect any and all unclassified documents and reports within the Government's control which are material to the preparation of the Defense or requested by a Defense Discovery Request;

3. ensure the Defense has equal access to CID and other law enforcement witnesses by requiring trial counsel to make the witnesses available.

The Defense memorandum advised the SPCMCA that because of the limited discovery provided, it is likely the Article 32 will be delayed unless the above information is provided in a timely manner and requested that any delay be credited to the Government.

On 24 May 2011, 29 June 2011, 27 August 2011, 27 September 2011, and 25 October 2011 the Defense objected via email to the second, third, fifth, sixth, and seventh Government requests for excludable delay by adhering to its position in the 26 April 2011 memorandum. On 25 July 2011, the Defense submitted a memorandum in objection to the Government's fourth request for excludable delay reiterating it's objection in the 26 April 2011 memorandum and renewing its 9 January 2011 speedy trial demand.

Below is a summary of the Government requests and monthly accounting memoranda:

25 April 2011 - First Request for Delay, 22 April – 25 May 2011: Under Executive Orders 12958 and 13526 and Army Regulations 380-5 and 380-67, the United States cannot release classified information originating in a department or agency to parties outside of the executive branch without the consent of the OCA or their delegate. Since 17 June 2010, the United States has been diligently working with all the departments and agencies that originally classified the information and evidence sought to be disclosed to the defense and the accused. Enclosed are redacted copies of the OCA Disclosure Requests and OCA Classification Review Requests without their enclosures, respectively. However, because of the special circumstances of this case, including the voluminous amounts of classified digital media containing multiple equities and the subsequent discovery of more information helpful to both the United States and the accused, more time is needed for executive branch departments and agencies to obtain the necessary consent from their OCA or authorizing official. [Delay approved by SPCMCA on 29 April 2011 requiring trial counsel update NLT 23 May 2011]

12 May 2011 Accounting Memorandum: Excluded delay from 22 April – 12 May 2011 based upon:

a. OCA reviews of classified information
b. OCA consent to disclose classified information
c. Defense request for results of OCA reviews (26 August 2010)
d. Defense request for appropriate security clearances for the defense team and access for PFC Manning (3 September 2010)
e. 25 April 2011 Government request for delay

22 May 2011 - Second Request for Delay, 25 May – 27 June 2011: The government is continuing to work with the relevant OCAs to obtain consent to disclose classified evidence and information to the Defense along with receiving completed classification reviews. In anticipation of OCA consent, CID began making copies of classified digital media and evidence for disclosure to the defense. Additionally, the prosecution learned that several exhibits and documents in the unclassified CID case file require authorization to disclose apart from any classified information. The U.S. Attorney's Office for the Eastern District of Virginia is working to obtain that authorization on behalf of the prosecution from multiple federal districts within the United States. [Delay approved by SPCMCA on 26 May 2011 requiring trial counsel update NLT 25 June 2011]

17 June 2011 Accounting Memorandum: Excluded delay from 12 May - 17 June 2011 based upon:

a. OCA reviews of classified information
b. OCA consent to disclose classified information
c. Defense request for results of OCA reviews (26 August 2010)
d. Defense request for appropriate security clearances for the defense team and access for PFC Manning (3 September 2010)
e. 22 May 2011 Government request for delay

5 July 2011 - Third Request for Delay, 27 June – 27 July 2011: (a) the prosecution is continuing to work with relevant OCAs to obtain consent to disclose classified evidence and information to the defense along with receiving completed classification reviews. This includes the enclosed additional requests forwarded by the prosecution on 23 June 2011, after forensic examiners discovered another document on digital evidence requiring OCA consent to disclose to the defense. (b) The prosecution submitted the unclassified CID case file to the National Security Agency (NSA) and other government intelligence organization (OGA) to have their experts review the file for classified equities. The NSA identified approximately 20 sensitive documents requiring further review by their subject matter experts. The OGA is continuing their review of the documents. (c) The U.S. Attorney's Office for the Eastern District of Virginia is continuing to work on obtaining authorizations from the relevant district court judges on behalf of the prosecution to disclose certain exhibits and documents to the defense. Most of the relevant disclosure orders have been signed but a few remain outstanding. (d) Since the previous request, the prosecution has received approval to produce the Secretary of the Army AR 15-6 and related documents. After the defense acknowledges your protective order dated 22 June 2011, the prosecution will immediately produce these documents and continue to produce all related documents. As the prosecution receives other approvals it will continue to disclose evidence and information to the defense. [Delay approved by SPCMCA on 5 July 2011 requiring trial counsel update NLT 25 July 2011]

13 July 2011 Accounting Memorandum: Excluded delay from 17 June – 13 July 2011 based upon:

a. OCA reviews of classified information
b. OCA consent to disclose classified information
c. Defense request for results of OCA reviews (26 August 2010)
d. Defense request for appropriate security clearances for the defense team and access for PFC Manning (3 September 2010)
e. 5 July 2011 Government request for delay

25 July 2011 - Fourth Request for Delay, 27 July – 27 August 2011: (a) the prosecution is continuing to work with relevant OCAs to obtain consent to disclose classified evidence along with receiving completed classification reviews. The classified CID forensic reports are prepared for disclosure, pending final approval by the relevant OCAs and final review of references to classified information within the forensic reports. (b) The prosecution submitted the unclassified CID case file to the NSA and OGA to have their experts review the file for classified equities. The NSA identified approximately 20 sensitive documents requiring further review by their subject matter experts. The OGA identified six sensitive documents requiring further review. (c) The U.S. Attorney's Office for the Eastern District of Virginia is continuing to work on obtaining authorizations from the relevant district court judges on behalf of the prosecution to disclose certain exhibits and documents to the defense. Most of the relevant disclosure orders have been signed but a few remain outstanding. (d) Since the previous request, the prosecution has produced the Secretary of the Army AR 15-6 and related documents as well as the complete record of the MSG Adkins reduction board – approximately 10,000 pages of documents in total. The prosecution intends to produce portions of the unclassified CID case file that have been approved for release by relevant stakeholder agencies no later than the date of this memorandum. As the prosecution receives other approvals it will continue to disclose evidence and information to the defense. [Delay approved by SPCMCA on 26 July 2011 requiring trial counsel update NLT 25 August 2011]

10 August 2011 Accounting Memorandum: Excluded delay from 13 July – 10 August 2011 based upon:

a. OCA reviews of classified information
b. OCA consent to disclose classified information
c. Defense request for results of OCA reviews (26 August 2010)
d. Defense request for appropriate security clearances for the defense team and access for PFC Manning (3 September 2010)
e. 25 July 2011 Government request for delay

25 August 2011 - Fifth Request for Delay, 27 August – 27 September 2011: (a) the prosecution is continuing to work with relevant OCAs to obtain consent to disclose classified evidence along with receiving completed classification reviews. (b) CID is conducting a secondary review of the derivative classification of the forensic reports. Recently, the government's security expert reviewed the forensic reports and advised that portions of the reports should be reviewed based on the Security Classification Guides governing the information. The prosecution intends to produce the full reports once a final determination of the derivative classification is made by CID Command and the Army G2 gives release consent.

Three of these reports are unclassified in their entirety and were give to the defense on 25 July 2011. (c) The prosecution submitted the unclassified CID case file to the NSA and OGA to have their experts review the file for classified equities. The NSA identified approximately 20 sensitive documents requiring further review by their subject matter experts. The OGA identified six sensitive documents requiring further review. The OGA completed its additional review, but the NSA review is ongoing. (d) The U.S. Attorney's Office for the Eastern District of Virginia has obtained all authorizations from the relevant district court judges on behalf of the prosecution and the prosecution is currently obtaining signed protective orders from defense, as required by district court judges, to allow disclosure of all relevant exhibits and documents to the defense. (e) The prosecution is continuing to work with the Federal Bureau of Investigation (FBI) and Diplomatic Security Service (DSS) to receive authorization to disclose relevant portions of any case files. This includes obtaining copies of the FBI and DSS case files, if any, to conduct a search of the files for discoverable information. (f) Since the previous request, the prosecution has produced 21,442 pages of documents [Bates numbers omitted]. The evidence and information disclosed included the vast majority of the unclassified CID file, MAJ Clausen administrative reprimand file, recordings of all visits with PFC Manning at MCBQ and various other documents. As the prosecution receives other approvals it will continue to disclose evidence and information to the defense. [Delay approved by SPCMCA on 29 August 2011 requiring trial counsel update NLT 23 September 2011]

15 September 2011 Accounting Memorandum: Excluded delay from 13 July – 10 August 2011 based upon:

a. OCA reviews of classified information
b. OCA consent to disclose classified information
c. Defense request for results of OCA reviews (26 August 2010)
d. Defense request for appropriate security clearances for the defense team and access for PFC Manning (3 September 2010)
e. 25 August 2011 Government request for delay

26 September 2011 - Sixth Request for Delay, 27 September – 27 October 2011: (a) the prosecution is continuing to work with relevant OCAs to obtain consent to disclose classified evidence to the defense and to receive completed classification reviews. Since the last request, the prosecution received a classification review from the OCA at U.S. Cyber Command. Additionally, the prosecution is working closely with the DOS and SOUTHCOM and expects to receive classification reviews for more than 80 documents within the next two weeks. (b) CID started the necessary secondary review of the derivative classification of the forensic reports and the forensic reports are in the final stages of review before release. After CID completes its review and the Army G2 gives consent to release, the prosecution intends to produce the full reports with their enclosures and attachments to the defense. (c) The prosecution submitted the unclassified CID case file to the NSA and OGA to have their experts review the file for classified equities. Both the NSA and OGA have completed their additional review. The prosecution is working with the NSA to provide a portion-marked version of the documents they deem classified. (d) The U.S. Attorney's Office for the Eastern District of Virginia has obtained all authorizations from the relevant district court judges on behalf of the prosecution. The prosecution is continuing to obtain signed protective orders from defense, as required by district court judges, to allow disclosure of all relevant exhibits and documents to the defense. (e) The prosecution continues to work with the FBI and DSS to receive authorization to disclose

relevant portions of any case files. The prosecution received copies of the FBI and DSS case files and started to review those files for discoverable information. Once the prosecution identifies discoverable information, it will work to obtain the proper authorization to produce the relevant portion to the defense. (f) Since the previous request, the prosecution has produced 2,492 pages documents [Bates numbers omitted]. The evidence and information disclosed included documentation from the confinement facilities, as well as the majority of two classified military intelligence investigative case files. As the prosecution receives other approvals it will continue to disclose evidence and information to the defense. [Delay approved by SPCMCA on 28 September 2011 requiring trial counsel update NLT 25 October 2011]

14 October 2011 Accounting Memorandum: Excluded delay from 15 September – 14 October 2011 based upon:

a. OCA reviews of classified information
b. OCA consent to disclose classified information
c. Defense request for results of OCA reviews (26 August 2010)
d. Defense request for appropriate security clearances for the defense team and access for PFC Manning (3 September 2010)
e. 26 September 2011 Government request for delay

25 October 2011 - Seventh Request for Delay, 27 October – 28 November 2011: (a) the prosecution is continuing to work with relevant OCAs to obtain consent to disclose classified evidence to the defense and to receive completed classification reviews. Within the last several days, the prosecution received a classification review of approximately 100 documents and a video from the OCA at CENTCOM. Additionally, the prosecution is continuing to work closely with the DOS, OGA, and SOUTHCOM and expects to receive classification reviews for more than 80 documents before 1 November 2011. (b) CID completed the necessary secondary review of the derivative classification of the forensic reports and prosecution is currently processing and packaging the forensic reports, enclosures, and attachments for delivery to the Army G2 NLT 27 October 2011. These reports consist of over 40,000 documents totaling more than 300,000 pages. The prosecution will release the final forensic reports to the defense once the review by the Army G2 is complete and consent to disclose is received. (c) The prosecution submitted the unclassified CID case file to the NSA and OGA to have their experts review the file for classified equities. Both the NSA and OGA have completed their additional review. Absent an unforeseen administrative issue, the prosecution will produce portion-marked versions of the documents deemed classified by the NSA and OGA NLT 27 October 2011. (d) Based on discussions with multiple OCAs, the prosecution's security expert is developing an evidence classification guide (ECG) to aid law enforcement, prosecution, defense, and other government officials in understanding what specific investigative information is classified. Although this guide will not be a security classification guide published by an OCA, this guide based on derivative classifications can be used by all parties and potential witnesses to understand what information is classified or not. In the short-term, the guide will be used by CID agents and other government officials when discussing the case with the defense. (e) The prosecution continues to work with the FBI and DSS to receive authorization to disclose relevant portions of any case files. The prosecution received copies of the FBI and DSS case files and started to review those files for discoverable information. Once the prosecution identifies discoverable information, it will work to obtain the proper authorization to produce the relevant portion to the defense. (f) Since the previous request, the

prosecution has produced 771 pages of documents [Bates numbers omitted]. The evidence and information disclosed consisted of additional documents from the CID case file. As the prosecution receives other approvals it will continue to disclose evidence and information to the defense. (g) The prosecution scheduled a meeting with the defense for 8-9 November 2011. The purpose of the meeting is for the prosecution to present its case, including a discussion of the evidence supporting the charges against the accused, and present potential plea terms. The goal of the meeting is to help the defense focus their review of the voluminous forensic evidence and to minimize future delays. (h) The prosecution continues to work with the defense to frontload any administrative requirements for the defense members and their forensic computer experts to review classified information. Additionally, the prosecution ordered several items requested by defense counsel, including a color printer, a GSA-approved shredder, and large courier bags for transporting classified information. [Delay approved by SPCMCA on 27 October 2011 requiring trial counsel update NLT 23 November 2011]

16 November 2011 Accounting Memorandum: Excluded delay from 15 September – 14 October 2011 based upon:

a. OCA reviews of classified information
b. OCA consent to disclose classified information
c. Defense request for results of OCA reviews (26 August 2010)
d. 27 October 2011 Government request for delay

16 November 2011 – Request to Restart Article 32 and Excludable Delay 28 November – 16 December 2011: The prosecution is prepared to proceed and by 1 December 2011 should have all approvals and classification reviews necessary to proceed.

Restart Request: (a) OCA reviews of classified information. The prosecution received completed classification reviews for all charged documents, except the final charged document relevant to specification 15 of Charge II. On 14 November 2011, the prosecution received written confirmation from an OCA delegate that the classification review for the final charged document will be complete no later than 1 December 2011, if it is determined that such a declaration is necessary. Based on this commitment, the prosecution requests the Article 32 investigation restart at this time to avoid further delay. (b) OCA consent to disclose classified information. [In relevant part]The prosecution recently produced approximately 380,000 pages of discovery, including (1) all charged documents; (2) all final forensics reports; (3) the complete unclassified CID case file (4) classification reviews; and (5) two classified military intelligence investigative case files. (c) Defense request for appropriate security clearances for the defense team and access for the accused. All members of the defense team received their security clearances on or before 13 October 2011. On 4 November 2011, the prosecution received the final approval necessary for the defense team and accused to access all the charged documents.

Excludable Delay. (1) [Specification 15 document]

(2) OPLAN Bravo directs early planning for, and ensures coordinated and synchronized support of, all aspects of the Article 32 proceeding. In order, OPLAN Bravo requires the command to coordinate travel, security, public affairs, infrastructure support, including Department of Army assets for movement and interagency support for both the substance and administration of the above-referenced case. The mission's key tasks include

safely and securely transporting and maintaining custody of the accused, providing physical security and support at all stages of the proceeding, and conducting public affairs and media support. The command, including its subordinate units and staff sections, requires thirty days to initiate OPLAN BRAVO to execute the specified tasks outlined in Enclosure 4, including allowing adequate time for contracts to be executed. OPLAN BRAVO and its associated tasks/requirements do not begin until you restart the Article 32 investigation. [Delay approved by SPCMCA on 16 November 2011 excluding delay from 22 April – 16 December 2011]

3 January 2012 Accounting Memorandum: Excluded delay from 16 November 2011 – 15 December 2011 based upon:

a. OCA reviews of classified information
b. OCA consent to disclose classified information
c. Defense request for results of OCA reviews (26 August 2010)
d. 27 October 2011 Government request for delay

Conclusions of Law:

The decision by the Government to obtain all relevant OCA reviews and CCIU reports and to have both approved for release to the Defense was reasonable under the unique circumstances of this case. Without the OCA reviews and CCIU reports, the Government would likely not be able to prove its case and would be vulnerable to a challenge of a defective Article 32 investigation. The request by the Defense for the SPCMCA to provide substitutions or summaries for the OCA reviews and the CCIU forensic reports is not practicable. The SPCMCA could not provide summaries or substitutions without coordination and approval of each of the equity holders involved. The information would have to be properly classified before summaries/substitutions could be negotiated, taking even more time. The Government worked diligently to obtain approvals to disclose the evidence it intended to present at the Article 32 investigation, to obtain protective orders governing the use of the classified and law enforcement sensitive discovery, and to prepare the discovery with appropriate classification markings prior to production.

The systematic approach developed and maintained by the prosecution team and the SPCMCA to develop discovery and data tracking systems and monthly updates to track the progress of the case is one that should be encouraged, particularly in a complex case such as this involving a large number of federal agencies to coordinate with and voluminous information.

Each of the seven Government requested delays was for specific reasons that had nexus to the delays granted. Each delay was for a maximum of 30 days wherein the SPCMCA received an update as to the status of the case and the outstanding evidence and approvals necessary for the Article 32 to commence. The Government sent follow up requests to expedite the OCA reviews citing the importance of the Accused's right to a speedy trial. During each 30 day period there was progress in the case. Both the complexity of the case and the highly classified nature of the evidence provided the good cause for the reasonable period of delay.

The final 30 day delay to restart the Article 32 for the implementation of the pre-planned OPLAN Bravo was a reasonable delay to provide for the extensive coordination and logistics necessary for a high profile case such as this one involving voluminous classified information and requiring heightened security for all the trial participants.

The SPCMCA did not abuse his discretion in granting each of the Government requested excludable delays from 22 April 2011 – 16 December 2011.

RULING: With the 6 days added to the speedy trial clock and discounting properly excluded delay, the Accused was brought to trial in 90 days, well within the 120 days required by RCM 707. The Defense motion to dismiss the charges for violation of RCM 707 is **DENIED.**

Sixth Amendment and Article 10:

The Law:

Sixth Amendment – The Sixth Amendment speedy trial protection does not apply to pre-accusation delays when there has been no restraint. *United States v. Reed*, 41 M.J. 449 (C.A.A.F. 1995). In this case the Accused has been restrained pursuant to UCMJ charges since 27 May 2010. This date triggers Sixth Amendment speedy trial protection. *United States v. Marion,* 404 U.S. 307 (1971). The date trial begins ends Sixth Amendment analysis. In this case, trial is set to begin on 3 June 2013. In addressing Sixth Amendment speedy trial claims, the Supreme Court set out four factors: 1) the length of the delay; 2) the reasons for the delay; 3) the assertion of the speedy trial right; and 4) the prejudice to the Accused. *Barker v. Wingo,* 407 US 514 (1972). When an Accused's right to a speedy trial is violated, the remedy is dismissal with prejudice. RCM 707(d)(1).

Article 10 - Article 10, UCMJ, is "more stringent" or "more exacting" than the Sixth Amendment, and provides "greater protections for persons subject to the UCMJ than does the Sixth Amendment speedy trial right." *United States v. Cooper*, 58 M.J. 54, 60 (C.A.A.F. 2003)(citing *U.S. v. Kossman*, 38 M.J. 258, 259 (C.M.A. 1993)) ("greater protections"); *see also U.S. v. Cossio*, 64 M.J. 254, 256 (C.A.A.F. 2007) ("more stringent"); *United States v. Mizgala*, 61 M.J. 122, 124 (C.A.A.F. 2005)("more exacting") (citations omitted). The Government must take immediate steps toward trial. Immediate steps does not mean constant motion but reasonable diligence in bringing charges to trial during the Accused's pretrial confinement. Brief periods of inactivity are not fatal to an otherwise active, diligent prosecution. Although Article 10 is more stringent than the Sixth Amendment, the same four *Barker v. Wingo* factors used to determine whether there has been a Sixth Amendment speedy trial violation also applies when determining whether there has been an Article 10 violation. If the length of the delay is not facially unreasonable, the remaining three *Barker* factors do not require analysis. *United States v. Schuber,* 70 M.J. 181 (C.A.A.F. 2011). The Government's requirement to exercise reasonable diligence in bringing the charges to trial does not terminate at arraignment but continues to the date of trial. *United States v. Cooper*, 58 M.J. 54 (C.A.A.F. 2003). Government compliance with RCM 707 doesn't prevent the Government from violating Article 10. *United States v. Birge,* 52 M.J. 209 (C.A.A.F. 1999).

Waiver - A plea of guilty waives any speedy trial issue as to that offense except a litigated speedy trial motion under Article 10, UCMJ. *United States v. Mizgala*, 61 M.J. 122, 124 (C.A.A.F. 2005).

Sixth Amendment/Article 10 - Article 10 is more stringent than the 6th Amendment. Both are analyzed using the *Barker v. Wingo* factors. The Court will address both the 6th Amendment and Article 10 using the more strict Article 10 analysis.

Findings of Fact: Pre-Referral:

The chronology at the appendix and the findings of fact made with respect to the motion to dismiss for violation of speedy trial under RCM 707 are applicable to the Sixth Amendment/Article 10 analysis.

The existence of voluminous amounts of classified materials impacted not only the length of the investigation and discovery process, but the length of the RCM 706 Board.

Conclusions of Law: Pre-Referral:

1. Length of the Delay The Accused was placed in pretrial restraint on 27 May 2010. His trial is scheduled to begin on 3 June 2013. Thus, the Accused will have been in pretrial confinement for slightly over three years when trial begins. This is a lengthy delay that triggers the *Barker* analysis. The length of delay in this case must consider the time necessary to investigate and prosecute a uniquely complex case such as this one involving rolling leaks of classified information by WikiLeaks, multiple classified administrative and law enforcement investigations, a voluminous amount classified information, and required coordination among the Government and multiple agency equity holders to charge, disclose, and use the classified information at trial.

2. Accused's Demand for Speedy Trial On 9 and 13 January 2011 and, again, on 25 July 2011, the Accused demanded a speedy trial. Thus, as of 9 January 2011, the Government was on notice that the Accused wanted a speedy trial.

3. Prejudice to the Accused The Accused has been restrained since 27 May 2010. The prejudice prong of the *Barker* speedy trial analysis was designed (1) to prevent oppressive pretrial incarceration (2) to minimize anxiety and concern of the Accused; and (3) to limit the possibility that the Defense will be impaired. The Defense argues that the Accused was oppressively incarcerated in MCBQ and suffered increased anxiety beyond the norm while confined in TFCF and MCBQ. The Accused was in mental health treatment for anxiety before he went into pretrial confinement. As the Accused's mental health deteriorated in TFCF, the Government expeditiously transferred the Accused out of theatre at the request of mental health professionals. While this Court held on 7 January 2013 that the Government's maintenance of the Accused in prevention of injury (POI) status for certain periods of time while at MCQB was excessive in relation to the legitimate Government interest of preventing injury, the Court granted the Accused 112 days of sentence credit for violation of Article 13, UCMJ. The Court also notes that the Accused was in MCQB from 28 July 2010 – 20 April 2011, the period the RCM 706 board proceedings was continued at the request of the Defense. Since 21 April 2011, the Accused has been confined at the Joint Regional Confinement Facility (JRCF) at Fort Leavenworth, Kansas in medium custody. Other than the length of confinement itself, the Court does not find that the accused was in oppressive confinement or suffered undue anxiety beyond the normal incidents of confinement. The Court finds no evidence that the Defense will be impaired from the delay.

4. Reasons for the Delay – 27 May 2010 and 22 April 2011 Between 29 May 2010 and 28 July 2010, the accused was confined in Kuwait, a deployed theatre. His mental health was deteriorating to the point where he was placed on 1:1 suicide watch on 30 June 2010. The Government was working to find a more stable confinement facility that was not in a deployed theatre and had adequate mental health facilities and providers to treat the accused. On 28 July 2010, the Accused was transferred to MCBQ and jurisdiction of the case transferred to MDW. The original Article 32 hearing was scheduled for 14 July 2010. On 11 July 2010, the Defense requested a delay in the Article 32 hearing for an RCM 706 evaluation of the Accused. On 12 July 2010, the Defense requested a delay in the Article 32

investigation for an RCM 706 board and until the Accused made decisions on retaining civilian counsel and civilian experts. The Accused retained civilian counsel on 25 August 2010. The SPCMCA approved the RCM 706 board. The Board President advised the parties the board would begin on 27 August 2010. On 25 August 2010, the Defense requested a delay in the RCM 706 board until a forensic psychiatrist was appointed to the Defense team. On 26 August 2010, the Defense requested a delay in the RCM 706 board until procedures could be adopted to safeguard any classified information that would be disclosed during the board's determinations. On or about 2 September 2010, the Defense requested TS-SCI security clearances for each Defense member to include experts. On 17 September 2010 and 22 September 2010, the SPCMCA ordered a Preliminary Classification Review (PCR). This review, conducted by the Defense security expert, was completed on 13 December 2010. At that time, the original RCM 706 board members remained on the board. The President proposed a substitute third member who had more time to devote to the Board. As a result of the PCR, TS-SCI clearances were processed for the RCM 706 Board members. The clearances were approved 31 January 2011 and the SPCMCA ordered the Board to resume on 3 February 2011. The Board scheduled tests and an unclassified interview with the accused on 16 and 17 February 2011 with a classified interview on 1 March 2011. On 21 February 2011, the Defense advised the Government that it wished to interview the Accused before the RCM 706 Board conducted its classified interview. Coordinating the Defense interview prior the RCM 706 Board interview caused delay in scheduling the RCM 706 interview, which ultimately took place on 9 April 2011. The Board completed its report on 22 April 2011. The Court finds that the Government acted diligently in the transfer of the Accused to MCBQ and the processing of the RCM 706 Board. The delay from resulting from the completion of the RCM 706 board from 3 March 2011 until 22 April 2011 was reasonable in light of the scheduling conflicts resulting from the Defense request to interview the Accused prior to the classified interview with the RCM 706 board.

While the RCM 706 Board was awaiting the results of the PCR, the Government was moving the case forward in other respects. The CCIU investigation was uncovering additional alleged misconduct involving classified information by the Accused that was not in the original charges. The Government was working with investigators to understand the extent of the alleged misconduct and with other agencies, to include DOS, DOD, and OGA1, to determine which disclosures of classified information should be charged and to obtain approvals to charge that information. The Government requested OCA reviews of the classified information in the 5 July 2010 charges. On or about 3 November 2010, additional digital media was discovered by a search of the Accused's Aunt's house. The evidence clearly shows that the Government was acting diligently to move the case forward from 25 May 2010, when the Government learned of the alleged disclosure of classified information by the Accused to 22 April 2011.

Reasons for the Delay – 23 April - 16 December 2011 – The reasons for the delay for this period are set forth above in the Government Delay portion of the RCM 707 analysis.

5. Balancing the four factors On balance, the reasons for the delay justify the length of the delay. This is a complex case involving multiple government agencies and entities, and which requires an almost unfathomable amount of coordination and man-power. The Accused is charged with stealing more than 700,000 documents from classified databases. The conduct giving rise to the charges resulted in reaction by over 60 governmental organizations. The classified information posted to WikiLeaks was not released on a single day, but continued for eighteen months, starting and restarting the criminal investigation and agency reactions.

In order to prove the majority of the specifications, the Government has to prove the classification of the charged documents at the time of the offense, and a classification review was a necessary step toward that end. Therefore, the classification reviews were necessary for the Article 32 investigation and the Article 32 IO considered the classification reviews in order to determine whether information charged was properly classified.

The Court is not persuaded that the complexity of the case hinges on the Government's charging decisions. Indeed, the breadth of the alleged misconduct, and the number of government organizations affected, is what makes this case complex and unprecedented. Furthermore, the nature of the evidence and documents in this case, classified information emanating from often over-lapping OCAs, compels a finding by this Court that the delay was not for an unreasonable length of time in light of the reasons for the delay.

The Government assiduously worked to bring this case to trial. Prior to 11 March 2011, the Government made informal requests to each organization with ownership of charged information for classification reviews of that information. These informal requests were perfected in written memoranda to each of the OCAs on 18 March 2011, and approximately every 30 days thereafter. The Government diligently and repeatedly educated the OCAs about the Accused's speedy trial rights and warned of the dangers of non-compliance. The Government set short suspense dates for the OCAs to complete their classification reviews, however the Government had no mechanism to enforce these suspense dates. In addition, the Government frequently requested updates from the OCAs on the classification review process. The Government was coordinating among multiple federal agencies to obtain permission to disclose classification reviews, classified charged documents, classified evidence (including digital media and audit data or "logs" collected from SIPRNET systems), and classified damage assessments (which often contained synthesized information, requiring significant interagency coordination).

Both the complexity of the case and the highly classified nature of the evidence provided the good cause for the reasonable period of delay. There is no evidence that the delay was an effort to gain a tactical advantage over the Accused or that the Government could have gone to trial earlier but negligently or spitefully refused to do so.

Post-Referral - The Defense maintains that the Government violated Article 10 by impeding Defense discovery and taking the following meritless positions throughout discovery in this case: (a) Maintaining that *Brady* does not require the Government to turn over documents that are relevant to punishment; (b) Maintaining that RCM 701 does not apply to classified discovery; (c) Disputing the relevance of facially relevant items (such as damage assessments); (d) Using the RCM 703 standard, instead of the appropriate RCM 701 standard when dealing with items within the military's possession, custody and control; (e) Referring to damage assessments and other documents as "alleged" to frustrate the Defense's access to them; (f) Maintaining that the DOS and ONCIX had not "completed" a damage assessment; (g) Maintaining that it was "unaware" of forensic results and investigative files; (h) Resisting production of the DOS damage assessment under the "authority" of *Giles v. Maryland*, 386 U.S. 66, 117 (1967) (which provided no legal support for its position); (i) Despite understanding Defense discovery requests, defining "damage assessments" and "investigations" to avoid producing discovery. After instructing the Defense that it should not use the term "damage assessments" to refer to informal reviews of harm (instead, to use "working papers"), then referring to working papers as "damage assessments"; (j) Insisting on a threshold of specificity for *Brady* requests that does not exist or some additional showing of relevance; (k) Maintaining that the FBI investigative file was not

material to the preparation of the defense; (l) Maintaining that anything that predated the DOS damage assessment was not discoverable because it was "likely" cumulative; (m) Arguing with the Court at length about whether the Government was obligated to turn over documents that were obviously material to the preparation of the defense absent a "specific request"; (n) Waiting until two days before the Defense's Article 13 filing before reviewing 1374 emails from Quantico which it had in its possession for over six months. The Defense avers that the Government advanced each of these positions in an attempt to frustrate the Defense's access to discoverable information causing delay in the Defense receiving discovery and delay in the time taken to litigate the discovery issues. The Defense further maintains that the Government violated Article 10 by causing the following discovery delays: (1)The Government's failure to search its own files in a timely manner; (2) The Government's failure to conduct a timely *Brady* search of the files of non-military agencies; (3) The Government's failure to review any discovery from DOS for nearly two years; (4) The Government's "discovery" of the FBI impact statement, DHS damage assessment, and OGA1 second damage assessment. In its reply brief, the Defense also alleges that delay has been caused by DOS *Touhy* requirements that have prohibited the Defense from interviewing DOS witnesses.

Findings of Fact: Post-Referral:

The case was referred on 3 February 2012. Prior to referral the Defense filed the following discovery requests (29 October 2010, 1 November 2010, 15 November 2010, 8 December 2010, 10 January 2011, 19 January 2011, 16 February 2011, 17 February 2011, 13 May 2011, 25 May 2011, 21 September 2011, 13 October 2011, 15 November 2011, 16 November 2011, and 20 January 2012). Some of the particular requests were specific (for example – 15 November 2010 request (h) – The results of SA Calder L. Robertson III and SA David S. Shaver's analysis of any computers analyzed in this case as well as copies of any investigative notes or assessments by CCIU. Additionally, the names of all individuals from CCIU or any other government agency that have performed or are performing computer analysis in this case.). Other particular requests were not specific and overbroad (For example, 8 December 2010 request (f) Any assessment given, or discussions concerning, the WikiLeaks disclosures by any member of government to President Obama. Any e-mail, report, assessment, directive, or discussion by President Obama to the Department of Defense, Department of State, or Department of Justice.)

On 16 February 2011, the Defense requested access to all classified information that the Government intended to use in this case to include any damage assessment or information review conducted by any government agency or at the direction of any government agency. On 13 October 2011 and 1 November 2011, the Defense reiterated its discovery request for damage assessments of the alleged leaks from Government agencies. On 16 November 2011, the Defense also asked for damage assessments.

On 20 January 2012, the Defense requested the Government answer the following questions:

a. Does the Government possess any report, damage assessment or recommendation by the WikiLeaks Task Force or any other CIA member, Information Review Task Force (IRTF), DOJ, DOS, ODNI, DIA, ONCIX concerning the alleged leaks in this case? If yes, please indicate why these items have not been provided to the Defense. If no, please indicate why the Government has failed to secure these items.

b. Does the Government possess any report, damage assessment or recommendation as a result of any

joint investigation with the Federal Bureau of Investigation (FBI) or any other governmental agency concerning the alleged leaks in this case? [Same "yes/no" follow up as in (a)].

On 12 April 2011, the Government responded to the 1 November 2010 Defense discovery request for damage assessments that "The United States is not currently in possession of this information and will make a determination whether to provide the information when it becomes available." On 27 January 2012, the Government replied to the Defense discovery requests and the above questions. In response to the request for all damage assessments conducted by OCAs, the Government response was "The United States will provide a response to this request no later than 3 February 2012." On 31 January 2012, the Government replied to the Defense discovery requests for damage assessments by OCAs and government agencies "The United States will not provide the requested information. The defense has failed to provide an adequate basis for its request. The defense is required to renew its request with more specificity and an adequate basis for its request."

On 6 October 2011, the Government submitted written requests to DOS, FBI, ODNI, OGA1, and OGA2 to review any alleged damage assessments. Most of the damage assessments are classified and many of those damage assessments, particularly those produced by the Intelligence Community, contained classified information synthesized from other government organizations, requiring significant agency coordination to disclose to the Defense. The request to review the DOS damage assessment was denied. The Government was not authorized to review the DOS damage assessment until 17 April 2012.

On 29 July 2011, the IRTF completed its Final Report. On 25 October 2011, the Government requested approval to disclose the classified IRTF Final Report to the defense. DIA reviewed the report and identified multiple government organizations with equities in the report. The prosecution coordinated with the government organizations, along with DIA, for approval to disclose the entire report to the defense. The Government moved the Court to approve a substitution on 18 May 2012.

The Government learned of the DHS damage assessment on 19 October 2011 and reviewed it on that date. The Government notified the Defense, but not the Court, of the damage assessment orally on 8 June 2012 and disclosed it to the Defense on 13 June 2012. On 14 September 2012, the Government moved for limited disclosure under MRE 505(g)(2) of a DHS document. The Court conducted an *in camera* review of the document and approved the redaction. The Government provided the DHS document to the Defense on 25 October 2012.

On 12 July 2012, the Government learned that the CIA created a follow on damage assessment and notified the Court. The Government reviewed the report 13 July 2012.

The Government learned the FBI prepared an impact statement on 2 November 2011 and authorized the Government to review it. The Government conducted a cursory review on 2 November 2011 and reviewed the entire impact statement for discovery on 18 April 2012. The Government notified the Court and the Defense of the impact statement on 31 May 2012. The Government did not have authority to disclose the impact statement to the Defense prior to referral. The Government filed an MRE 505(g) motion for limited disclosure. The Court ruled on the motion on 19 July 2012. The Government disclosed the redacted impact statement to the Defense on 2 August 2012.

On 19 April 2011, 28 July 2011, and 15 August 2011, the Government requested approval to disclose the FBI case file and its sub-files relevant to the accused to the Defense. The FBI case file is classified.

The FBI provided the prosecution with a copy of the FBI file relating to the accused on 25 August 2011 for the sole purpose of reviewing for exculpatory/impeachment material. On 2 January 2012, the Government requested a meeting with the FBI to discuss discovery. On or about 1 February 2012, the Government completed its review of the FBI file relating to the Accused. On 7 February 2012, the Government began negotiating with DOJ and FBI to disclose all requested information to the Defense. The FBI would not approve disclosure to the defense, absent a military judge to issue a Protective Order. The Court signed the Protective Order on 16 March 2012. The Government disclosed the approved FBI file to the Defense, and the remaining information on 12 April 2012, 15 May 2012, and 21 May 2012. On 22 June 2012, the Court granted the Defense Motion to Compel #2 for the FBI files minus grand jury testimony. On 3 August 2012 the Government filed a Motion to Authorize Limited Disclosure under MRE 505(g)(2). On 21 August 2012, the Court, after conducting an *ex parte* review of the FBI file, ordered the Government NLT 14 September 2012 to identify numerically each proposed redaction by Bates number and provide the Court with a justification for each proposed redaction and to identify whether each proposed redaction has been made available to the Defense from another source. On 14 September 2012, the Government filed a supplemental MRE 505(g)(2) motion with the Court. On 25 October 2012, the Government produced the Court approved FBI files to the Defense.

At or near 15 December 2011, the Government advised the Article 32 IO that the damage assessments were classified, that the Government did not have authority to discuss the substance of the damage reports, and that all but the IRTF are not under the control of military authorities.

The Government did not have authority to disclose any of the damage assessments to the Defense prior to referral on 3 February 2012.

The Court set this case for arraignment on 23 February 2012. At the arraignment, the Defense filed a Motion to Compel Depositions (AE VII), a Request for a Bill of Particulars (AE VI), and a Motion to Compel Discovery (AE VIII)(all dated 14 February 2012). The Court set these motions on the calendar for the first substantive article 39(a) session on 15-16 March 2012. The Court also signed the Protective Order for Classified Information on 16 March 2012 (AE XXXII).

Prior to ruling on the Defense Motion to Compel Discovery (23 Mar 12, AE XXXVI), the Court was unclear on the existence/status of the damage assessments at issue. At the Article 39(a) session on 15-16 March 2012, the Government responded that it didn't have authority to confirm or deny the existence of the damage assessments. To clarify the record, the Court, via email, asked the Government the following questions and received the following responses:

QUESTIONS:

1. Is each in the possession, custody, or control of military authorities?

Government Response: -

a. Defense Intelligence Agency (DIA) and the Information Review Task Force (IRTF)- Yes, the classified document itself is in the possession of military authorities (DIA); however, the document contains material from other Agencies and Departments outside the control of military authorities. The military controls the document itself, but not all the information within its four corners.

b. Wikileaks Task Force (WTF)- No.

c. Department of State (DOS) -DOS has not completed a damage assessment.

d. Office of the National Counterintelligence Executive (ONCIX)- ONCIX has not produced any interim or final damage assessments in this matter.

2. If no, what agency has custody of each of the damage assessments?
Government Response:
WTF - The Central Intelligence Agency has possession, custody, and control.

3. Does the Prosecution have access to the damage assessments?
Government Response:

a. DIA and IRTF- The prosecution was given limited access for the purpose of reviewing for any discoverable material. The prosecution only has control of the information within the document that is owned by the Department of Defense (military authority).

b. WTF - The prosecution was given very limited access for the purpose of reviewing for preparation of the previous motions hearing. The prosecution will have future access to complete a full review for *Brady* material, as outlined below.

4. Has the Prosecution examined each of the damage assessments for Brady material?
Government Response:

a. DIA and IRTF- Yes.
b. WTF -No.

4a. If yes, is there any favorable material?
Government Response:
DIA and IRTF- Yes; however, the United States has only found classified information that is "favorable to [the] accused that is material... to punishment." *Cone v. Bell*, 129 S.Ct. 1769, 1772 (2009); see also *Brady v. Maryland*, 373 U.S. 83, 87 (1973). The United States has not found any favorable material relevant to findings.

4b. If no, why not?
Government Response:
WTF- The prosecution has only conducted a cursory review of the damage assessment in order to understand what information exists within the Agency, and has not conducted a detailed review for *Brady* material. This process is ongoing and the prosecution will produce all "evidence favorable to [the]accused that is material to guilt or to punishment[]" if it exists, under the procedures outlined in MRE 505, *Cone v. Bell*, 129 S.Ct. at 1772; see also *Brady v. Maryland,* 373 U.S. at 87. Additionally, the United States is concurrently working with other Federal Organizations which we have a good faith basis to believe may possess damage assessments or impact statements, and will make such discoverable information available to the defense under MRE 505.

Based on the responses the Government gave to the questions of the Court, on 23 March 2012, the Court ruled on the Defense Motion to Compel Discovery, required the Government to produce the IRTF, WTF, and DOS damage assessments for *in camera* review by 18 May 2012. The Court did not require an ONCIX damage assessment be produced for *in camera* review because the response by the Government led the Court to believe an ONCIX damage assessment did not exist.

Prior to answering the Court's questions, the Government had telephonic and email communication with ODNI (answering for ONCIX) regarding the status of any ONCIX damage assessment. "To date, ONCIX has not produced any interim or final damage assessment in this matter. ONCIX is tasked with preparing a damage assessment. However, that draft damage assessment is currently a draft and is incomplete and continues to change as information is compiled and analyzed. Damage assessments can take months or even years to complete, and given the sheer volume of disclosures in this case we

do not know when a draft product will be ready for coordination, much less dissemination." ODNI did not authorize the Government the authority to provide the language below the first sentence to the Court (Government Interrogatory, Q 218, AE CDV).

In its response to the Defense Motion to Compel Discovery, in an email to the Court, and during oral argument, the Government argued that RCM 701 does not apply to classified discovery. This resulted in the Defense filing a Motion to Dismiss on 15 March 2012 (AE XXXI).

The Court denied the Motion to Dismiss on 25 April 2012 (AE LXVIII) ruling as follows:

1. In trial by general court-martial in the military justice system, charges are preferred against an accused, the charges are investigated by an Article 32 investigating officer, and forwarded with recommendations to the convening authority who makes a decision whether to refer the case to trial. RCM 307, 405, 406, 407, 504, and 601.

2. In this case the original charges were preferred on 5 July 2010 and dismissed by the convening authority on 18 March 2011. The current charges were preferred on 1 March 2011. The Article 32 investigation was held 16-22 December 2011. The convening authority referred the current charges to trial by general court-martial on 3 February 2012.

3. Unlike trials in Federal District Court, a military judge is not detailed to a court-martial until the case is referred. This case was referred on 3 February 2012. Article 26(a), UCMJ.

4. RCM 701 and RCM 703 govern discovery and production of evidence after a case has been referred for trial by the Convening Authority and a military judge has been detailed.

5. The President promulgated RCM 701 to govern discovery and RCM 703 to govern evidence production after referral. The rules work together when production of evidence not in the control of military authorities is relevant and necessary for discovery. *U.S. v. Graner,* 69 MJ 104 (C.A.A.F. 2010). The requirements for discovery and production of evidence are the same for classified and unclassified information under RCM 701 and 703 unless the Government moves for limited disclosure under MRE 505(g)(2) or claims the MRE 505 privilege for classified information. If the Government voluntarily discloses classified information to the defense, the protective order and limited disclosure provisions of MRE 505(g) apply. If, after referral, the Government invokes the classified information privilege, the procedures of MRE 505(f) and (i) apply.

6. From the 8 March 2012 Government response to Defense Motion to Compel Discovery and its email of 22 March 2012, the Court finds that the Government believed RCM 701 did not govern disclosure of classified information for discovery where no privilege has been invoked under MRE 505. This was an incorrect belief. The Court finds that the Government properly understood its obligation to search for exculpatory *Brady* material, however, the Government disputed that it was obligated to disclose classified *Brady* information that was material to punishment only. The Court finds no evidence of prosecutorial misconduct.

7. Although the RCM and military case-law encourage early and open discovery, the Defense does not have a right to discovery under RCM 701 or *Brady* prior to referral on 3 February 2012.

8. Most of the information contained in the damage assessments requested by the Defense is

maintained by other government agencies. To obtain such information from other Government agencies under RCM 703(f)(4)(A), whether discoverable under RCM 701 or not, requires the Defense to show relevance and necessity. The Government does not have authority to compel production of evidence from other government agencies under RCM 703(f)(4)(A) until after referral.

9. As the Court held in its 23 March 2012 ruling re: Motion to Compel Discovery, the fact that information controlled by another agency is discoverable under RCM 701 may make such information relevant and necessary under RCM 703 for discovery.

10. The Government has requested 13 departments, agencies, and commands to segregate and preserve records involving WikiLeaks and requested information potentially discoverable from more than 50 additional agencies. This is a complex case involving voluminous classified information in the custody of multiple government agencies who have national security concerns with the disclosure of this information. As of 12 April 2012, the Government has produced 2,729 unclassified documents, consisting of 81,273 pages, and 41,550 classified documents totaling 336,641 pages. To secure this release, the Government coordinated with multiple government agencies to issue protective orders under MRE 505(g) and court orders for release of grand jury matter.

11. It is not unreasonable for Government agencies possessing potentially discoverable classified information to await the detail of a military judge to litigate issues of relevance, materiality, and necessity, and, subsequently, to litigate issues arising under MRE 505 and MRE 506 prior to releasing classified discovery to the Trial Counsel to disclose to the Defense.

12. The Defense moved to compel the discovery it desires on 14 February 2012, 11 days after referral. On 23 March 2012, the Court ordered the Government: to immediately begin the process of producing the damage assessments for *in camera review* to assess whether they are favorable or material to the preparation of the defense under RCM 701(a)(6), RCM 701(a)(2), and *Brady*; to immediately cause an inspection of the 14 hard drives; to contact DOS, FBI, DIA, ONCIX, and CIA to determine whether any of these agencies contain any forensic results or investigative files relevant to this case; to advise the court by 20 April 2012 whether it anticipates any government entity that is the custodian of classified information subject to the defense motion to compel will seek limited disclosure IAW MRE 505(g)(2) or claim a privilege IAW MRE 505(c); and by 18 May 2012 to disclose any favorable unclassified information from the 3 damage assessments to the Defense and all classified information from the 3 damage reports to the Court for *in camera review*.

13. The parties' proposed trial schedules anticipate trial taking place between late September and November 2012 absent the unanticipated filing of additional motions. Litigation of disputed discovery is taking place well before trial. There is no discovery or *Brady* violation in this case.

The Court published its first scheduling order on 25 April 2012. As with each subsequent scheduling order, the schedule was coordinated with and agreed to by the parties. The Court received "reply" responses from the parties on the eve of the 15-16 March 2012 Article 39(a) session. The parties advised the Court that they wanted to continue to file "replies", thus, time was built into the schedule. This and each subsequent trial schedule had an approximately 6 week time frame – two weeks for filings, two weeks for responses, 5 days for replies, and one week for the Court to consider all the filings. The 25 April 2012 calendar scheduled the trial 24 September – 12 October 2012.

The Government has consistently maintained it would need 45-60 days to process Defense MRE

505(h) notices and it would need 60 days notice prior to trial because of the number of witnesses to coordinate schedules.

The next article 39(a) session to litigate motions was 6-8 June 2012.

a. On 10 May 2012, the Government filed a Motion to Reconsider the Court's Ruling to compel production of the DOS Damage Assessment for *in camera* review because the damage assessment was a draft (AE LXXI). On 11 May 2012, the Court granted the Government's motion to reconsider and denied the Motion to find that a draft assessment is not discoverable (AE LXXXVI). On 24 May 2012, the Government wrote a letter to the Deputy General Counsel, ODNI, requesting access to the most recent version of the ONCIX damage assessment because the Court's ruling that the DOS draft damage assessment was discoverable would also apply to the ONCIX draft. On 30 May 2012, ODNI responded to the Government that ODNI expected a coordinated version of the damage assessment to be available by 13 July 2012 and that it was their strong preference that Government review take place on or after that date to avoid the need to review multiple versions of the draft. On 31 May 2012, the Government notified the Court that there was a draft ONCIX damage assessment that would be made available NLT 3 August 2012, the date in the 25 April 2012 scheduling order for the next production of compelled discovery. The Government moved for MRE 505(g) limited disclosure of the ONCIX damage assessment which was granted by the Court. The damage assessment was disclosed to the Defense on 23 August 2012.

b. On 10 May 2012, the Defense filed a Motion to Compel Discovery #2 and 30 May 2012 Supplement to the Motion to Compel Discovery (AE XCIX) scheduled among the motions for litigation 6-8 June 2012. In the Supplement to the Motion, the Defense requested the Court produce DOS witnesses to testify about the following subjects to clarify the record about what DOS information exists that may be discoverable. On 4 June 2012, the Court ordered DOS witnesses to appear and testify during the 6-8 June 2012 article 39(a) session (AE CXXII). On or about 8 June 2012, the Government Moved the Court to delay ruling on the Defense Motion to Compel Discovery #2 to search for the DOS records requested by the Defense. The Court granted the motion on 8 June 2012 (AE CXLII) and ruled on the Defense Motion to Compel #2 on 22 June 2012 (AE CXLVII). The Court granted the Defense motion in part and ruled in favor of the Government in part. The Court ordered the Government to advise the Court if any agency would seek limited disclosure under MRE 505(g)(2) or claim a privilege by 25 July 2012 and ordered production of discoverable material not involving MRE 505 on 3 August 2012. The Court clarified its ruling on 25 June 2012 (AE CLXXVI).

c. On 10 May 2012, the Defense filed a Motion for Due Diligence and for a 2-3 month continuance after receipt of completed discovery until the start of trial. This motion was not on the case calendar. Part of the Defense motion was a 17 April 2012 Memorandum for Principal Officials of HQDA stating that "it was only recently determined that no action had been taken by HQDA pursuant to the 29 July 2011 memorandum from DoD OGC to HQDA requesting it to task Principal Officials to search for, and preserve, any discoverable information. On 25 June 2012, the Court granted the motion and ruled it would provide a reasonable continuance to the Defense upon receipt of compelled discovery to prepare their case. The Court opined "This is a complex case involving multiple federal government agencies and entities. The Court is not clear what identifiable files pertaining to PFC Manning relevant to this case are maintained by various agencies..., what inquiries the Government has made to discover the existence of agency files pertaining to PFC Manning, when the Government became aware of the existence of particular agency files, and what files the Government has examined under RCM 701(a)(6), *Brady*, and/or RCM 701(a)(2). This Court must rule upon motions to compel

discovery that have been filed in this case and a speedy trial motion to be filed by the Defense. One document containing the information...will assist the Court in addressing discovery and speedy trial issues." The Court found no lack of due diligence by the Government and reserved ruling on that issue until this speedy trial litigation.

With respect to the 17 April 2012 Memorandum, the Government submitted its initial Prudential Search Request (PSR) to DoD on 25 May 2011 and 6 June 2011 through DoD Office of General Counsel (DoD OGC). On 29 July 2011, DoD OGC disseminated the PSR to all relevant DoD departments to include HQDA. The Government worked through the Office of the Judge Advocate General (OTJAG) as a conduit to HQDA. On 4 October 2011, the Government obtained files from the Joint Staff responsive to the PSR. Because the Government was preparing its 8-9 November and 18-19 November 2011 briefings for the Accused and the Defense and for the 16-23 December 2011 Article 32 investigation, the Government did not review the DoD files until 5 January 2012. During this review, the Government learned the HQDA information was not within the DoD material. The Government contacted DoD on 5 January 2012 and OTJAG on 10 January 2012. OTJAG sent the 17 April 2012 memorandum to HQDA. On 27 April 2012 the Government obtained files responsive to the PSR from Army G2. On 11 May 2012, the Government received the HQDA files responsive to the request. The Government reviewed the files and disclosed *Brady* and discovery material to the preparation of the defense to the Defense. Although MDW and HQDA are Army entities, HQDA files are not MDW files. There was no negligence on the part of the Government with respect to the HQDA files.

The next Article 39(a) session took place 16 - 19 July 2012. On 9 July 2012, the Government filed a motion notifying the Court of the volume of DOS records gathered pursuant to the 22 June 2012 order of the Court (5000 documents, most of it classified). The Government moved the Court not to compel discovery or to grant the Government 45-60 days to review the information and determine whether seek limited disclosure or invoke a privilege. The Defense opposed. On 19 July 2012, the Court granted the Defense Motion to Compel Discovery of DOS records and ordered the Government to disclose all discoverable information to the Defense by 14 September 2012 or submit the discoverable information to the Court for limited disclosure under MRE 505(g)(2) or invoke a privilege under MRE 505(c). After the Article 39(a) concluded, the parties and the Court met in an RCM 802 session to discuss the Court schedule in order to split the Article 13 and Speedy Trial motions to separate Article 39(a) sessions. The parties and the Court agreed to new article 39(a) and trial dates with trial scheduled 4 - 22 February 2013. This court schedule was not memorialized as an appellate exhibit.

The next Article 39(a) session was scheduled 27-31 August 2012. The Article 13 motion was scheduled for litigation. The filing deadline for the Defense Article 13 motion was 27 July 2012. The Defense had advised the Court that the Civilian Defense Counsel would be out of town 27 July – 9 August 2010 for two weeks on a personal matter and would have limited access to automation. On 26 August 2010, the Government sent the Defense 84 emails regarding Marine Corps Brig Quantico (MCBQ). There was an additional 1294 Quantico emails not disclosed to the Defense. The Government received the emails from 2 June 2011 – 5 December 2011, but did not review them until 25 July 2012 to look for Jenks/Giglio material. In its 8 December 2010 discovery request at (m) the Defense requested "Any and all documentation or observation notes by employees of the Quantico confinement facility related to PFC Manning." As the Defense had referenced emails in another section of the discovery request and did not specifically reference emails in this one, the Government did not consider the emails "documents" within RCM 701(a)(2). On 27 August 2012, the Court held an RCM 802 session with the parties to discuss scheduling in light of the 84 emails. Also on 27 July 2012, the Defense filed a Motion for a Continuance (AE 232) to have the Article 39(a) sessions after 27-31

August 2012 and the speedy trial filings continued for two weeks with trial remaining as scheduled 4-22 February 2013. On 1 August 2012, the Court granted the motion (AE 233). The new trial schedule was agreed to by both parties. Also on 1 August 2012, the Government requested a continuance from 3 August 2012 to 14 September 2012 to disclose or obtain limited disclosure or invoke a privilege regarding information classified above the "Secret" level owned by CIA and DHS (AECCXXVIII). After requiring the Government to file a supplemental pleading stating with particularity how review and approvals differ for information classified above the "Secret" level (AE 228), the Court granted the motion (AE CCXXX). At the 27-31 August 2012 Article 39(a) session, the parties and the Court conferred and modified the Court's scheduling order. (AE 286 dated 30 Aug 2012). The new scheduling order scheduled the next Article 39(a) session for 17-18 October 2012 and established new suspense dates for the speedy trial and Article 13 filings. The trial remained scheduled to start on 4 February 2013.

The parties and the Court agreed that because of the potential length of the trial (the Government estimates 12 weeks) and the extensive logistic, administrative, and security support the trial entails, the trial should not take place over the 25 December – 1 January holiday period. Thus, the parties and the Court agreed that the trial should begin early enough in November 2012 to conclude by the holiday period or to start after the holiday period.

On 1 August 2012, the Defense submitted a discovery request to the Government asking for all the remaining Quantico emails. On 17 August 2012 the Defense submitted a Motion to Compel #3 for the remaining Quantico emails (AE CCXXXXIII). The Government voluntarily disclosed 600 of them to the defense, stating in their interrogatory response at question 439 that it was not until the 17 August 2012 motion to compel that the defense finally provided specificity in its motion to compel (AE CDVI). On 14 September 2012, the Court granted the Defense Motion to Compel #3 except for 12 emails (AE AE CCCXVII).

On 14 and 19 September 2012, the Government filed motions for limited disclosure under MRE 505(g) (AE CCCI) – DOS records; AE CCCXX) – DHS record; AE (CCXXII) CIA information; AE CCXXIV and FBI file. On 28 September 2012, the Court ruled on these motions (AE CCCI). The Court held *ex parte* Article 39(a) sessions with the Government regarding the DOS records on 2 October 2012 and the FBI file on 12 October 2012. The Government modified the MRE 505(g)(2) submissions in accordance with the Court's guidance and made the information available to the Defense on or before 25 October 2012 (AE CCLXIII and CDIV). This concluded the Defense requested discovery litigation.

The following two Article 39(a) sessions were held 17 and 18 October 2012 and 7-8 November 2012. At each Article 39(a) session, the trial schedule was modified upon agreement by the parties and the Court (AE CCCLVIII and AE CCCLXXXV). Trial remained scheduled 4 February 2013 – 15 March 2013.

On 22 June 2012, the Government filed its witness list in accordance with the case calendar. DOS had previously required the Defense to file a *Touhy* notice prior to approving Defense interviews of DOS witnesses. On 23 March 2012, the Defense submitted a *Touhy* request to DOS by mail. The Government followed up with a digital copy on 26 March 2012. On 5 April 2012, DOS received the *Touhy* request. The Government followed up approximately 10 times with DOS about the *Touhy* request. After the Government filed its witness list on 22 June 2012, DOS no longer required a *Touhy* letter and made its witnesses available to the Defense. On 9 August 2012, the Defense contacted DOS

to schedule interviews. The attorney responsible was on leave. On 18 October 2012 Article 39(a) session, the Government documented the required MRE 505(h) notice from the Defense prior to interviewing witnesses about classified information (AE CCCLVII7). On 1 November 2012, DOS emailed the Defense to plan for witness interviews.

On 17 November 2012, the Defense submitted notice to the Court that it might renew its motion to Compel Witnesses for its Motion to Dismiss for Violation of speedy trial and requested that the parties discuss the way forward at the next Article 39(a) session (AE CDIV).

The next Article 39(a) session was held 27 November – 2 December 2012 to address the Article 13 motion. It quickly became apparent that seven days was not enough time to present all of the witnesses and evidence for the motion. The trial schedule was once again modified by the parties and the Court to add two additional article 39(a) sessions on 5-7 December 2012 and again on 10 – 12 December 2012 for the Article 13 motion. These changes were announced on the record without a new AE prepared. The parties and the Court again conferred and developed a new trial schedule dated 20 December 2012 (AE CDLIII). This trial schedule contained an "A" and a "B" schedule depending upon whether the Defense filed and/or the Court granted a motion to compel Speedy Trial witnesses. The trial date for schedule A was 18 March – 26 April 2013. The trial date for schedule B was 6-17 March 2013.

The last Article 39(a) session prior to going on record today, was on 16 January 2013. The parties realized that the current trial schedule was not possible in light of the MRE 505(h) notices required to be filed by the Defense for both witness interviews and disclosure of classified evidence at trial. The Government requires 45 – 60 days to process MRE 505(h) notices. At the request of the Court, the parties conferred and proposed the current trial schedule (AE CDLXVI). This trial schedule provides for the Defense to provide rolling MRE 505(h) notices to the Government with a final suspense date of 22 February 2013 and schedules the trial to begin 3 June 2013.

The Law: Post-Referral

Although the RCM 701 and military case-law encourage early and open discovery, the Government's discovery obligations under RCM 701 or *Brady* do not arise prior to referral on 3 February 2012. RCM 701(a)(6) states that the Government shall disclose information favorable to the defense as soon as practicable. In a case such as this one involving disclosure of classified information, it is reasonable to interpret "as soon as practicable" to mean after referral. If the case is not referred, there would be no need to disclose classified information that could reasonably cause harm to the United States to the Defense.

Evidence favorable to the Accused and material to guilt or punishment must be disclosed in sufficient time for the Defense to use it at trial. *U.S. v. Behenna,* 71 M.J. 228, fn 10 (C.A.A.F. 2012) *quoting DiSimone v. Phillips,* 461 F.3d 181, 196-97 (2nd Cir. 2006) (recognizing that there is no bright-line rule for when a disclosure is timely; rather, the question is whether the evidence was disclosed in sufficient time for an accused to take advantage of the information, a determination necessarily dependent on the totality of the circumstances.

As the Court held in its 23 March 2012 ruling on the Defense Motion to Compel Discovery, the fact that information controlled by another agency is discoverable under RCM 701 may make such information relevant and necessary under RCM 703 to be produced for discovery.

Most of the information contained in the damage assessments, FBI report, and other discovery requested by the Defense is maintained by other government agencies. To obtain such information from other Government agencies under RCM 703(f)(4)(A), whether discoverable under RCM 701 or not, requires the Defense to show relevance and necessity. The Government does not have authority to compel production of evidence from other government agencies under RCM 703(f)(4)(A) until after referral.

Conclusions of Law: Post-Referral

The Length of the Delay, Request for Speedy Trial, and Prejudice factors follow the same analysis as for Pre-Referral delay discussed above.

Reasons for the Delay – 3 February 2012 - 3 June 2013 -

The Government did not disclose damage assessments or other classified information requested by the Defense discovery requests prior to referral. The Government did not have authority from the equity holding agencies to disclose this information to the Defense. It is reasonable for an equity holder of classified information to await the detail of a military judge to litigate issues of relevance, materiality, and necessity, and, subsequently, to litigate issues arising under MRE 505 and MRE 506 prior to releasing classified discovery to the Trial Counsel to disclose to the Defense.

The Government requested 13 departments, agencies, and commands to segregate and preserve records involving WikiLeaks and requested information potentially discoverable from more than 50 additional agencies. This is a complex case involving voluminous classified information in the custody of multiple government agencies having national security concerns with the disclosure of this information. To date the Government has produced 526,366 pages of discovery with 437,000 pages of classified discovery. Only 3,435 pages contain MRE 505(g)(2) or MRE 701(g) redactions or substitutions. The Government has not invoked a privilege over any of the information requested in discovery by the Defense. The Government has diligently engaged with the equity holding agencies to maximize disclosure of classified discovery to the Defense.

The Defense moved to compel discovery on 14 February 2012, 11 days after referral. On 23 March 2012, the Court issued its ruling on the motion setting forth the Court's view on the rules of discovery and the interplay between RCM 701, RCM 703 and MRE 505 in this case. The parties had clarity on the rules of discovery after 23 March 2012. The Government has acted in accordance with the Court's rulings in discovery.

With respect to the ONCIX damage assessment, the Government's response to the Court's questions left the Court with the impression there was no ONCIX damage assessment. From the prior contact with ONCIX and ODNI, the Government was aware ONCIX was tasked with collecting information from Federal agencies and drafting a damage assessment. Prior to the Court's 23 March 2012 ruling compelling production of the IRTF, DOS, and WTF damage assessments for *in camera* review, the Government was not authorized by ONCIX or DOS to view what, if any, draft damage assessment these agencies had. The Government was aware the DOS damage assessment was a draft. The Government was not aware of the status of the ONCIX damage assessment, whether it was a compilation of information or whether a draft had taken shape. After the Court's 11 May 2012 ruling that a DOS draft damage assessment was not exempt from discovery because it was a draft, the

Government wrote to ODNI on 24 May 2012 advising them that the Government believed the Court's ruling would apply to any damage assessment ONCIX prepared. On 31 May 2012 the Government advised the Court that ONCIX had a draft damage assessment. This action by the Government shows that the Government was not seeking to mislead the Court regarding the ONCIX damage assessment.

The Government's litigation positions were not frivolous or designed to spitefully thwart the Defense's ability to obtain discovery. Both RCM 701 and MRE 505 envision discovery litigation taking place during pretrial litigation. Both parties are allowed to advance their positions. In this case the Court has rejected positions taken by both sides. For example, the Court rejected the Government position that a draft damage assessment is not discoverable. The Court also rejected the initial position advanced by the Defense that the Government must produce all discovery requested by the Defense for *in camera* review by the Court regardless of relevance. In a case such as this one, with the volume of classified information at issue held by multiple equity holders that could be potentially discoverable, protracted discovery litigation is almost inevitable.

Neither the Government nor DOS intentionally impeded the Defense access to witnesses by requiring *Touhy* notices. Once the 22 June 2012 witness list was filed by the Government, DOS no longer required the *Touhy* notices. DOS emailed the Defense on 1 November 2012 to coordinate witness interviews. These interviews have been taking place in January-February 2013.

The Court finds the Government was not negligent with respect to the DHS damage assessment, the FBI impact statement, discovery of the CIA's creation of a follow-on damage assessment, or discovery of HQDA files.

The fact that the Government waited until the day before the Defense Article 13 filing to review the 1374 Quantico emails the Government had in its possession since between 2 June 2011 and 5 December 2011 is troubling. The Government's position that it waited to review the emails because the review was to look only for Giglio/Jenks material. The Government's position that it not review the emails for documents material to the preparation of the defense because the Defense discovery request was not specific enough and documents do not fall within RCM 701(a)(2) is untenable. The emails were not classified. Although the Defense discovery request stated "documents" and not "emails", emails can be "documents" for purposes of RCM 701(a)(2) as well as Giglio/Jenks material. The Government has an obligation to search information under the control of military authorities in their possession for information discoverable under RCM 701(a)(2). The Court notes, however, the Defense 8 December 2010 discovery request asks only for documents and observations by employees of MCBQ relating to the Accused. The vast majority of the emails at issue are not by employees of MCBQ. The Court further finds that the Government, by giving the Defense the 84 emails the night before their Article 13 filing was due, caused disruption to the Court schedule but it did not cause trial delay. The trial was scheduled for 4-22 February 2012 after the July article 39(a) session. The 30 August 2012 case calendar agreed to by the parties and the Court maintained that trial date. This action by the Government in an otherwise diligent prosecution does not violate Article 10. Even absent an earlier agreement by the parties, this trial would inevitably have been delayed into 2013 with or without the Motion to Compel #3 litigation in light of the 2 weeks of Article 39(a) sessions added to the calendar to litigate the Article 13 motion and the required Defense MRE 505(h) notices and the time required to process them.

The Government advised the Court from the start that it takes between 45 – 60 days to coordinate with agency equity holders to determine whether to disclose information the Court has deemed discoverable

or to provide for limited disclosure under MRE 505(g) or invoke a privilege. Where the Government has needed additional time, the Government has filed for leave of the Court. Court rulings granting leave of the Court to either party for additional time or motions for continuances mean the Court deemed them to be reasonable delay.

The Defense argues that in order to exercise reasonable diligence under Article 10, the Government should have coordinated with equity holder agencies and have been prepared to submit MRE 505(g) substitutions or invoke a privilege prior to the Court ruling on whether the information that is the subject of the litigation is discoverable. Article 10 does not require this pre-positioning. It is impractical and would have the Government and the equity holder agency or entity spend potentially vast amounts of time gathering information and proposing redactions and substitutions to information the Court ultimately orders is not relevant or discoverable.

Balancing the 4 Factors: As with the pre-referral delay, the reasons for the delay justify the length of the delay. The test for Article 10 isn't whether the Government could have acted with greater speed, it is whether the Government acted with reasonable diligence. In this case, it did.

The Court has reviewed all the classified filings filed by the parties with respect to this motion. The classified filings are consistent with the Court's ruling.

Ruling: The Court added six days to the RCM 707 clock. Discounting properly excluded delay, the Accused was arraigned within 120 days of imposition of restraint. The Defense Motion to Dismiss for Lack of Speedy Trial under RCM 707 is **DENIED**. The Government acted with reasonable diligence throughout the prosecution, the Defense Motion to Dismiss For Lack of a Speedy Trial under Sixth Amendment, and Article 10, UCMJ is **DENIED.**

So Ordered this 26th day of February 2013.

DENISE R. LIND
COL, JA
CHIEF JUDGE, 1ST JUDICIAL CIRCUIT

IN THE UNITED STATES ARMY
FIRST JUDICIAL CIRCUIT

UNITED STATES	)	
	)	**RULING APPENDIX:**
v.	)	**SPEEDY TRIAL CHRONOLOGY**
	)	
MANNING, Bradley E., PFC	)	
U.S. Army, xxx-xx(b)	)	
Headquarters and Headquarters Company, U.S.	)	
Army Garrison, Joint Base Myer-Henderson Hall,	)	DATED: 26 February, 2013
Fort Myer, VA 22211	)	

This chronology is an appendix to the Court's 26 February 2013 Ruling on the Defense Motion to Dismiss for Speedy Trial Violation incorporated into the Court's Findings of Fact.

Date	Event
18- Feb-10	Wikileaks (WL) released alleged classified DOS cable (Specification 14, Charge II) [Specification =(S); Charge =(C)]
19-Feb-10	DOS Diplomatic Security Service (DSS) begins investigating leak of classified DOS cable released by WL
15-Mar-10	WL released alleged classified document (S 15, C II)
5-Apr-10	WL released an edited version of the Apache video (S 2, C II)
25-May-10	Adrian Lamo reports that PFC Manning admitted disclosing classified documents to WL
27-May-10	PFC Manning confined in CHU with armed guard
29-May-10	PFC Manning ordered into pretrial confinement
30-May-10	Military Magistrate approved pretrial confinement
31-May-10	PFC Manning transferred to Theater Field Confinement Facility(TFCF) in Kuwait
2-Jun-10	The Iraq Trial Counsel Team (Iraq TC) mailed the CID Computer Crimes Investigation Unit (CCIU) to discuss forensic scans of computers
3-Jun-10	Iraq TC emailed CCIU to determine authority to "freeze" PFC Manning's shared drive profiles and emailed Department of State (DOS) regarding a meeting with INSCOM, met with "J2X" regarding the investigation of PFC Manning, and called INSCOM OSJA regarding the case

4-Jun-10	Iraq TC met with J2X and CID regarding the investigation, called CCIU regarding search authorizations, and sought clearances for the Iraq TCs
7-Jun-10	Iraq TC met with CID to receive chat logs relating to the case, met with J2X regarding the status of the investigation, called DOS twice and called "OGA2" once to discuss the case
8-Jun-10	Iraq TC called CCIU for an update on the case
11-Jun-10	Iraq TC emailed CCIU regarding a new search authorization, and met with J2X regarding the status of the investigation. The SJA met with SJA for USF-I to discuss inter-agency coordination
11-Jun-10	CCIU issued initial report
12-Jun-10	Iraq TC emailed CCIU to discuss search and seizure authorization requirements for digital devices
13-Jun-10	Iraq TC again emailed CCIU regarding the search and seizure authorization requirements for digital devices
14-Jun-10	Iraq TC emailed CID about obtaining a signature for the search authorization for a search of digital devices and shared drives. CID obtained the signature and sent the signed authorization to CCIU
15-Jun-10	TC called CCIU to discuss its preliminary findings and possible charges
16-Jun-10	CCIU's forensic analysis continued
17-Jun-10	Iraq TC called CCIU to discuss proof and charges, CCIU's preliminary report, and to identify potentially discoverable material and its associated equity holders
21-Jun-10	Iraq TC drafted deposition orders for three witnesses and coordinated with National Guard and Army Reserve units in Boston and Sacramento in an attempt to facilitate the depositions
22-Jun-10	Iraq TC emailed CCIU to discuss its forensic analysis, tried to rush an initial report because PFC Manning was not charged yet, and coordinated with entities in California and Massachusetts regarding the depositions and identified a deposition office in California
23-Jun-10	Iraq TC emailed CCIU and DOJ to arrange a meeting in Germany to discuss case preparation and also emailed CCIU to obtain an update on its forensic analysis
23-Jun-10	CID, Baghdad issued final report and transferred investigative responsibility to CCIU by direction of USACIDC
24-Jun-10	Iraq TC emailed CCIU about an update on its forensic analysis and made two telephone calls regarding arrangements for a 706 board
29-Jun-10	Iraq TC received a delayed forensics report from CID. Iraq TC stressed to CID the importance of an initial draft to be able to charge PFC Manning
30-Jun-10	TC emailed CCIU regarding CCIU speaking with DOS about the cables involved in the case

30-Jun-10	PFC Manning, while in pre-trial confinement, became unresponsive to commands, began yelling uncontrollably, shaking, babbling and banging his head against the wall. He knotted sheets into nooses. Reclassified to Maximum Custody/Administrative Segregation/Suicide Watch 1:1
1-Jul-10	Iraq TC emailed CCIU and others regarding the 706 board and trying to find a provider to serve on the board
3-Jul-10	Commander (CDRP, Expeditionary Medical Facility Kuwait requested CDR, TFCF to Transfer PFC Manning to a facility with a separate locked and special psychiatric ward or psychiatric nurses, both required to manage a case of this level of high risk and complexity for any extended amount of time
4-Jul-10	CDR, Third Army/Arcent ordered PFC Manning transferred from RFCF when an appropriate facility with adequate mental health resources would accept him.
5-Jul-10	Original Charges preferred
6-Jul-10	SPCMCA appointed LTC Craig Merutka as Article 32 Investigating Officer (IO)
11-Jul-10	Article 32 IO denied DC request for RCM 706 board
11-Jul-10	DC requested RCM 706 board and delay of Article 32 investigation
11-Jul-10	CDR, 1st Armored Division and U.S. Division, Center sent a memorandum to CDR, Army Corrections Command requesting transfer of PFC Manning to the regional confinement facility (RCF), Mannheim, Germany based on 4 Jul 10 transfer order by the CDR, Third Army/ARCENT
11-Jul-10	TC contacted Division psychiatrist to try to identify a provider for the 706 board; USF-I Deputy Surgeon referred them to CENTCOM
12-Jul-10	DC requested delay of Article 32 investigation until RCM 706 board completed and until PFC Manning could resolve issues relating to civilian Defense counsel and Defense expert witnesses
12-Jul-10	SPCMCA granted DC request to delay Article 32 investigation until 16 August 10
12-Jul-10	Iraq TC emailed USF-I deputy SJA for assistance in finding a provider for the 706 board and also emailed USF-I deputy Surgeon who referred them to ARCENT or CENTCOM to seek a provider
13-Jul-10	DC requested appointment of expert in computer forensics
13-15-Jul-10	Iraq TC worked with OSJA USAREUR and Army Corrections command to transfer PFC Manning to either the RCF in Mannheim, Germany or the RCF at Joint Base Lewis-McChord. RCF Mannheim would not accept PFC Manning. Because of issues unrelated to the case, PFC Manning could not be transferred to the RCF at Joint Base Lewis-McChord.

14-Jul-10-21-Jul-10	Iraq TC met with DOJ and CCIU in Wiesbaden, Germany to discuss the way forward with the case; also made efforts to transfer PFC Manning from Kuwait to a better PCF
22-Jul-10	Iraq TC emailed CCIU to follow up on a point discussed during the meeting 14-21 Jul 10. TC also coordinated work space for Defense computer expert at Fort Knox to permit work on classified information
23-Jul-10	SPCMCA granted DC request for expert in computer forensics
25-Jul-10	WL released "the Afghan War Diary" – 76,000 alleged classified incidents from the CIDNE/Afghanistan database (S6, S7, CII)
25-Jul-10	Iraq TC discloses CID file to DC
27-Jul-10	Iraq TC reached out for initial classification of evidence and made more efforts to obtain a provider for the 706 board
28-Jul-10	GCMCA requested transfer of jurisdiction to MDW. MDW GCMCA accepted the transfer.
28-Jul-10	GCMCA signed Protective Order Governing Classified Information
28-Jul-10	Iraq TC emailed CCIU to request a classification review of the Apache video and the cables on PFC Manning's personal computer and emailed OTJAG to request classification reviews of the Farah 15-6, Apache video, Gharani investigation, SOUTHCOM documents, CIDNE-I/CIDNE-A data
29-Jul-10	PFC Manning arrived at Marine Corps Brig Quantico (MCBQ)
29-Jul-10	Iraq TC coordinated the transfer of jurisdiction in the case with MDW TC (TC) and coordinated with the OGA2 personnel assigned to the case
30-Jul-10	TC informed OTJAG that Apache video was too large for transfer via SIPRNET; started coordinating alternate means for transfer to Fort Hood for classification review; FBI began joint participation in the case
2-Aug-10	GCMCA released jurisdiction to SPCMCA
2-Aug-10	SPCMCA ordered Article 32 investigation to be completed within 10 days
2-Aug-10	TC requested a military trial judge be appointed as the Article 32 IO
3-Aug-10	SPCMCA ordered RCM 706 board with a suspense of 20 August 2010
3-Aug-10	TC coordinated a meeting with DOS regarding the case and requested authorization to release information to DC; made initial contact with providers to assemble the 706 board; FBI became primary law enforcement organization on the case; TC coordinated Article 32 hearing with IO
4-Aug-10	Appointment of LTC Paul Almanza as the Article 32 Investigating Officer

4-Aug-10	TC met with DC to discuss the case and party positions regarding offer to plead. TC communicated with providers for 706 board regarding security clearances and held a conference call with CCIU
5-Aug-10	TC coordinated with DC and providers regarding classified information during the 706 board. DC advised TC and Dr. Sweda that the accused would not divulge classified information during the RCM 706 board; TC received CCIU's forensic briefing on the case
6-Aug-10	Dr. Sweda began assembling RCM 706 team and requested a 3 month suspense to conduct the board. TC continued to receive CCIU forensic briefing on the case
8-Aug-10	TC continued to receive CCIU forensic briefing on the case
9-Aug-10	TC met telephonically with DOS regarding its equities in the relevant documents. Iraq and MDW TCs met to coordinate handoff of the case
10-Aug-10	DC advised TC and Dr. Sweda that DC requested a 6-week suspense for the RCM 706 board with extensions if necessary. TC coordinated with DC to establish a 6-week suspense for the 706 board with extensions possible, tests for the 706 board to perform, and delay of the Article 32 until the 706 is complete. TC met with DOS and DOJ to discuss the classification reviews, discovery, and the ongoing investigation
10-Aug-10	RCM 706 board notified TC/DC that the board will begin 27 Aug 10 with an initial 6-week suspense date
11-Aug-10	DC requested delay of Article 32 investigation until completion of RCM 706 board
11-Aug-10	TC met with DOJ and POC from the U.S. Attorney for the Eastern District of Virginia (EDVA) to discuss DOS classification reviews, the ongoing investigation, and discovery
12-Aug-10	Article 32 Investigating Officer recommended that SPCMCA approve the DC delay request for completion of RCM 706 board
12-Aug-10	SPCMCA approved DC request for delay of Article 32 investigation by excluding the period from 11 August 2010 until the R.C.M. 706 Sanity Board completion as excludable Defense delay.
12-Aug-10	TC met with CCIU, DOJ, and IRTF
13-Aug-10	TC met with CCIU, DOJ, FBI, and IRTF
16-Aug-10	TC emailed DOS for an update on the classification of actual telegraphic message reference numbers (MRNs) and also informed DOS of upcoming OCA review request, emailed OGA2 to coordinate a meeting, and reviewed printed forensic reports. 800 pages of MRNs were recovered from unallocated spaces on PFC Manning's computer.
17-Aug-10	Additional MRNs were recovered from PFC Manning's computer. TC confirmed with DOS that MRNs are not classified; TC met with multiple OGAs to discuss assistance to law enforcement and potential discovery issues

18-Aug-10	TC emailed DOS to discuss discovery issues and Iraq TCs to discuss classification review of classified MRNs. TC met with CCIU to discuss subpoenas, discovery letters, and its forensic analysis, called IRTF to discuss prosecution access to compromised datasets, and requested the master MRN list from CCIU
20-Aug-10	TC sent a classification review request through OTJAG to DOD
23-Aug-10	TC communicated with 706 board to discuss the records they would need and the time frame they required. Board scheduled to begin 27 Aug 10 and had no records of PFC Manning
24-Aug-10	TC gathered documents for the 706 board and spoke with DIA about the case
25-Aug-10	CDC, Mr. Coombs, advised TC that he has been retained by PFC Manning andfurther advised that PFC Manning will have to divulge TS/SCI information to the RCM 706 board. DC requested that the RCM 706 board have all the requested records before they begin.
25-Aug-10	DC requested delay of RCM 706 board until forensic psychiatry expert appointed to Defense team
25-Aug-10	SPCMCA excluded the period between 27 August 2010 and the date the CGMCA takes action on the DC request for appointment of a forensic psychiatry expert consultant as excludable delay under R.C.M. 707(c)
25-Aug-10	TC met with CCIU for an update; also met with DOJ, EDVA, and DIA
25-Aug-10-12 Oct 10	TC coordinated with COL Malone to identify a forensic psychiatrist expert consultant for DC who would be capable of attaining a TS/SCI clearance
26-Aug-10	DC requested delay in R.C.M. 706 board to comply with prohibitions on disclosure of classified information. DC requested that a security officer be appointed to the board
26-Aug-10	TC coordinated delay in 706 board to address DC security concerns
26-Aug-10	DC requested Original Classification Reviews to include (1) the classification level of the information alleged to have been disclosed by PFC Manning when it was subjected to compromise; (2) a determination whether another command requires review of the information; and (3) the general description of the impact of disclosure on affected operations
30-Aug-10	TC met with EDVA and DIA to discuss IRTF requests and discovery
1-Sep-10	TC met with EDVA and FBI and called CCIU
1-Sep-10	TC advised COL Malone that DC would request RCM 706 board members have TS/SCI clearances
2-3-Sep-10	DC requested TS-SCI security clearance for each Defense member, to include experts. TC forwarded DC requests for security clearances to OTJAG and OTJAG began processing them

3-17 Sep 10	TC coordinated appointment of DC security consultant
7-Sep-10	TC called OTJAG to discuss security clearances and classification review of the Apache video
8-Sep-10	TC obtained update from CCIU, called EDVA and FBI about the case, and called MEDCOM about mental and medical records
9-Sep-10	TC obtained information from DC for security clearances and relayed it to OTJAG for action
9-Sep-10	COL Malone advised TC that RCM 706 board members needing TS/SCI clearances were: Dr. Sweda, LTC Schneider, and CPT(P) Benesh
10-Sep-10	TC checked with DOS regarding upcoming OCA review request; drafted special security instructions for the 706 board; communicated with OGA1 regarding protection of classified information at trial; and met with DIA and OTJAG, called CCIU
13-Sep-10	TC obtained update from CCIU; requested assistance from Army G2 for obtaining clearances and security experts for the Defense
14-Sep-10	TC communicated with OTJAG to discuss security experts for the Defense, prosecution, and a security manager for the Article 32 IO; met with the FBI; met with DOJ and DOS to discuss classification reviews
15-Sep-10	TC obtained an update from CCIU and met with the MCBQ to discuss medical support
17-Sep-10	SPCMCA appointed Defense security expert consultant (Mr. Ganiel) and security officer for RCM 706 board
17-Sep-10	SPCMCA issued Protective Order Governing Classified Information
17-Sep-10	SPCMCA ordered Preliminary Classification Review of PFC Manning's Mental Impressions (PCR)
18-Sep-10	DC filed Response to the Preliminary Classification Review of PFC Manning's Mental Impressions.
20-Sep-10	TC addressed various DC requests regarding clarifying an order to a Defense expert and reviewed proposed DC changes to the protective order
21-Sep-10	TC emailed MDW security regarding access to classified information for PFC Manning; also received an update from CCIU
22-Sep-10	SPCMCA issued Superseding Order for Preliminary Classification Review of PFC Manning's Mental Impressions ordering PFC Manning to meet with the defense security expert by 8 Ocober 2010
22-Sep-10	TC received an update from CCIU
23-Sep-10	TC worked issue of getting psychiatric expert for Defense
27-Sep-10	TC met with DIA and communicated with OGA1 to arrange a meeting with its OGC; also communicated with MEDCOM regarding PFC Manning's mental health records

28-Sep-10	DC requested second Defense security expert to assist PCR, for PCR to take place in SCIF, and for PFC Manning to be given access to classified information. DC advised SPCMCA that security expert opined that PCR could not be completed within the suspense.
28-Sep-10	TC communicated with MEDCOM regarding PFC Manning's mental health records and received an update from CCIU
29-Sep-10	TC communicated with MEDCOM regarding PFC Manning's mental health records
30-Sep-10	TC discussed classification reviews with HQDA and made arrangements for a SCIF at which to conduct Defense meetings, PCR, and 706 board
30-Sep-10	CID requested PFC Manning's command to preserve any additional hard drives used during his deployment to Iraq
1-Oct-10	TC communicated with DC regarding SCIF and expert issues, and communicated with OGC, OGA1 to arrange a meeting
4-Oct-10	TC discussed with DC the ability of PFC Manning to discuss classified information with DC; TC met with MDW security about storage of classified information for DC; TC communicated with DIA
7-Oct-10	TC communicated with DC to discuss SCIF venue for DC and security experts
10-Oct-10	CCIU notified the TC that it had developed a program to track DOS MRNs
12-Oct-10	SPCMCA appointed expert consultant in forensic psychiatry for Defense (DOL Benedek)
12-Oct-10	SPCMCA appointed second Defense security expert to assist with PCR (Mr. Hall)
12-Oct-10	SPCMCA excluded the period from 12 Jul 10 until 12 Oct 10 as excludable delay under R.C.M. 707(c) in an accounting memorandum.
12-Oct-10	SPCMCA appointed security officer for the RCM 706 board
12-Oct-10	TC received an update from CCIU
13-Oct-10	TC met with FBI and CCIU and received an update
15-Oct-10	TC informed 706 board that board was still delayed due to clearance issues; TC worked on discovery production of the unclassified file
18-Oct-10	TC received original classification review of the Apache video; communicated with DA to discuss classification of evidence; continued to work on discovery of the unclassified file
19-Oct-10	TC followed up with CCIU to obtain feedback on the MRN RFI; continued to work on discovery of the unclassified file
19-Oct-10	TC rehearsed procedures for movement of PFC Manning from MCBQ to the Field Investigative Unit (FIU) SCIF

20-Oct-10	TC communicated with CENTCOM to discuss a classification review and DA to discuss evidence classification; TC called CCIU to discuss some of the charges
21-Oct-10	TC met with FBI and DIA regarding the case
21-Oct-10	DC requested documentation PFC Manning signed dealing with information security, his training records, and a TS-SCI stand-alone system with a removable hard drive.
22-Oct-10	Discovery Production Bates # 00000001 - 00000429 (429 pages), including Preferral Packet [Unclassified]
22-Oct-10	WL released 400,000 alleged classified incidents from the CIDNE/Iraq database (S3,4, CII)
22-Oct-10	TC worked on discovery of the unclassified file
25-Oct-10	TC contacted CCIU to receive additional feedback on the MRN RFI
26-Oct-10	TC met with DIA, CID, FBI, and DOJ
27-Oct-10	TC attended IRTF meeting, met with CCIU and FBI for update on investigation,
27-Oct-10	Defense security experts interviewed PFC Manning for PCR
28-Oct-10	DC requested appointment of expert in information assurance to the Defense team
29-Oct-10	DC submitted a discovery request
29-Oct-10	DC requested TS stand alone system to review discs for DC experts
29-Oct-10	TC worked on gathering information responsive to DC request for records for Defense experts (PFC Manning's training records, etc.,)
1-Nov-10	Defense experts requested TC provide its security experts with the classification guide used to classify the information, the link to the video that was allegedly released by PFC Manning, and the damage assessments conducted by the OCAs
2-Nov-10	TC worked on access authorization request for Defense security experts; TC gave DC a safe
3-Nov-10	CID conducted a second search of PFC Manning's aunt's house and discovered additional digital media: (1)hard disk drive, (3) SD memory cards, (1) smart media card, (14) CD-R discs, (2) CD-RW discs, (1) USB memory card, (1) book , and a sealed box with PFC Manning's personal belongings from Kuwait
4-Nov-10	TC communicated with COL Malone who indicated he could provide care for PFC Manning, in the absence of the USN provider, as he possesses the proper clearance and has a history with PFC Manning

7-Nov-10	TC reviewed IRTF material, became aware that ONCIX was starting a similar review, and downloaded all DOS cables for potential charging decision
9-Nov-10	TC met with CCIU to discuss investigative update, forensics, dates for chat logs, SOUTHCOM documents on SIPR computer, and evidence of Farah downloads. TC met with DOS legal advisers, briefed them on what TC needed to prosecute and the ongoing process of determining the proper OCA to review specific documents
10-Nov-10	Discovery Production Bates # 00000430 - 00000450 (21 pages), including Initial Article 32 Packet [Unclassified]
10-Nov-10	SPCMCA issued supplemental guidance for the PCR
10-Nov-10	SPCMCA excluded the period from 12 Oct 10 until 10 Nov 10 as excludable delay under R.C.M. 707(c) in an accounting memorandum
10-Nov-10	TC met with DOS to pick up documents as well as deliver classified information to DOS for review
10-Nov-10	SPCMCA and G2 approved defense security experts to use DIPR and JWICS for PCR
11-Nov-10	Discovery Production Bates # 00000451 - 00000474 (24 pages), including Initial Article 32 Packet [Unclassified]
15-Nov-10	DC submitted a discovery request
16-Nov-10	DC requested coordination for PFC Manning's movement so that Defense security experts could meet with him; DC requested to meet with PFC Manning outside of MCBQ.
16-Nov-10	TC met with FBI agent and with OGA1 to discuss investigative leads and potential use of documents
17-Nov-10	TC met with IRTF to discuss compromised information
19-Nov-10	Discovery Production Bates # 00000475 - 00000662 (188 pages), including Initial Article 32 Packet [Unclassified]
19-Nov-10	TC produced USCENTCOM and MNF-1 security classification guides to DC [classified]
24-Nov-10	DOS informed TC that DOS completed their preliminary review of the proposed cables and asked to schedule a meeting
28-Nov-10	WL began releasing alleged DOS classified cables (S, 12, 13, CII)
29-Nov-10	DC requested appointment of investigator for Defense
29-Nov-10-20 Apr 11	TC/DC communication, TC/PFC Manning Command, SPCMCA, and MCBQ interaction regarding PFC Manning's custody and confinement while at MCBQ
30-Nov-10	DC requested an update on when the new charge sheet would be preferred and on POI restrictions for PFC Manning and requested

	coordination for DC to meet PFC Manning at Fort Belvoir on 14-15 December
30-Nov-10	TC met with DOS to discuss charged documents and classification review; TC, via memorandum, requested the Deputy Chief of Staff for Intelligence for assistance and direction to ensure the appropriate original classification authority conduct a classification review of 2 power-point presentations and JTF-Guantanamo Bay Detainee Assessments
30-Nov-8 Dec 10	TC coordinating location of and transportation for the accused for DC 14-15 Dec visit
1-Dec-10	TC met with DOS and DOS FOIA section and with MDW for space utilization.
2-Dec-10	TC mew with CCIU and DOJ to discuss external hard drive
8-Dec-10	DC submitted a discovery request
9-Dec-10	TC met with the FBI and EDVA
13-Dec-10	Results of PCR provided to the Government.
13-Dec-10	TC received an update on the forensic examination of SID card discovered at PFC Manning's aunt's house and discussed travel to New York with CCIU
14-Dec-10	TC met with OGA1 and CCIU
16-Dec-10	Sec Army directed LTG Caslen to conduct AR 15-6 investigation into the alleged crimes committed by PFC Manning
17-Dec-10	SPCMCA denied DC request for appointment of investigator
17-Dec-10	SPCMCA excluded the period from 10 Nov 10 until 17 Dec 10 as excludable delay under R.C.M. 707(c) in an accounting memorandum
18-Dec-10	Defense requested the names of members on the RCM 706 board
20-Dec-10	TC met with CCIU, EDBA and DOJ about prosecutorial coordination; met with OSJA to coordinate MCBQ confinement conditions; TC received a situational report (SITREP) from movement team regarding PFC Manning
20-21 Dec 10	TC contacted Dr. Sweda to confirm RCM 706 members remained Dr. Sweda, LTC Schneider, and CPT(P) Benesh. Dr. Sweda advised he was going to substitute LTC Hemphill for LTC Schneider because she had more time to devote to the RCM 706 board
30-Dec-10	Defense submitted MRE 505(h) motion for RCM 706 board

30-Dec-10	TC met with DISA analyst to discuss web analysis, with Sec Army 15-6 team to discuss investigative lanes, and with witness CPT Lim at Fort Meade, MD
3-Jan-11	Discovery Production Bates # 00000663 - 00000771 (109 pages), including Preliminary Inquiry [Unclassified]
3-Jan-11	TC met with DISA and CCIU to discuss web analysis
4-Jan-11	TC went TDY to Fort Drum to meet with witnesses
5-Jan-11	DC submitted memorandum to CW4 Averhart requesting change of the PFC Manning's classification and assignment
5-Jan-11	Prosecution responded to DC notification under MRE 505(h)
5-7 - Jan-11	TC TDY to Fort Drum to meet with witnesses
9-Jan-11	TC met with CCIU and picked up discs
9-Jan-11	DC emails speedy trial request to TC
10-Jan-11	DC submitted a discovery request
10-Jan-11	TC reviewed all of the classified documents requested by the Sec Army AR 15-6 team
11-Jan-11	TC met with DISA and OGA1
12-Jan-11	DC requested CAPT Moore replace COL Benedek as forensic psychiatrist assigned to the Defense team
13-Jan-11	DC requested speedy trial and submitted RCM 305(g) request to SPCMCA
13-Jan-11	TC requested Army G-2 grant RCM 706 members, TC team and court reporter, DC team, Article 32 IO, and COL Malone TS-SCI security clearances
13-Jan-11	DIA informed TC that ONCIX wanted to meet to discuss ONCIX plans to compile a damage assessment. Coordinated meetings with ONCIX to discuss ONCIX charter regarding damage assessments
14-Jan-11	Discovery Production Bates # 00000772 - 00000851 (80 pages), including 15-6 Investigation [Unclassified]
14-Jan-11	SPCMCA appointed expert in information awareness for Defense
14-Jan-11	SPCMCA approved Defense request for expert in forensic psychiatry (CAPT Moore)
14-Jan-11	SPCMCA excluded the period from 17 Dec 10 until 14 Jan 11 as excludable delay under R.C.M. 707(c) in an accounting memorandum. SPCMA acknowledged the Defense's request for Speedy Trial

19-Jan-11	DC submitted a discovery request and request for preservation of evidence
19-Jan-11	TC requested Original Classification Authority (OCA) review by DoD
19-Jan-11	PFC Manning submits Article 138 complaint
21-Jan-11	SPCMCA denied Defense RCM 305(g) request
21-Jan-11	TC met with CCIU, FBI, and EDVA focusing on forensic update and with additional 2/10 MTN witnesses not previously available; TC received notification from HQDA G2 that additional information was needed of RCM 706 board members to process their eQuip applications
21-Jan-11	TC emailed RCM 706 board members advising that clearances are expedited and read on requirements follow in Crystal City, VA. Estimation is read on in 2 weeks with RCM 706 restart the following week
25-Jan-11	TC notified DC, IO, and other necessary parties that they are ready to schedule their indoctrination for clearance purposes; updated the IO with the current status of the Article 32 delay
26-Jan-11	TC met with FBI and DIA in reference to investigation, Garani video, and CIDNE background
27-Jan-11	TC met with DOJ, with DOS to give case update, with IRTF and FBI; TC worked on special security instructions for the RCM 706 inquiry
31-Jan-11	All RCM 706 board members granted security clearance (TS-SCI) and read-on (SCI); civilian DC (CDC), Mr. Coombs, granted interim TS-SCI clearance
31-Jan-11	IO is read-on for TS-SCI clearance
1-Feb-11	CPT Bouchard, DC, is read-on
2-Feb-11	TC met with ONCIX to understand the damage assessment process and how ONCIX was proceeding
3-Feb-11	SPCMCA ordered RCM 706 to resume with a 4 week suspense. SPCMCA issued a protective order for classified information, required the board to interview PFC Manning in a SCIF, and ordered the board to complete a DC requested comprehensive neurological examination to include a CAT scan
3-Feb-11	CDC, Mr. Coombs, read-on
3-Feb-11	TC met with OSJA. TC worked with OCAs to get disclosure authority for Defense
4-Feb-11	TC reviewed draft Sec Army AR 15-6
7-Feb-11	DC requested that CAPT Moore monitor the RCM 706 board. DC notified RCM 706 board that the 4 week suspense was aspirational and

	the board should feel free to take the time necessary to conduct a thorough and complete examination, and that any request for an extension of time by the board would undoubtedly be granted
7-8 Feb-11	TC delivered allied documents to RCM 706 board. Board members signed protective order
8-Feb-11	TC met with TCAP
9-Feb-11	Discovery Production Bates # 00000852 - 00001049 (198 pages), including Medical Records [Unclassified]
9-Feb-11	Discovery Production Bates # 00001050 - 00001051 (2 pages), including Certificate of Service - to Liberty TDS [Unclassified]
9-Feb-11	TC reviewed list of approved cables provided by DOS
9-11-Feb-11	Dr. Sweda coordinated with TC/DC. Proposed schedule of unclassified interview with PFC Manning on 16 Feb 11 at MCBQ followed by testing on 17 Feb 10 at MCBQ. TC advised working on obtaining a SCIF on Fort Belvoir for 1 Mar 10 for the classified interview of PFC Manning
11-Feb-11	TC met with JIEDDO
14-Feb-11	Sec Army AR 15-6 Investigation completed
15-Feb-11	SPCMCA excluded the period from 14 January 2011 until 15 Feb 11 as excludable delay under R.C.M. 707(c) in an accounting memorandum. SPCMCA acknowledged the Defense's request for Speedy Trial
15-Feb-11	TC met with CCIU focused on examining unallocated space on PFC Manning's media. TC advised IO that RCM 706 board had 3 Mar 10 suspense date and TC anticipated Article 32 would be ready to begin by 15 Mar 11 and last 3 days
15-Feb-11	DC requested to meet with PFC Manning in a SCIF on 24 Feb 10
16-Feb-11	DC submitted a discovery request
16-Feb-11	RCM 706 board convened
17-Feb-11	DC submitted motion to compel discovery
18-Feb-11	DC requested appointment of neuropsychologist for Defense
18-Feb-11	DC requested TC to expedite MCBQ gate escort processing so PFC Manning's mother could have more time to visit him
18-Feb-11	TC requested assistance of ONCIX to obtain individual agency damage assessments from agencies from whom ONXIC requested input

21-Feb-11	DC requested TC to arrange for a SCIF to be available for DC to meet with PFC Manning. DC advised needing 14 days notice to purchase a reasonably priced airline ticket. TC advised DC that it has the DIU SCIF available but DC had objected to using it
22-Feb-11	CENTCOM completed classification review of 2 power-point presentations
24-Feb-11	TC TDY to Charlottesville, VA to meet with witnesses
25-Feb-11	DC advised TC that earliest availability to meet with PFC Manning in a SCIF would be the week of 7 Mar 11. DC further advised needing a full day with PFC Manning. DC gave alternative dates of 22-25 Mar 11
25-Feb-30-Mar-11	TC coordinated DC and RCM 706 board SCIF interviews with PFC Manning
25-Feb-11	TC submitted response to DC motion to compel discovery to the Article 32 IO
26-Feb-11	TC met with Trial Counsel Assistance Program (TCAP) and Government Appellate Division (GAD)
25-27-Feb-11	TC and DC communicate regarding discovery. TC advised DC will give discovery as soon as receive approvals
28-Feb-11	DOS communicated to TC that it granted authority to use select classified information at trial so long as it remained classified; TC met with civilian criminal law expert regarding charging Article 104, UCMJ and with OSJA.
1-Mar-11	Additional charges preferred; TC met with ONCIX for update and with ODNI
2-Mar-11	PFC Manning served with new charge sheet and Art 138 response
3-Mar-11	TC met with DOS focusing on possible discovery and completion of formal classification reviews; TC met with INSCOM facilities manager to tour SCIF for RCM 706 board, including how to provide PFC Manning the most privacy permissible in the building
3-Mar-11	DC requested to meet with PFC Manning in a SCIF before the RCM 706 board interview. RCM 706 scheduled a tentative interview with PFC Manning on 11 Mar 11 (Friday) in a SCIF. TC advised that interview of accused in SCIF should take place on a Saturday when no workers would be in the area
4-Mar-11	TC met with DOJ to discuss Art 104 and federal law and met with the SPCMCA
5-Mar-11	DC requested his meeting with PFC Manning take place on 11-12 Mar 11 with alternate dates of 25-26 Mar 11. TC advised had to confirm with security detail and would know 7 Mar 11
7-Mar-11	DC requested his meeting with PFC Manning take place on 25 - 26 Mar 11. TC prepared to move PFC Manning on 11-12 Mar or 25-26 Mar 11
8-Mar-11	Discovery Production Bates # 00001052 - 00011448 (10397 pages), including 35F TRN POI and Quantico Art 138 Response [Unclassified]

8-Mar-11	DC requested appointment of mitigation expert to Defense team
8-Mar-11	TC met with OGC, ODNI to discuss discovery and classification review of intelink logs
8-Mar-11	RCM 706 board requested to interview PFC Manning on 26 Mar 11
10-Mar-11	Defense submitted Art 138 rebuttal
11-Mar-11	TC met with OGA2 to discuss discovery and classification reviews
14-Mar-11	RCM 706 board submitted extension request with a proposed suspense of 29 Apr 11
14-Mar-11	TC sent requests for approval to disclose classified information to the Defense from DA G-2, DOS, ODNI, and OGA2
14-Mar-11	TC advised Dr. Sweda that RCM 706 board interview of PFC Manning couldn't take place on 26 Mar 11 because DC is meeting with him on that date. Proposed 2 Apr 11 as an alternate date. RCM 706 board scheduled an MRI and neurological examination for PFC Manning on 23 Mar 11 at Walter Reed Army Medical Center (WRAMC) and scheduled the board meeting with PFC Manning on 9 Apr 2011
15-Mar-11	TC procured DC a neuropsychologist
16-Mar-11	TC received unclassified classification review for Apache video; TC met with CCIU, EDVA, and FBI
18-Mar-11	Original charges dismissed. SPCMCA directed Article 32 IO to investigate 1 Mar 11 charges.
18-Mar-11	SPCMCA approved R.C.M. 706 Board Extension Request and directed the Board to complete its work by 16 Apr 11.
18-Mar-11	SPCMCA excluded the period from 15 Feb 11 until 18 Mar 11 as excludable delay under R.C.M. 707(c) in an accounting memorandum. SPCMCA acknowledged the Defense's request for Speedy Trial
18-Mar-11	TC requested classification reviews from the following agencies or departments: CENTCOM, CYBERCOM, INSCOM, ODNI, DOS, DISA, OGA1, OGA2 and SOUTHCOM
18-Mar-11	IRTF completed line-by-line review of chat logs to send to appropriate OCAs
20-Mar-11	SPCMCA approved RCM 706 board delay but with an earlier suspense of 16 Apr 11
21-Mar-11	TC submitted Request for Consent to Disclose Classified Information to Defense to DISA and DIA
23-Mar-11	PFC Manning underwent an MRI and was seen by a neurologist
23-Mar-11	TC received Secretary of the Army AR 15-6 investigation

24-Mar-11	OGA1 authorized the disclosure of charged documents
26-Mar-11	DC met with PFC Manning at INSCOM SCIF for pre-RCM 706 interview meeting
28-Mar-11	Walter Reed AMH psychology department contacted the psychology consultant to the Surgeon General in an attempt to locate a neuropsychologist for the Defense team
29-Mar-11	DOS authorized disclosure of discovery
29-Mar-11	Potential neuropsychologist for RCM 706 board identified, but not available until 11 April
30-Mar-11	TC met with MDW security
31-Mar-11	TC conduct walkthrough of Fort Meade courtroom; DC requested PFC Manning's unit provide a new ACU for PFC Manning
4-Apr-11	TC met with DOJ
5-Apr-11	SPCMCA appointed neuropsychologist for Defense
5-Apr-11	SPCMCA denied Defense request for mitigation expert
5- Apr-11	TC met with CCIU to review the CCIU case file, with J6, MDW to discuss computer systems for discovery, and with ODNI, OGA1, OGA2, DOD, and OTJAG
6-Apr-11	TC submits second request to OGA1 for authority to disclose classified information to the defense; TC met with CCIU to review the CCIU case file
7-Apr-11	Discovery Production Bates # 00011449 - 00011462 (14 pages), including Art 138 Response [Unclassified]
7-Apr-11	TC met with CCIU to review the CCIU case file and with DOS to deliver classified material
8-Apr-11	TC met at Fort Meade courtroom to discuss construction requirements
9-Apr-11	Discovery Production Bates # 00011463 - 00011573 (111 pages), including Art 138 Response [Unclassified]
9-Apr-11	RCM 706 board interviewed PFC Manning
10-Apr-11	PFC Manning filed Art 138 complaint to the Secretary of the Navy
11-Apr-11	TC met with CCIU 1, CCIU 2
12-Apr-11	Discovery Production Bates # 00011574 - 00012711 (1138 pages), including Security Classification Guide, OMPF, Enemy Information [Unclassified]

12-Apr-11	Prosecution responded to Defense discovery requests dated 29 Oct 10, 1 Nov 10, 15 Nov 10, 8 Dec 10, 10 January 2011 and 16 February 2011
12-Apr-11	TC met with DOJ to discuss discovery issues, preservation requests, and prudential search requests
15-Apr-11	RCM 706 board advised TC that the Board report was 98% complete but the Board wanted an additional week to meet, review, and finalize the report. RCM 706 board submitted extension request for 22 April 11 suspense
15-Apr-11	SPCMCA approved RCM 706 board extension request
18-Apr-11	Discovery Production Bates # 00012712 - 00012720 (9 pages), including Art 138 Response [Unclassified]
18-Apr-11	TC met with DC3 to discuss capabilities
19-Apr-11	TC met with FBI to coordinate review of paper file and submitted a request to the FBI to review files relevant to PFC Manning; TC met with OTJAG in reference to handling, use, or discovery of classified information
20-Apr-11	PFC Manning transferred from Quantico to the Joint Regional Correctional Facility (JRCF), Fort Leavenworth, Kansas.
20-Apr-11	DC requested expert neuropsychologist near Fort Leavenworth
20-Apr-11	TC met with National Media Exploitation Center (NMEC) to learn what they do and how they could assist
22-Apr-11	The RCM 706 board submitted its report
22-Apr-11	SPCMCA excluded the period from 18 Mar 11 until 22 Apr 2011 as excludable delay under R.C.M. 707(c) in an accounting memorandum. SPCMCA acknowledged the Defense's request for Speedy Trial
24-Apr-11thru 21-Jun-11	WL released 765 alleged classified Guantanamo Bay detainee assessment briefs (S8, 9, CII)
25-Apr-11	TC requested delay of Article 32 investigation until the earlier of the completion of the OCA Disclosure Requests and OCA Classification Reviews or 25 May 11, requested the period between 22 Apr and 25 May 11 be excludible delay under RCM 707(c), and stated TC would update the SPCMCA NLT 25 May 11
25-Apr-11	TC met with CCIU to coordinate for specific screenshots and with ODNI to pick up interagency documents
26-Apr-11	DC opposed TC excludable delay request, requested the SPCMCA - in order to avoid Article 32 delay - to direct either substitutions or summaries for relevant classified information, requested DC be allowed to inspect all unclassified information discoverable under RCM 405(g) and 701(a), and requested TC arrange DC interview of 13 CID witnesses be provided to DC to avoid any delay in the Article 32

27-Apr-11	TC met with J1, MDW to discuss MDW jurisdiction and with planners for OPLAN BRAVO
27-29-Apr -11	TC reviewed FBI investigative file relevant to PFC Manning
28-Apr-11	OGA2 approved discovery disclosure
29-Apr-11	SPCMCA approved TC request for a delay of Article 32 investigation
4-May-11	SPCMCA approved Defense's request for expert in neuropsychology (Dr. Patrick Armistead-Jehle)
6-May-11	TC requested from OGA1a second classification review and approval to disclose classified material to the Defense
10-May-11	TC met with DOD OGC, OTJAG and DOJ in reference to DOD prudential search request
11-May-11	TC attended meeting at Fort Meade courtroom to discuss renovations
12-May-11	Discovery Production Bates # 00012721 - 00012924 (204 pages), including Art 138 Response [Unclassified]
12-May-11	SPCMCA excluded the period from 22 Apr 11 until 12 May 11 as excludable delay under R.C.M. 707(c) in an accounting memorandum. The Convening Authority acknowledged the Defense's request for Speedy Trial
12-May-11	TC met with Fort Meade, OSJA 2 and with MDW security
13-May-11	Defense submitted a discovery request
16-May-11	TC met with OTJAG and OGA2 to discuss classification review of unclassified CID information
18-May-11	TC met at Andrews Air Force Base courtroom for courtroom visit; TC reviewed FBI investigation files relevant to PFC Manning
19-May-11	TC received an email from OGA2 with OCA completed review of chat logs
20-May-11	Federal judges begin issuing disclosure and protective orders governing material related to the court-martial
22-May-11	TC submitted its second request to delay Article 32 investigation until the earlier of completion of OCA disclosure requests and classification reviews or 25 Jun 1, exclude period between 22 Apr 11 and restart of the Article 32 as excludable delay under RCM 707(c), and stated TC would provide SPCMCA an update NLT 25 Jun 11
22-May-11	TC requested OGA2 to review unclassified CID case file
23-May-11	TC met with OGA2 to deliver unclassified information for classification review; TC met with TCAP and GAD discussing prudential search requests

24-May-11	Defense objected to prosecution's request to delay Article 32 investigation
24-May-11	TC met with DOS to determine full extent of DSS law enforcement file
25-May-11	TC met with DSS to discuss sensitive cable and review of DSS files for discovery
25-May-11	DC requests forensic image of all media and a copy of all government digital forensic reports
25-May-16 Aug 11	TC sends prudential search requests to DIA, DOD, DOS, NSA, ODNI, ONCIX, FBI, DOJ, EDVA, U.S. Attorney, Southern District of New York, DISA, and OGA#1memorializes its requests for OGA to search, preserve, and disclose any material relating to court-martial;
26-May-11	SPCMCA approved prosecution's request for a delay of Article 32 investigation
26-May-11	MDW SJA forwarded prosecution request for security expert and request to disclose Secretary of the Army 15-6
31-May-11	TC met with OGC, G1 and with OMC clerk's office to discuss discovery processes and programs
1-Jun-11	TC met with ODNI and with OGA1
3-Jun-11	TC met with CCIU and a witness
3-Jun-11	TC met with DOS to discuss prudential search request and with USN prosecution of PO1 Martin (national security case)
5-Jun-11	TC developed a system to track Protected Documents and Approvals
6-Jun-11	TC submitted prudential search request to DOD
7-Jun-11	TC met with EDVA and DOJ to review all search warrants, 2703(d) order, and grand jury returns, with OTJAG regarding handling, use, or discovery of classified information, and with planners OPLAN BRAVO
8-Jun-11	TC met with DOJ
8-Jun-11	TC met with HQDA classification expert to review all unclassified CID files and with OGA1, OGA2, DOJ, ODNI, OTJAG, and DOD
9-Jun-11	Discovery Production Bates # 00012925 - 00012933 (9 pages), including Art 138 Response [Unclassified]
9-Jun-11	TC met with CCIU to receive copy of forensic evidence, loose hard drives, specialized program, and forensic report and with planners for OPLAN BRAVO
9-22-Jun-11	TC coordinating DC visit to PFC Manning at JRCF to include classified discussions
10-Jun-11	TC met with DOJ and with Open Source Center to discuss approvals; DC requested TC detail actions taken to obtain investigations

	conducted by DOD, DOS, DOJ, and other intelligence agencies
13-Jun-11	TC met with ONCIX to receive update brief
17-Jun-11	SPCMCA excluded the period from 12 May 11 until 17 Jun 2011 as excludable delay under R.C.M. 707(c) in an accounting memorandum. SPCMCA acknowledged the Defense's request for Speedy Trial
17-Jun-11	TC received additional discovery documents from CID
19-Jun-11	TC developed a Defense request tracking system, and a discovery tracking system
20-Jun-11	TC met with OSJA
21-Jun-11	TC attended a meeting at Fort Leavenworth to assist with movement of PFC Manning to TDS office and met with OGA2 to discuss use request
22-Jun-11	SPCMCA approved facility and storage of classified information
22-Jun-11	SPCMCA issued Protective Order governing law enforcement sensitive information and other sensitive information
22-Jun-11	SPCMCA issued Protective Order governing Secretary of the Army AR 15-6 investigation
22-Jun-11	TC attended a meeting to arrange for an emergency replacement escort for PFC Manning's movement
23-Jun-11	TC submitted follow up requests to OCA approval of charged documents to: DA G2, DIA, FBI, and OGA1
27-Jun-11	TC submitted its third request for delay of Article 32 investigation until the earlier of the completion of the OCA Disclosure Requests, OCA classification reviews, authorization to disclose protected unclassified information, and the final review of the CID case file by the NSA and OGA or 27 Jul 11, requested the period between 22 Apr 11 and the restart of the Article 32 be excludable delay under RCM 707(c), and stated TC would provide SPCMCA an update NLT 25 Jul 11
28-Jun-11	TC met with DIA and with OSJA; TC requests to review FBI investigative files relevant to PFC Manning
29-Jun-11	DC objected to prosecution's request to delay Article 32 investigation
29-Jun-11	TC met with DIA focused on prudential search request and with OTJAG regarding handling, use, or discovery of classified information
30-Jun-11	Discovery Production Bates # 00012934 - 00021363 (8430 pages), Sec Army 15-6 [Unclassified]
1-Jul-11	TC reviewed HQDA records responsive to prudential search request to DoD but not TS-SCI records responsive to prudential search request
5-Jul-11	SPCMCA approved TC request to delay Article 32 investigation

6-Jul-11	DC requested additional funding for expert in computer forensics
6-Jul-11	TC met with DIA and with MDW staff regarding security procedures and responding to outside organizations
6-18-Jul-11	CDC and TC team worked on encryption issues regarding CDC email
7-Jul-11	TC met with ODNI to discuss intelink logs with the information technology division and the prudential search request
7-Jul-2 Aug-11	DC requests additional funding for digital forensic experts. TC team works contracting/funding issues
8-Jul-11	DC, CPT Tooman, received security clearance
11-Jul-11	TC reviewed records responsive to the prudential search request to OGA2
12-Jul-11	Prosecution requested classification review of intelink passport account from ODNI
13-Jul-11	SPCMCA excluded the period from 17 Jun 11 until 13 Jul 11 as excludable delay under R.C.M. 707(c) in an accounting memorandum. SPCMCA acknowledged the Defense's request for Speedy Trial
14-Jul-11	TC attended a meeting to obtain a record of trial for a national security case
14-Jul-11	ONCIX notified TC that it will require authorization from other Government agencies to retrieve the individual agency assessments
18-Jul-11	TC met with planners for OPLAN BRAVO to conduct a vulnerability assessment
19-Jul-11	TC met with IO vulnerability team and with OGC, DoD, and OTJAG to discuss prudential search requests
20-Jul-11	TC met with FBI to discuss obtaining a copy of main FBI file to conduct Brady review
22-Jul-11	TC met with DOJ for case update and with NMEC to discuss classified information
25-Jul-11	TC submitted its fourth delay of Article 32 investigation until the earlier of the completion of the OCA Disclosure Requests, OCA classification reviews, authorization to disclose protected unclassified information, and the final review of the CID case file by the NSA and OGA or 27 Aug 11, requested the period between 22 Apr 11 and the restart of the Article 32 be excludible delay under RCM 707(c) and stated TC would provide SPCMCA with an update NLT 25 Aug 11
25-Jul-11	DC objected to prosecution's request for delay of Article 32 investigation and requests speedy trial
25-Jul-11	Discovery Production Bates # 00021364 - 00024382 (3019 pages), including CID information [Unclassified]
25-Jul-11	Discovery Production Bates # 00036618 - 00036802 (185 pages), including CID information [Unclassified]

26-Jul-11	SPCMCA approved TC request for a delay of Article 32 investigation
26-Jul-11	DC advised TC that DC expert, Mr. Struttman, required a security clearance
28-Jul-11	DC requested assistance with encrypted CD of discovery
28-Jul-11	TC met with FBI to discuss obtaining a copy of FBI case file for Brady review; prosecution submits additional preservation request to FBI
28-Jul-11	TC submitted updated requests for classification reviews to: OGA1, CENTCOM, DOS, INSCOM, ODNI, and SOUTHCOM
29-Jul-11	TC met with EDVA
29-Jul-11	Prosecution prudential search request to DoD distributed
1-Aug-11	TC received NDA signed by PFC Manning
2-Aug-11	Discovery Production Bates # 00036803 - 00036803 (1 pages), including CID information [Unclassified]
2-Aug-11	TC met with security expert to review classified forensic reports for equity holders
3-Aug-11	DC requested three laptop computers for Defense security experts during RCM 706
3-Aug-11	DC requested expert in forensic psychiatry (Dr. Grieger) to replace CAPT More
3-Aug-11	TC met with OGA1 for document review
4-Aug-11	TC submitted an updated request for classification review from SOUTHCOM ; TC submitted renewed requests for authority to disclose classified information to the defense from the FBI, DA-G2 and DIA
5-Aug-11	TC requested consent from FBI to disclose classified information in discovery
6-Aug-11	DC requested TC purchase computer hardware and software for defense forensic experts
7-9 Aug-11	DC requested Cyber Agents, Inc. be appointed Defense expert assistant. Discussions between parties regarding government authority to designate a contractor as an expert
8-Aug-11	TC met with OGC DOD in reference to prudential search request
9-Aug-11	Defense requested forensic computer expert
9-Aug-11	Discovery Production Bates # 00036804 - 00042806 (6003 pages), including Sec Army 15-6 GOMORs [Unclassified]

10-Aug-11	SPCMCA appointed substitute as Defense expert in forensic psychiatry (LCDR Moulton)
10-Aug-11	SPCMCA appointed Defense forensic computer experts and request for computer hardware
10-Aug-11	SPCMCA excluded the period from 13 Jul 11 until 10 Aug 11 as excludable delay under R.C.M. 707(c) in an accounting memorandum. SPCMCA acknowledged the Defense's request for Speedy Trial dated 13 Jan 11 and the Defense's renewed request for Speedy Trial dated 25 Jul 11. SPCMCA provided an accounting memorandum
10-Aug-11	TC met with OGA1 for prudential search request 1 and 2
11-Aug-11	Discovery Production Bates # 00042807 - 00044864 (2058 pages), including Pretrial Confinement Documents [Unclassified]
11-Aug-11	TC met with OGA1 for prudential search request 1 and 2; TC submitted renewed requests for authority to disclose classified information to the Defense to OGA1
15-Aug-11	TC submitted an additional preservation request to FBI and requested that FBI investigative files relevant to PFC Manning be given to TC
15-Aug-11	DC requested travel orders for Dr. Moulton
16-Aug-11	TC TDY to conduct witness interviews; TC submits preservation request to SDNY
17-Aug-11	TC met with NGA in reference to prudential search request
18-Aug-11	TC met with CCIU 1
19-Aug-11	TC met with DOJ 1
19-Aug-11	TC met with DOS to discuss sentencing
20-Aug-11	WL released 251,287 alleged classified DOS cables (S12,13, CII)
22-Aug-11	TC met with OG1 and CCIU and with OTJAG regarding handling, use or discovery of classified information.
22-Aug-11	TC conducted witness interview
23-Aug-11	TC re-sent request to disclose classified information to the FBI
24-Aug-11	TC met with JIEDDO and with OGA1 and CCIU for evidence collection
24-Aug-11	DC expert, Mr. Struttman, granted interim security clearance

25-Aug-11	TC submitted its fifth request for delay of Article 32 investigation until the earlier of the completion of the OCA Disclosure Requests, OCA classification reviews, determination of derivative classifications, final review of the CID case file by the NSA, and release authority from relevant district court judges, or 27 Sep 11 and requested the period between 22 Apr 11 and the restart of the Article 32 investigation be excludable delay. The request asserted that TC would provide SPCMCA an update NLT 23 Sep 11
25-Aug-11	DSS provided TC with DSS investigative file through 31 Jul 10 which is disclosed to the Defense
25-Aug-11	TC met with DOJ and with TC met with ODNI to receive authority to obtain and disclose individual assessments
25-Aug-11	TC obtained FBI file for Brady review. FBI did not authorize disclosure without a protective order from the Court
26-Aug-11	TC met with DOS
27-Aug-11	DC objected to TC request to delay Article 32 investigation
29-Aug-11	SPCMCA approved prosecution's request for delay of Article 32 investigation
31-Aug-11	TC conducted witness interview. DC proposed 10-20 Sep 11 for their forensics experts to review CID classified forensic reports. TC estimated receiving final approvals to give CID classified forensic evidence to defense by the last week of Sep 11
1-Sep-11	Discovery Production Bates # 00044865 - 00045301 (437 pages), including Military Intelligence Investigations [Classified and Unclassified]
7-Sep-11	TC requested updated requests for classification reviews from: CENTCOM, DOS, INSCOM, ODNI, OGA1, and SOUTHCOM; DoD General Counsel advised TC that the Joint Staff is the point of contact for DoD for the prudential search request
8-Sep-11	OGA1 consented to disclosing CID case files
9-Sep-11	RCM 706 members
12-Sep-11	Final CCIU forensic report processed for release to Defense
14-Sep-11	TC met with DOS leadership to discuss ongoing classification review completion
15-Sep-11	SPCMCA excluded the period from 10 Aug 11 to 15 Sep 11 as excludable delay under R.C.M. 707(c) in an accounting memorandum. SPCMCA acknowledged the Defense's 13 Jan 11 request for Speedy Trial and renewed request for Speedy Trial dated 25 Jul 11.
16-Sep-11	TC submitted a second request for OGA1 classification review; TC provided computer hardware and software requested by DC

19-Sep-11	Discovery Production Bates # 00024383 - 00024459 (77 pages), including Deleted Information [Unclassified]
19-Sep-11	TC had delivered two computer hard drives and software to Defense counsel to permit review of classified information
20-Sep-11	DC requested courier cards
21-Sep-11	Defense submitted a discovery request for preservation of all hard drives in Tactical Sensitive Compartmented Information Facility (TSCIF) used during PFC Manning's deployment
22-Sep-11	TC met with ONCIX to receive update
23-Sep-11	TC met with WHMO to discuss method of obtaining WH information
26-Sep-11	TC submitted its sixth requested delay of Article 32 investigation until the earlier of the completion of OCA Disclosure Requests, OCA classification reviews, final determination of derivative classifications, receipt of signed protective orders from the defense, and properly portion-marked classified documents by the NSA or 27 Oct 11. TC requested the period between 22 Apr 11 and the restart of the Article 32 investigation be excludable delay. The request asserted that TC would provide SPCMCA an update NLT 25 Oct 11
27-Sep-11	DC objected to TC request for delay of Article 32 investigation
28-Sep-11	SPCMCA approved TC request for delay of Article 32 investigation
28-Sep-11	TC met with OGA1
28-Sep-6-Oct-11	DC requested contact information to interview 13 government witnesses and objected to working through Mr. King to coordinate CID witness interviews
29-Sep-11	TC TDY to CENTCOM
30-Sep-11	DC requested TC purchase automation and classified supplies
3-Oct-11	Discovery Production Bates # 00024460 - 00036617 (12158 pages), including CID information [Unclassified]
3-Oct-11	Joint Staff advised TC that DoD provided all relevant information in response to the prudential search request
4-Oct-11	TC sent to DC federal protective orders.
5-6-Oct-11	DC signed 4 protective orders . TC received final CCIU forensic reports and requested approvals to disclose to DC. TC anticipated approval/disclosure by 3-4 Nov 11 and requested DC to schedule a time for TC to assist DC in going through voluminous reports and overview of TC case. CDC advised TC he would be in Charlottesville VA the

	week of 3 Nov 11 and that he wanted defense forensic experts to have time to review the classified CID forensic reports prior to the TC/DC meeting. DC recommended holding the meeting 9-10 or 17-18 Nov 11
4-6-Oct-11	TC submitted preservations requests to 2nd Brigade Combat Team, 10th Mountain Division for theatre provided equipment (TPE) hard drives used in the TSCIF during PFC Manning's deployment, CID and FBI for computer forensic evidence held or obtained during the investigation of the accused, and ARCENT for TPE used during PFC Manning's deployment
5-Oct-11	TC met with TCAP in Charlottesville, VA, to discuss discovery, Art 104
6-Oct-11	TC requested to review damage assessments from: DOS, ODNI, OGA1, OGA2, and the FBI
6-Oct-11	TC submitted updated requests for classification review from: CENTCOM, DOS, and SOUTHCOM
7-Oct-11	TC submitted request to use classified information (OGA1)
8-Oct-11	TC requested access to any damage assessments from OGA2
11-Oct-11	TC requested name and contact information for each organization that contributed to OONCIX damage assessment
12-Oct-11	Discovery Production Bates # 00045302 - 00045581 (280 pages), including CID information [Unclassified]
12-Oct-11	TC met with FBI, EDVA and DOJ
13-Oct-11	Defense submitted a discovery request
13-Oct-11	TC met with DOJ and sent updated request for classification review to ODNI
13-Oct-11	DC expert, Mr. Struttman, granted SECRET clearance
14-Oct-11	SPCMCA excluded the period from 15 Sep 11 to 14 Oct 11 as excludable delay under R.C.M. 707(c) in an accounting memorandum. SPCMCA acknowledged the Defense's request for Speedy Trial on 13 Jan 11 and renewed request for Speedy Trial dated 25 Jul 11.
14-Oct-11	TC met with OSJA for concept plan for Defense case brief
14-Oct-11	TC received contact information from ONCIX of each Government agency that contributed to ONCIX damage assessment
15-Oct-11	TC begins to ingest voluminous discovery
17-Oct-11	TC met with EDVA and worked on organizing OCA binder and tracking approvals

18-Oct-11	TC submitted updated request for classification review to CENTCOM
19-Oct-11	TC met with DHS, retrieves classified response and discloses it to Defense
20-Oct-11	Discovery Production Bates # 00045582 - 00046073 (492 pages), including CID information [Unclassified]
21-Oct-11	TC met with OGA2 to review classified information
25-Oct-11	TC submitted its seventh requested delay of Article 32 investigation until the earlier of the completion of OCA Disclosure Requests, OCA classification reviews, and receipt of protective orders from the defense or 28 Nov 11. TC would provide SPCMCA an update NLT 23 Nov 11
25-Oct-11	DC objected to TC request for a delay of Article 32 investigation
25-Oct-11	TC submitted request to review damage assessments to DIA and OGA2
26-Oct-11	TC submitted renewed request for DA G2 approval to disclose classified information to the Defense
26-Oct-11	TC submitted request to review damage assessment to CYBERCOM
27-Oct-11	SPCMCA approved TC request to delay Article 32 investigation
27-Oct-11	TC purchased 5 courier bags, printer, shredder, and open/close magnet and provided SF 704 and courier cards requested by DC.
27-Oct-8 Nov 11	TC/DC arranged travel logistics for DC experts 7-9 Nov 11
28-Oct-11	TC receives notice that INSCOM authorized the Defense and PFC Manning to receive classified information
1-Nov-11	TC meeting – full dress rehearsal for Defense case brief
1-Nov-11	TC began contacting agencies on the list provided by ONCIX
3-Nov-11	TC met with DOJ to discuss similar federal cases
4-Nov-11	Discovery Production Bates # 00046074 - 00375129 (329056 pages), including CID Forensic Reports [Unclassified]
4-Nov-11	TC received update on status of damage assessment from CYBERCOM
7-Nov-11	TC submitted request to CYBERCOM to use damage assessment
8-Nov-11	Discovery Production Bates # 00375130 - 00375182 (53 pages), including Military Intelligence Investigation [Unclassified]

8-Nov-11	Discovery Production Bates # 00376954 - 00378175 (1222 pages), including Charged Documents, C3 Report, Classification Review [Classified]
8-Nov-11	Discovery Production Bates # 00378176 - 00378176 (1 pages), including Volumes.txt [Unclassified]
8-Nov-11	Discovery Production Bates # 00378177 - 00378624 (448 pages), including Military Intelligence Investigation and Classified CID information [Classified and Unclassified]
8/9-Nov-11	TC presented Defense case brief, DC requested similar briefing for PFC Manning on 18 Nov 11
9-Nov-11	DC requested additional software for the Defense forensic experts
15-Nov-11	DC submitted a discovery request
16-Nov-11	DC submitted a discovery request
16-Nov-11	Trial Counsel requested the SPCMCA to restart the Article 32 no earlier than 16 Dec 11and further requested the SPCMCA to exclude the period between 16 November 2011 and 16 December 2011 as excludable delay under R.C.M. 707(c) in order for the Government to obtain the final classification review from an OCA and to provide the command with time to execute OPLAN BRAVO.
16-Nov-11	DC objected to TC request to delay Article 32 and to TC proposed start date. DC proposed an earlier date of 12 December 2011. The Defense also objected to any delay being excluded under R.C.M. 707(c) and instead requested the time be counted against the Government for Speedy Trial and Article 10 purposes.
16-Nov-11	SPCMCA approved the Government's request for restart of the Article 32 NLT 16 Dec 11 in an accounting memorandum and excluded the period from 22 Apr 11 until 16 Dec 11 as excludable delay under R.C.M. 707(c).
16-Nov-11	SPCMCA issued special instructions to the Article 32 investigating officer
16-Nov-11	TC submitted a request to review damage assessments to DEA
17-Nov-11	Discovery Production Bates # 00378626 - 00378649 (24 pages), including CID information and classification review(s) [Classified and Unclassified]
17-Nov-11	Discovery Production Bates # 00378650 - 00384256 (5607 pages), including Sec Army 15-6 GOMORs [Unclassified]
17-Nov-11	TC TDY to Fort Leavenworth, KS for Defense case brief with PFC Manning
17 and 22 Nov-11	DC advises TC team that DC experts require "evidence finder" and "chrome analysis"

18-Nov-11	TC presented Defense case brief to Defense team and PFC Manning
22-Nov-11	NGA confirmed to TC they have responsive prudential search request documents ready for pick up
23-Nov-11	Discovery Production Bates # 00378625 - 00378625 (1 pages), including DA Form 4137 [Classified]
23-Nov-11	Discovery Production Bates # 00402272 - 00407990 (5719 pages), including Sec Army 15-6 GOMORs [Unclassified]
23-Nov-11	Discovery Production Bates # 00407991 - 00409678 (1688 pages), including CID information and DSS case file [Unclassified]
27-Nov-11	TC purchased toner and shredder requested by DC
28-Nov-11	DC requested additional computer software equipment for forensic experts. TC met with OTJAG in reference to discovery software
30-Nov-11	TC requested authentication of Intelink logs from ODNI
30-Nov-11	TC began preparing witnesses for Article 32 hearing
1-Dec-11	Discovery Production Bates # 00384257 - 00402271 (18015 pages), including Sec Army 15-6 GOMORs [Unclassified]
1-Dec-11	DC filed a motion to compel production of discovery with Article 32 IO
1-Dec-11	TC met with CCIU
2-Dec-11	TC received final classification review from OGA1 with signed OCA declaration
2-Dec-11	DC submitted witness list for Article 32 investigation to IO
2-Dec-11	TC submitted prosecution classified information use request to OGA1
2-Dec-11	SPCMCA approved DC request for additional computer software equipment for forensic experts
5-Dec-11	DC requested confirmation regarding potential release of classified information in Defense request for production of evidence and sealed Defense motion for 405(h)(3)
6-Dec-11	Discovery Production Bates # 00409679 – 00410599 (921 pages), including CID information [Unclassified]
6-Dec-11	TC team purchased software DC experts requested on 17 and 22 Nov 11
7-Dec-11	Discovery Production Bates # 00375183 - 00375197 (15 pages), including Sec Army 15-6 GOMORs [Unclassified]
7-Dec-11	Discovery Production Bates # 00410600 - 00410670 (71 pages), including Enemy information, PFC Manning's office work product, and

	classification review(s) [Classified]
8-Dec-11	TC conducted five witness interviews
8/9-Dec-11	TC worked logistics of Defense expert travel to Fort Meade as well as logistics for the Article 32 hearing and for PFC Manning's family to attend
9-Dec-11	Discovery Production Bates # 00375198 - 00376953 (1756 pages), including CID information, Schmiedl Files, Classification Reviews [Unclassified]
9-Dec-11	Discovery Production Bates # 00410671 - 00410689 (19 pages), including CID information [Unclassified]
9-Dec-11	DC requested translation of a video previously disclosed by TC
11-16-Dec-11	DC forensics experts at Fort Meade
13-Dec-11	DC requested a list of Government witnesses TC will produce in person and those available telephonically; DC requested TC grant a witness testimonial immunity
13-22 Dec-11	TC TDY to Fort Meade for Article 32 hearing (through 22 Dec 11)
16-Dec-11	Article 32 investigation began.
19-Dec-11	Discovery Production Bates # 00410690 - 00410697 (8 pages), including CID information and pretrial confinement information [Unclassified]
19-Dec-11	Discovery Production Bates # 00410698 - 00410701 (4 pages), including Classification review [Classified and Unclassified]
19 Dec 11-6 Jan 12	TC team processing DC expert expenses
22-Dec-11	Article 32 investigation concluded
2-Jan-12	TC requested meeting with FBI to discuss discovery
3-Jan-12	TC requested Article 32 IO exclude as reasonable delay anytime between 22 Dec 11 and 3 Jan 12 that he did not work on the Article 32 investigation based on the federal holidays and weekends
3-Jan-12	SPCMCA excluded the period from 16 Nov 11 until 15 Dec 11 as excludable delay under R.C.M. 707(c) in an accounting memorandum. SPCMCA acknowledged the Defense's request for Speedy Trial on13 Jan 11 and renewed request for Speedy Trial dated 25 Jul 11
4-Jan-12	Article 32 IO sent an email excluding as a reasonable delay the days between 23 Dec 11 and 3 Jan 12 when he did not work on the Article 32 investigation. He did not solicit a response from DC.

5-Jan-2 Feb-12	TC realized the DoD response to prudential search request did not include information from HQDA. DoDGC advised TC to deal with HQDA directly. TC emailed OTJAG twice for updates.
6-Jan-12	TC met with DOJ, ODNI
9-Jan-12	TC ensured all documents had been moved to the closed system and uploaded in discovery software
10-Jan-12	TC met with FBI and focused on discovery and submitted a memorandum to DOS detailing discovery obligations
11-Jan-12	Article 32 IO completed his report and recommendations, including providing the SPCMCA with an excludable delay memorandum
12-Jan-12	Discovery Production Bates # 00410702 - 00410788 (87 pages), including Article 32 investigating officer's final report and pretrial confinement recordings [Unclassified]
12-16-Jan-12	DC submits deposition request for OCAs through TC to SPCMCA and requesting to do the depositions in Feb 12
17-Jan-12	TC reviewed FBI case file
18-Jan-12	TC sent speedy trial requests to: CENTCOM, CYBERCOM, DA, DEA, DHS, DIA, DISA, DOS, INSCOM, JIEDDO, ODNI, OGA1, OGA2, and SOUTHCOM
18-Jan-12	SPCMCA recommends GCM and denies DC deposition requests
18-Jan – 7 Feb-12	DC requests more funding for forensic experts who intend to work on the case 8-17 Feb 12. TC team working logistics of request
20-Jan-12	DC submitted a discovery request
20-Jan-12	Discovery Production Bates # 00410789 - 00410870 (82 pages), including CID information and PFC Manning's Skype logs [Unclassified]
23-Jan-12	DC submits deposition request to GCMCA;
27-Jan-12	Discovery Production Bates # 00410871 - 00411342 (472 pages), including CID Docs, Article 32 Audio - Unclassified [Unclassified]
27-Jan-12	Discovery Production Bates # 00411343 - 00411366 (24 pages), including Manning Computer Logs, Closed session - 111218 [Unclassified]
27-Jan-12	TC responded to DC discovery request dated 29 October 2010, 15 November 2010, 8 December 2010, 10 January 2011, 16 February 2011, 13 May 2011, 13 October 2011, 15 November 2011, 16 November 2011, and 20 January 2012.
27 Jan 12	DC requested contact information for 3 OCA witnesses
28-Jan-12	TC received response from FBI on classification of damage assessment

31-Jan-12	DC submitted a discovery request
31-Jan-12	TC responded to DC discovery request
1-Feb-12	TC completed review of FBI file relevant to PFC Manning
3-Feb-12	GCMCA referred the case
3-Feb-12	Court received Electronic Docket Notification
6-Feb-12	DC requested coordination for transportation of PFC Manning to Defense meeting; TC/DC emails agreeing to 23 Feb 12 arraignment date
7-Feb-12	TC in negotiations with FBI and DOJ about releasing FBI file to DC. FBI refused disclosure to DC without a court order
8-Feb-12	Telephonic RCM 802 session
16-Feb-12	DC submitted first Motion to Compel Discovery to the Court
21-Feb-12	TC reviewed classified response from Social Security Administration
23-Feb-12	Arraignment
2-Mar-12	DC requested limited access to SIPRNET
13-Mar-12	Discovery Production Bates # 00411367 - 00412613 (1247 pages), including CID information/Attestations/PTC Visitation Logs, Audio Logs [Unclassified]
15-Mar-12	Article 39(a) session began
16-Mar-12	Article 39(a) session concluded. Military Judge issued a protective order governing classified information.
16-Mar-12	Discovery Production Bates # 00412614 - 00417914 (5301 pages), including FBI information [Unclassified]
22-Mar-12	Email sent by then-CPT Fein stating Government's position on R.C.M. 701 and classified evidence.
28-Mar-12	RCM 802 telephonic conference
12-Apr-12	Discovery Production Bates # 00417915 - 00419646 (1732 pages), including FBI information, PFC Manning AKO-S email, trial documents, DISA and JIEDDO information [Classified and Unclassified]
12-Apr-12	Discovery Production Bates # 00419647 - 00419804 (158 pages), including CID information, damage assessment(s), motions hearing

	audio [Unclassified]
24-Apr-12	Article 39(a) session began
24-Apr-12	Discovery Production Bates # 00419805 - 00445503 (25699 pages), including Interim CID Forensic Reports [Classified and Unclassified]
26-Apr-12	Article 39(a) session concluded
15-May-12	Discovery Production Bates # 00445504 - 00447091 (1588 pages), including FBI information [Classified]
15-May-12	Discovery Production Bates # 00447092 - 00447392 (301 pages), including Administrative documents, CID information, and damage assessment(s) [Unclassified]
15-May-12	Discovery Production Bates # 00447393 - 00447439 (47 pages), including Damage assessments [Classified]
18-May-12	Discovery Production Bates # 00447440 - 00447666 (227 pages), including FBI information [Classified and Unclassified]
18-May-12	DOS Draft Damage Assessment available for inspection with TC [Classified with Special Control Measures]
21-May-12	Discovery Production Bates # 00447667 - 00447817 (151 pages), including Grand jury information [Unclassified]
21-May-12	Discovery Production Bates # 00447818 - 00447848 (31 pages), including Damage assessments and CIA information [Classified]
24-May-12	Discovery Production Bates # 00447849 - 00447944 (96 pages), including Pretrial confinement recordings and photos, CID information, and trial documents [Classified]
29-May-12	Discovery Production Bates # 00447945 - 00449240 (1296 pages), including Trial documents [Classified]
30-May-12	RCM 802 telephonic conference
4-Jun-12	Discovery Production Bates # 00449241 - 00449242 (2 pages), including DOE damage assessment [Classified]
6-Jun-12	Article 39(a) session began
6-Jun-12	DIA Information Review Task Force Report available for inspection with prosecution [Classified with Special Control Measures]
8-Jun-12	Article 39(a) session concluded
13-Jun-12	Discovery Production Bates # 00449243 - 00449402 (160 pages), including DHS damage assessment [Classified]
25-Jun-12	Article 39(a) session

26-Jun-12	DC submitted discovery request
2-Jul-12	Discovery Production Bates # 00508935 - 00508940 (6 pages), CIA WikiLeaks Task Force Report available for inspection with prosecution [Classified with Special Control Measures]
3-Jul-12	Discovery Production Bates # 00449403 - 00449464 (62 pages), including CID information, trial documents, and DISA logs [Unclassified]
3-Jul-12	Discovery Production Bates # 00449465 - 00449552 (88 pages), including CID report, damage assessment(s), and PFC Manning's emails [Classified]
3-Jul-12	TC responded to DC discovery request date 26 June 2012; TC submitted prudential search request to U.S. CYBER COMMAND on 27 Jun 12 request from DC
9-Jul-12	DC submitted discovery request
12-Jul-12	Discovery Production Bates # 00449553 - 00449571 (19 pages), including Pretrial confinement recordings and CID forensic report [Unclassified]
12-Jul-12	Discovery Production Bates # 00449572 - 00449581 (10 pages), including DISA information [Classified]
16-Jul-12	Article 39(a) session began
19-Jul-12	DC submitted discovery request
20-Jul-12	Article 39(a) session concluded
27-Jul-12	Discovery Production Bates # 00449793 - 00449942 (150 pages), including Brig Emails [Unclassified]
27-Jul-12	RCM 802 telephonic conference
28-Jul-12	Discovery Production Bates # 00449582 - 00449764 (183 pages), including NGA information [Classified]
1-Aug-12	DC submitted discovery request
2-Aug-12	Discovery Production Bates # 00449765 - 00449792 (28 pages), including USCYBERCOM and FBI damage assessments [Classified]
2-Aug-12	Discovery Production Bates # 00449943 - 00479483 (29541 pages), including Joint Staff/DOD/HQDA/DIA information [Classified]
2-Aug-12	Discovery Production Bates # 00479484 - 00499594 [Classified]
2-Aug-12	Discovery Production Bates # 00499595 - 00504420 (4826 pages), including DIA information and other damage assessment(s) [Classified]

2-Aug-12	Discovery Production Bates # 00504421 - 00504481 (61 pages), including Pretrial confinement recordings and trial documents [Unclassified]
2-Aug-12	Discovery Production Bates # 00504482 - 00505060 (579 pages), including DIA information, DOS and DIA damage assessments marked [Classified]
3-Aug-12	Discovery Production Bates # 00505061 - 00505183 (123 pages), including Damage assessments and CID information [Classified]
3-Aug-12	Discovery Production Bates # 00505184 - 00505204 (21 pages), including CID information and various OCA documents [Unclassified]
3-Aug-12	Discovery Production Classified digital evidence [Classified with Special Control Measures]
3-Aug-12	Discovery Production NSA documents [Classified with Special Control Measures]
6-Aug-12	Discovery Production Bates # 00505205 - 00505256 (52 pages), including damage assessments and enemy information [Classified]
7-Aug-12	Discovery Production Bates # 00505257 - 00505257 (1 pages), including Intelink attestation [Unclassified]
7-Aug-12	Discovery Production Bates # 00505258 - 00505808 (551 pages), including FBI information and variation of charged documents [Classified]
10-Aug-12	Discovery Production Bates # 00505809 - 00506675 (867 pages), including DIA information [Classified]
14-Aug-12	TC responded to DC 1 Aug 12 discovery request
14-Aug-12	Discovery Production Bates # 00506676 - 00506684 (9 pages), including Quantico information [Unclassified]
14-Aug-12	Discovery Production Bates # 00508691 - 00508934 (244 pages), including Quantico information [Unclassified]
16-Aug-12	Discovery Production Bates # 00506685 - 00508690 (2006 pages), including USCYBERCOM information [Classified]
16-Aug-12	Discovery Production Bates # 00509516 - 00511906 (2391 pages), including USCYBERCOM information available for inspection with prosecution [Classified with Special Control Measures]
21-Aug-12	Discovery Production Bates # 00508941 - 00509515 (575 pages), including DIA information [Classified]
23-Aug-12	Discovery Production ONCIX information available for inspection at ODNI HQ [Classified with Special Control Measures]
27-Aug-12	Article 39(a) session began
27-Aug-12	Discovery Production Bates # 00511907 - 00514453 (2547 pages), including Quantico emails [Unclassified]
30-Aug-12	Article 39(a) session concluded

13-Sep-12	TC responded to DC 9 and 19 Jul 12 discovery requests
14-Sep-12	Discovery Production Bates # 00514501 - 00514898 (398 pages), DIA and ODNI information available for inspection with prosecution [Classified with Special Control Measures]
14-Sep-12	Discovery Production Bates # 00519353 - 00523672 (1286 pages), including DOS information [Classified]
14-Sep-12	Discovery Production DoS information [Classified with Special Control Measures]
15-Sep-12	Discovery Production Bates # 00514454 - 00514497 (44 pages), including DHS information [Unclassified]
15-Sep-12	Discovery Production Bates # 00514498 - 00514498 (1 pages), including DHS information [Classified]
19-Sep-12	Discovery Production Bates # 00514499 - 00514500 (2 pages), including DOE information [Unclassified]
19-Sep-12	Discovery Production Bates # 00514899 - 00515842 (944 pages), including DIA and CIA information [Classified]
19-Sep-12	Discovery Production Bates # 00515843 - 00519167 (3325 pages), including Quantico emails [Unclassified]
20-Sep-12	Discovery Production Bates # 00519168 - 00519352 (185 pages), including FBI information [Classified]
20-Sep-12	Discovery Production Bates # 00519353 - 00523672 (1286 pages), including DOS information [Classified], which was previously made available for inspection on 14 Sep 12
28-Sep-12	Discovery Production Bates # 00509516 - 00511906 (2391 pages), including USCYBERCOM previously made available for inspection on 16 Aug 12
28-Sep-12	Discovery Production Bates # 00514501 - 00514898 (398 pages), including DIA and ODNI information previously made available for inspection on 14 Sep 12