Section II
Guilty Plea Inquiry For United States v. PFC Bradley E. Manning

2–2–1. GUILTY PLEA INTRODUCTION

MJ: PFC Manning, your counsel has entered a plea of guilty to lesser included offenses for several of the charges and specifications. Your plea of guilty will not be accepted unless you understand its meaning and effect. I am going to discuss your plea of guilty with you. You may wish to consult with your defense counsel prior to answering any of my questions. If at any time you have questions, feel free to ask them.

A plea of guilty is equivalent to a conviction and is the strongest form of proof known to the law. On your plea alone, and without receiving any evidence, this court can find you guilty of the offenses to which you have pled guilty. Your plea will not be accepted unless you realize that by your plea you admit every act or omission, and element of the offenses to which you have pled guilty, and that you are pleading guilty because you actually are, in fact, guilty. If you do not believe that you are guilty, then you should not for any reason plead guilty. Do you understand what I have said so far?
ACC: (Responds.)

MJ: By your plea of guilty, you give up three important rights, but you give up these rights solely with respect to the offenses to which you have pled guilty.

First, the right against self-incrimination, that is, the right to say nothing at all.

Second, the right to a trial of the facts by this court, that is, your right to have this court-martial decide whether or not you are guilty based upon evidence the prosecution would present and on any evidence you may introduce.

Third, the right to be confronted by and to cross-examine any witness called against you.

Do you have any questions about any of these rights?
ACC: (Responds.)

MJ: Do you understand that by pleading guilty you no longer have these rights?
ACC: (Responds.)

MJ: If you continue with your guilty plea, you will be placed under oath and I will question you to determine whether you are, in fact, guilty. Anything you tell me may be used against you in the sentencing portion of the trial. Do you understand this?

ACC: (Responds.)

MJ: If you tell me anything that is untrue, your statements may be used against you later for charges of perjury or making false statements. Do you understand this?

ACC: (Responds.)

MJ: Your plea of guilty to a lesser included offense may also be used to establish certain elements of the charged offense, if the government decides to proceed on the charged offense. Do you understand this?

ACC: (Responds.)

MJ: Trial Counsel, please place the accused under oath.

TC: PFC Manning, please stand and face me. Do you (swear) (affirm) that the statements you are about to make shall be the truth, the whole truth, and nothing but the truth (so help you God)?

ACC: (Responds.)

MJ: Is there a stipulation of fact?

TC: No, Your Honor.

MJ: Defense, has your client prepared a statement in support of his plea of guilty?

TC: Yes, Your Honor.

STATEMENT IN SUPPORT OF PLEA INQUIRY

MJ: Please have the statement marked as Defense Exhibit Alpha for Identification, present it to me, and make sure PFC Manning has a copy. PFC Manning, I have before me Defense Exhibit Alpha for Identification, a statement in support of your plea along with an attachment entitled Attachment to Statement In Support of the Providence Inquiry. Did you sign the statement and the attachment to the statement?

ACC: (Responds.)

MJ: PFC Manning, is the statement in support of the plea inquiry and the attachment to it the full contents of Defense Exhibit Alpha for Identification?

ACC: Yes, Your Honor.

MJ: Did you read these documents thoroughly before you signed them?

ACC: (Responds.)

MJ: PFC Manning, no one can be forced to prepare a written statement in support of their plea, so you should do so only if you truly want to do so. Do you understand this?

ACC: (Responds.)

MJ: Are you voluntarily offering this statement and it's attachment because you believe it is in your best interest to do so?

ACC: (Responds.)

MJ: If I admit this statement along with its attachment into evidence it will be used in two ways. First, I will use it to determine if you are, in fact, guilty of the offenses to which you have pled guilty.

Second, I will use it to determine an appropriate sentence for you.

Do you understand and agree to these uses of the statement and its attachment?

ACC: (Responds.)

MJ: Defense, do you also agree to these uses?

DC: (Responds.)

MJ: PFC Manning, do you remember when I told you that if you tell me anything that is untrue, your statements may be used against you later for charges of perjury or making false statements?

ACC: (Responds.)

MJ: The same would be true in regards to Defense Exhibit Alpha for Identification. If you adopt Defense Exhibit Alpha for Identification under oath and something in it would be untrue, this statement may be used against you later for charges of perjury or making false statements. Do you understand that?

ACC: (Responds.)

MJ: At this time, I want you to read your copy of the statement and its attachment silently to yourself as I read it to myself.

> ***NOTE: The Court has previously indicated that it would want PFC Manning to read the statement and its attachment in open court. The Defense does not object to having PFC Manning read the statement and its attachment in open court.***
>
> ***NOTE: The MJ should read the statement and be alert to resolve inconsistencies between what is stated in the stipulation and what the accused says during the providence inquiry.***

MJ: Have you finished reading it?

ACC: (Responds.)

MJ: PFC Manning, is everything in the statement and its attachment true?

ACC: (Responds.)

MJ: Is there anything in the statement or its attachment that you do not wish to admit is true?

ACC: (Responds.)

MJ: Do you agree under oath that the matters contained in the statement and its attachment are true and correct to the best of your knowledge and belief?

ACC: (Responds.)

MJ: Trial Counsel, do you have any objections to Defense Exhibit Alpha for Identification?

TC: (Responds.)

MJ: Defense Exhibit Alpha for Identification is admitted into evidence subject to my acceptance of the accused's guilty plea.

2–2–3. GUILTY PLEA FACTUAL BASIS

MJ: PFC Manning, I am going to explain the elements of the offenses to which you have pled guilty. By "elements," I mean those facts which the prosecution would have to prove beyond a reasonable doubt before you could be found guilty if you had pled not guilty. When I state each element, ask yourself two things: First, is the element true; and second, whether you wish to admit that it is true. After I list the elements for you, be prepared to talk to me about the facts regarding the offenses. Do you have a copy of the charge sheet in front of you?

ACC: (Responds.)

SPECIFICATION 5 OF CHARGE III

MJ: Please look at Specification 5 of Charge III. It alleges the offense of violating a lawful regulation in violation of Article 92, UCMJ. The elements of the offense of violating a lawful regulation are:

(1) That there was in existence a certain lawful general regulation in the following terms: Paragraph 7-4, Army Regulation 380-5, dated 29 September 2000;

(2) That you had a duty to obey such regulation; and

(3) That between on or about 8 January 2010 and on or about 27 May 2010, at or near Contingency Operating Station Hammer, Iraq, you violated this lawful general regulation by wrongfully storing classified information.

There are some definitions that go with this offense.

NOTE 1: Proof of existence of regulation. The existence of the regulation must be proven or judicial notice taken.

NOTE 2: Lawfulness of regulation. The lawfulness of the regulation is not a separate element of the offense. Thus, the issue of lawfulness is determined by the MJ and is not submitted to the members. See United States v. New, 55 MJ 95 (CAAF 2001); United States v. Deisher, 61 MJ 313 (CAAF 2005). To be lawful, the regulation must relate to specific military duty and be one that the was authorized to be given to the accused. The regulation must require the accused to do or stop doing a particular thing either at once or at a future time. A regulation is lawful if reasonably necessary to safeguard and protect the

morale, discipline, and usefulness of the members of a command and is directly connected with the maintenance of good order in the services.

As a matter of law, the regulation in this case, as described in the specification, if in fact there was such a regulation, was a lawful regulation.

NOTE 3: Order or regulation determined to be unlawful. A regulation is illegal if, for example, it is unrelated to military duty, its sole purpose is to accomplish some private end, it is arbitrary and unreasonable, and/or it is given for the sole purpose of increasing the punishment for an offense which it is expected the accused may commit.

NOTE 7: Orders or regulations containing conditions. When an alleged regulation prohibits a certain act or acts "except under certain conditions," (e.g., "except in the course of official duty" or "except with proper authorization"), and the issue is raised by the evidence, the burden is upon the prosecution to prove that the accused is not within the terms of the exception.

MJ: Do you understand the elements and definitions as I have read them to you?
ACC: (Responds.)

MJ: Do you have any questions about any of them?
ACC: (Responds.)

MJ: Do you understand that your plea of guilty admits that these elements accurately describe what you did?
ACC: (Responds.)

MJ: Do you believe and admit that the elements and definitions taken together correctly describe what you did?
ACC: (Responds.)

MJ: At this time, I want you to tell me why you are guilty of the offense listed in Specification 5 of Charge III. Tell me what happened.
ACC: (Responds.)

MJ: Are you familiar with Army Regulation 380-5?

ACC: (Responds.)

MJ: Have you received training on the requirements of Army Regulation 380-5?

ACC: (Responds.)

MJ: Did you admit that you had a duty to obey Army Regulation 380-5?

ACC: (Responds.)

MJ: Why do you feel you had a duty to obey Army Regulation 380-5?

ACC: (Responds.)

MJ: What did you believe Army Regulation 380-5 required you to do with classified information?

ACC: (Responds.)

MJ: Are you familiar with paragraph 7-4 of Army Regulation 380-5?

ACC: (Responds.)

MJ: How are you familiar with paragraph 7-4 of Army Regulation 380-5?

ACC: (Responds.)

MJ: Do you admit you violated paragraph 7-4 of Army Regulation 380-5 by wrongfully storing classified information?

ACC: (Responds.)

> ***NOTE: Paragraph 7-4 reads "Classified information that is not under the personal control and observation of an authorized person, is to be guarded or stored in a locked security container, vault, room, or area, pursuant to the level of classification and this regulation…"***

MJ: How did you wrongfully store classified information?

ACC: (Responds.)

MJ: Did anyone tell you that you had authorization to store classified information on your personal computer?

ACC: (Responds.)

MJ: Were you storing classified information on your personal computer for some official purpose?
ACC: (Responds.)

MJ: Do you believe you had any authorization to store classified information on your personal computer?
ACC: (Responds.)

MJ: So there is no doubt in your mind that you violated Army Regulation 380-5 by storing classified information your personal computer?
ACC: (Responds.)

MJ: Do you admit that you knew that there was in existence a certain lawful general regulation in the following terms: Paragraph 7-4, Army Regulation 380-5, dated 29 September 2000?
ACC: (Responds.)

MJ: Do you admit that you had a duty to obey this regulation?
ACC: (Responds.)

MJ: Do you admit that between on or about 8 January 2010 and on or about 27 May 2010, at or near Contingency Operating Station Hammer, Iraq, you violated this lawful general regulation by wrongfully storing classified information on your personal computer?
ACC: (Responds.)

SPECIFICATIONS 2, 3, 5, 7, 9, 10, AND 15 OF CHARGE II

MJ: Now I want you to take a look at Specifications 2, 3, 5, 7, 9, 10, and 15 of Charge II. These Specifications allege the offense of transmitting defense information in violation of Title 18, United States Code Section 793(e) and Article 134, UCMJ. Your counsel has entered a plea of guilty for you to the lesser included offenses for these Specifications. The elements of the lesser included offenses to which you have enter a plea of guilty are:

(1) That at or near Contingency Operating Station Hammer, Iraq,

SPECIFICATION 2: between on or about 14 February 2010 and 21 February 2010; you, without authorization, had possession of, access to, or control over: a video file named "12 JUL 07 CZ ENGAGEMENT ZONE 30 GC Anyone.avi.";

SPECIFICATION 3: between on or about 17 March 2010 and 22 March 2010; you, without authorization, had possession of, access to, or control over: more than one classified memorandum produced by a United States government intelligence agency;

SPECIFICATION 5: between on or about 5 January 2010 and 3 February 2010; you, without authorization, had possession of, access to, or control over: more than 20 classified records from the Combined Information Data Network Exchange Iraq database;

SPECIFICATION 7: between on or about 5 January 2010 and 3 February 2010; you, without authorization, had possession of, access to, or control over: more than 20 classified records from the Combined Information Data Network Exchange Afghanistan database;

SPECIFICATION 9: on or about 8 March 2010; you, without authorization, had possession of, access to, or control over: more than 3 classified records from a United States Southern Command database;

SPECIFICATION 10: between on or about 10 April 2010 and 12 April 2010; you, without authorization, had possession of, access to, or control over: more than 5 classified records relating to a military operation in Farah Province, Afghanistan occurring on or about 4 May 2009;

SPECIFICATION 15: on or about 8 March 2010; you, without authorization, had possession of, access to, or control over: a classified record produced by a United States Army intelligence organization, dated 18 March 2008;

(Elements Common to all specifications)

(2) that you willfully communicated the classified records, classified memorandum, videos, and files described for each specification in element (1) to a person not entitled to receive it; and

(3) under the circumstances, your conduct was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces.

There are some definitions that go with these offenses.

"Conduct prejudicial to good order and discipline" is conduct which causes a reasonably direct and obvious injury to good order and discipline. "Service discrediting conduct" is conduct which tends to harm the reputation of the service or lower it in public esteem.

With respect to "prejudice to good order and discipline," the law recognizes that almost any irregular or improper act on the part of a service member could be regarded as prejudicial in some indirect or remote sense; however, only those acts in which the prejudice is reasonably direct and palpable is punishable under this Article.

With respect to "service discrediting," the law recognizes that almost any irregular or improper act on the part of a service member could be regarded as service discrediting in some indirect or remote sense; however, only those acts which would have a tendency to bring the service into disrepute or which tend to lower it in public esteem are punishable under this Article.

Under some circumstances, your conduct may not be prejudicial to good order and discipline but, nonetheless, may be service discrediting, as I have explained those terms to you. Likewise, depending the circumstances, your conduct can be prejudicial to good order and discipline but not be service discrediting.

An act is done "willfully" if it is done voluntarily and intentionally with the specific intent to do something the law forbids, that is, with a bad purpose to disobey or disregard the law.

"Possession" means the act of having or holding property or the detention of property in one's power or command. Possession may mean actual physical possession or constructive possession. "Constructive possession" means having the ability to exercise dominion or control over an item. Possession inherently includes the power or authority to preclude control by others. It is possible, however, for more than one person to possess an item simultaneously, as when several people share control of an item.

A person has unauthorized possession of documents, photographs, videos, or computer files when he possesses such information under circumstances or in a location which is contrary to law or regulation for the conditions of his employment.

In determining whether the person who received the information was entitled to have it, the trier of fact may consider all the evidence introduced at trial, including any evidence concerning the classification status of the information, any evidence relating to law and regulations governing the classification and declassification of national security information, its handling, use, and distribution, as well as any evidence relating to regulations governing the handling, use, and distribution of information obtained from classified systems.

The term "person" means any individual, firm, corporation, education institution, financial institution, governmental entity, or legal or other entity.

MJ: Do you understand the elements and definitions as I have read them to you?
ACC: (Responds.)

MJ: Do you have any questions about any of them?
ACC: (Responds.)

MJ: Do you understand that your plea of guilty admits that these elements accurately describe what you did?
ACC: (Responds.)

MJ: Do you believe and admit that the elements and definitions taken together correctly describe what you did?
ACC: (Responds.)

<u>SPECIFICATION 2 OF CHARGE II</u>
MJ: At this time, I want you to tell me why you are guilty of the lesser included offenses of Specification 2, 3, 5, 7, 9, 10 and 15 of Charge II. Let's begin by first having you tell me what happened with regards to Specification 2 of Charge II. Specification 2 deals with the video file named "12 JUL 07 CZ ENGAGEMENT ZONE 30 GC Anyone.avi."
ACC: (Responds.)

MJ: Are you familiar with the video file named "12 JUL 07 CZ ENGAGEMENT ZONE 30 GC Anyone.avi?"

ACC: (Responds.)

MJ: How are you familiar with the charged video?

ACC: (Responds.)

MJ: When was the first time that you saw the charged video?

ACC: (Responds.)

MJ: Where were you when you first saw the charged video?

ACC: (Responds.)

MJ: Did you ever take a copy of the charged video out of the T-SCIF?

ACC: (Responds.)

MJ: When did you take a copy of the charged video out of the T-SCIF?

ACC: (Responds.)

MJ: Was the T-SCIF at or near Contingency Operating Station Hammer, Iraq?

ACC: (Responds.)

MJ: Did you have authorization to the take the charged video out of the T-SCIF?

ACC: (Responds.)

MJ: What did you do with the charged video when you took it out of the T-SCIF?

ACC: (Responds.)

MJ: Did you ever communicate the charged video to a person not entitled to receive it?

ACC: (Responds.)

MJ: Who did you communicate the charged video to?

ACC: (Responds.)

MJ: When did you communicate the charged video to WikiLeaks?

ACC: (Responds.)

MJ: How did you know that WikiLeaks was not entitled to receive the charged video?

ACC: (Responds.)

MJ: Did anyone tell you that you had authorization to send the charged video to WikiLeaks.

ACC: (Responds.)

MJ: Were you sending the charged video to WikiLeaks for some official purpose?

ACC: (Responds.)

MJ: Do you believe you had any authorization to send the charged video to WikiLeaks?

ACC: (Responds.)

MJ: So there is no doubt in your mind that you willfully communicated the charged video to a person not entitled to receive it?

ACC: (Responds.)

SPECIFICATIONS 3 AND 15 OF CHARGE II

MJ: Now let's talk about Specifications 3 and 15 of Charge II. Specifications 3 and 15 deal with classified memoranda produced by a United States government intelligence agency and a United States Army intelligence organization.

MJ: Are you familiar with the charged documents in Specifications 3 and 15 of Charge II?

ACC: (Responds.)

MJ: Without stating the exact intelligence organizations that produced these documents or stating the content of the documents, how are you familiar with them?

ACC: (Responds.)

MJ: Did you look at the memoranda in Specifications 3 and 15 when you were in Iraq?

ACC: (Responds.)

MJ: Where in Iraq were you when you saw the memoranda in Specification 3?

ACC: (Responds.)

MJ: How many memoranda are charged in Specification 3?

ACC: (Responds.)

MJ: Do you agree that there is more than one classified memorandum charged in Specification 3?

ACC: (Responds.)

MJ: Where in Iraq were you when you saw the memorandum in Specification 15?

ACC: (Responds.)

MJ: Did you ever take a copy of the memoranda in Specifications 3 and 15 out of the T-SCIF?

ACC: (Responds.)

MJ: When did you take a copy of the memoranda in Specifications 3 and 15 out of the T-SCIF?

ACC: (Responds.)

MJ: Was the T-SCIF at or near Contingency Operating Station Hammer, Iraq?

ACC: (Responds.)

MJ: Did you have authorization to the take a copy of the memoranda in Specifications 3 and 15 out of the T-SCIF?

ACC: (Responds.)

MJ: What did you do with memoranda charged in Specifications 3 and 15 when you took them out of the T-SCIF?

ACC: (Responds.)

MJ: Did you ever communicate a copy of the memoranda charged in Specifications 3 and 15 to a person not entitled to receive them?

ACC: (Responds.)

MJ: Who did you communicate the memoranda charged in Specifications 3 and 15 to?

ACC: (Responds.)

MJ: When did you communicate a copy of the memoranda charged in Specifications 3 and 15 to WikiLeaks?

ACC: (Responds.)

MJ: How did you know that WikiLeaks was not entitled to receive a copy of the memoranda charged in Specifications 3 and 15?

ACC: (Responds.)

MJ: Were the memoranda charged in Specification 3 and 15 classified at the time you sent them to WikiLeaks?

ACC: (Responds.)

MJ: How do you know that the memoranda charged in Specification 3 and 15 were classified at the time that you sent them to WikiLeaks?

ACC: (Responds.)

MJ: Did anyone tell you that you had authorization to send a copy of the memoranda charged in Specifications 3 and 15 to WikiLeaks.

ACC: (Responds.)

MJ: Were you sending a copy of the memoranda charged in Specifications 3 and 15 to WikiLeaks for some official purpose?

ACC: (Responds.)

MJ: Do you believe you had any authorization to send a copy of the memoranda charged in Specifications 3 and 15 to WikiLeaks?

ACC: (Responds.)

MJ: So there is no doubt in your mind that you willfully communicated the classified memoranda charged in Specifications 3 and 15 to a person not entitled to receive them?

ACC: (Responds.)

SPECIFICATIONS 5 AND 7 OF CHARGE II

MJ: Now let's talk about Specifications 5 and 7 of Charge II. Specifications 5 and 7 deal with classified records from the Combined Information Data Network Exchange Iraq and Afghanistan database.

MJ: Are you familiar with the charged documents in Specifications 5 and 7 of Charge II?

ACC: (Responds.)

MJ: What are the charged documents in Specification 5 and 7 of Charge II?

ACC: (Responds.)

MJ: How are you familiar with SIGACTs charged in Specification 5 and 7?

ACC: (Responds.)

MJ: How many SIGACTs are charged in Specification 5?

ACC: (Responds.)

MJ: Do you agree that more than twenty (20) SIGACTs are charged in Specification 5?

ACC: (Responds.)

MJ: How many SIGACTs are charged in Specification 7?

ACC: (Responds.)

MJ: Do you agree that more than twenty (20) SIGACTs are charged in Specification 7?

ACC: (Responds.)

MJ: Where in Iraq were you when you saw the SIGACTs charged in Specifications 5 and 7?

ACC: (Responds.)

MJ: Did you ever take a copy of the SIGACTs charged in Specifications 5 and 7 out of the T-SCIF?

ACC: (Responds.)

MJ: When did you take a copy of the SIGACTS charged in Specifications 5 and 7 out of the T-SCIF?

ACC: (Responds.)

MJ: Was the T-SCIF at or near Contingency Operating Station Hammer, Iraq?

ACC: (Responds.)

MJ: Did you have authorization to the take a copy of the SIGACTs charged in Specifications 5 and 7 out of the T-SCIF?

ACC: (Responds.)

MJ: What did you do with the SIGACTs charged in Specifications 5 and 7 when you took them out of the T-SCIF?

ACC: (Responds.)

MJ: Did you ever communicate a copy of the SIGACTS charged in Specifications 5 and 7 to a person not entitled to receive them?

ACC: (Responds.)

MJ: Who did you communicate the charged SIGACTS in Specifications 5 and 7 to?

ACC: (Responds.)

MJ: When did you communicate a copy of the SIGACTs charged in Specifications 5 and 7 to WikiLeaks?

ACC: (Responds.)

MJ: How did you know that WikiLeaks was not entitled to receive a copy of the SIGACTS charged in Specifications 5 and 7?

ACC: (Responds.)

MJ: Were the SIGACTs charged in Specification 5 and 7 classified at the time you sent them to WikiLeaks?

ACC: (Responds.)

MJ: How do you know that the SIGACTS charged in Specifications 5 and 7 were classified at the time that you sent them to WikiLeaks?

ACC: (Responds.)

MJ: Did anyone tell you that you had authorization to send a copy of the SIGACTs charged in Specifications 5 and 7 to WikiLeaks.

ACC: (Responds.)

MJ: Were you sending a copy of the SIGACTs charged in Specifications 5 and 7 to WikiLeaks for some official purpose?

ACC: (Responds.)

MJ: Do you believe you had any authorization to send a copy of the SIGACTs charged in Specifications 5 and 7 to WikiLeaks?

ACC: (Responds.)

MJ: So there is no doubt in your mind that you willfully communicated the classified SIGACTs charged in Specifications 5 and 7 to a person not entitled to receive them?

ACC: (Responds.)

SPECIFICATION 9 OF CHARGE II

MJ: Now let's talk about Specification 9 of Charge II. Specifications 9 deals with more than three classified records from a United States Southern Command database.

MJ: Are you familiar with the charged documents in Specification 9?

ACC: (Responds.)

MJ: How are you familiar with charged documents in Specification 9?

ACC: (Responds.)

MJ: What are the charged documents in Specification 9?

ACC: (Responds.)

MJ: How many documents are charged in Specification 9?

ACC: (Responds.)

MJ: Do you agree that there are more than three classified records charged in Specification 9?

ACC: (Responds.)

MJ: Where in Iraq were you when you saw the charged documents in Specification 9?
ACC: (Responds.)

MJ: Did you ever take a copy of the charged documents in Specification 9 out of the T-SCIF?
ACC: (Responds.)

MJ: When did you take a copy of the charged documents in Specification 9 out of the T-SCIF?
ACC: (Responds.)

MJ: Was the T-SCIF at or near Contingency Operating Station Hammer, Iraq?
ACC: (Responds.)

MJ: Did you have authorization to the take a copy of the charged documents in Specification 9 out of the T-SCIF?
ACC: (Responds.)

MJ: What did you do with the charged documents in Specification 9 when you took them out of the T-SCIF?
ACC: (Responds.)

MJ: Did you ever communicate a copy of the charged documents in Specification 9 to a person not entitled to receive them?
ACC: (Responds.)

MJ: Who did you communicate the charged documents in Specification 9 to?
ACC: (Responds.)

MJ: When did you communicate a copy of the charged documents in Specification 9 to WikiLeaks?
ACC: (Responds.)

MJ: How did you know that WikiLeaks was not entitled to receive a copy of the charged documents in Specification 9?
ACC: (Responds.)

MJ: Were the documents charged in Specification 9 classified at the time you sent them to WikiLeaks?

ACC: (Responds.)

MJ: How do you know that the documents charged in Specification 9 were classified at the time that you sent them to WikiLeaks?

ACC: (Responds.)

MJ: Did anyone tell you that you had authorization to send a copy of the documents charged in Specification 9 to WikiLeaks.

ACC: (Responds.)

MJ: Were you sending a copy of the documents charged in Specification 9 to WikiLeaks for some official purpose?

ACC: (Responds.)

MJ: Do you believe you had any authorization to send a copy of the documents charged in Specification 9 to WikiLeaks?

ACC: (Responds.)

MJ: So there is no doubt in your mind that you willfully communicated the classified documents charged in Specification 9 to a person not entitled to receive them?

ACC: (Responds.)

SPECIFICATION 10 OF CHARGE II

MJ: Now let's talk about Specification 10 of Charge II. Specifications 10 deals with more than five classified records relating to a military operation in Farah Province, Afghanistan occurring on or about 4 May 2009.

MJ: Are you familiar with the charged documents in Specification 10?

ACC: (Responds.)

MJ: How are you familiar with charged documents in Specification 10?

ACC: (Responds.)

MJ: What are the charged documents in Specification 10?

ACC: (Responds.)

MJ: When was the first time that you saw the charged documents in Specification 10?

ACC: (Responds.)

MJ: How many documents are charged in Specification 10?

ACC: (Responds.)

MJ: Do you agree that there are more than five (5) classified records relating to a military operation in Farah Province, Afghanistan occurring on or about 4 May 2009 in Specification 10?

ACC: (Responds.)

MJ: Where in Iraq were you when you saw the charged documents in Specification 10?

ACC: (Responds.)

MJ: Did you ever take a copy of the charged documents in Specification 10 out of the T-SCIF?

ACC: (Responds.)

MJ: When did you take a copy of the charged documents in Specification 10 out of the T-SCIF?

ACC: (Responds.)

MJ: Was the T-SCIF at or near Contingency Operating Station Hammer, Iraq?

ACC: (Responds.)

MJ: Did you have authorization to the take a copy of the charged documents in Specification 10 out of the T-SCIF?

ACC: (Responds.)

MJ: What did you do with the charged documents in Specification 10 when you took them out of the T-SCIF?

ACC: (Responds.)

MJ: Did you ever communicate a copy of the documents charged in Specification 10 to a person not entitled to receive them?

ACC: (Responds.)

MJ: Who did you communicate the charged documents in Specification 10 to?

ACC: (Responds.)

MJ: When did you communicate a copy of the charged documents in Specification 10 to WikiLeaks?

ACC: (Responds.)

MJ: How did you know that WikiLeaks was not entitled to receive a copy of the charged documents in Specification 10?

ACC: (Responds.)

MJ: Were the documents charged in Specification 10 classified at the time you sent them to WikiLeaks?

ACC: (Responds.)

MJ: How do you know that the documents charged in Specification 10 were classified at the time that you sent them to WikiLeaks?

ACC: (Responds.)

MJ: Did anyone tell you that you had authorization to send a copy of the documents charged in Specification 10 to WikiLeaks.

ACC: (Responds.)

MJ: Were you sending a copy of the documents charged in Specification 10 to WikiLeaks for some official purpose?

ACC: (Responds.)

MJ: Do you believe you had any authorization to send a copy of the documents charged in Specification 10 to WikiLeaks?

ACC: (Responds.)

MJ: So there is no doubt in your mind that you willfully communicated the classified documents charged in Specification 10 to a person not entitled to receive them?
ACC: (Responds.)

SPECIFICATIONS 2, 3, 5, 7, 9, 10, AND 15 OF CHARGE II

MJ: Now with regards to Specifications 2, 3, 5, 7, 9, 10, and 15 do you admit that your conduct was to the prejudice of good order and discipline in the armed forces or of a nature to bring discredit upon the armed forces?
ACC: (Responds.)

MJ: Tell me why you believe your conduct with regards to Specifications 2, 3, 5, 7, 9, 10, and 15 was prejudicial to good order and discipline?
ACC: (Responds.)

MJ: Tell me why you believe your conduct with regards to Specifications 2, 3, 5, 7, 9, 10, and 15 was of a nature to bring discredit upon the armed forces?
ACC: (Responds.)

MJ: Do you admit that at or near Contingency Operating Station Hammer, Iraq,

SPECIFICATION 2: between on or about 14 February 2010 and 21 February 2010; you, without authorization, had possession of, access to, or control over: a video file named "12 JUL 07 CZ ENGAGEMENT ZONE 30 GC Anyone.avi.";

SPECIFICATION 3: between on or about 17 March 2010 and 22 March 2010; you, without authorization, had possession of, access to, or control over: more than one classified memorandum produced by a United States government intelligence agency;

SPECIFICATION 5: between on or about 5 January 2010 and 3 February 2010; you, without authorization, had possession of, access to, or control over: more than 20 classified records from the Combined Information Data Network Exchange Iraq database;

SPECIFICATION 7: between on or about 5 January 2010 and 3 February 2010; you, without authorization, had possession of, access to, or control over: more than 20 classified records from the Combined Information Data Network Exchange Afghanistan database;

SPECIFICATION 9: on or about 8 March 2010; you, without authorization, had possession of, access to, or control over: more than 3 classified records from a United States Southern Command database;

SPECIFICATION 10: between on or about 10 April 2010 and 12 April 2010; you, without authorization, had possession of, access to, or control over: more than 5 classified records relating to a military operation in Farah Province, Afghanistan occurring on or about 4 May 2009;

SPECIFICATION 15: on or about 8 March 2010; you, without authorization, had possession of, access to, or control over: a classified record produced by a United States Army intelligence organization, dated 18 March 2008?
ACC: (Responds.)

MJ: Do you admit that you willfully communicated the classified records, classified memorandum, videos, and files described for Specifications 2, 3, 5, 7, 9, 10, and 15 to a person not entitled to receive them?
ACC: (Responds.)

MJ: Do you admit that under the circumstances, your conduct was to the prejudice of good order and discipline in the armed forces?
ACC: (Responds.)

MJ: Do you admit that under the circumstances, your conduct was of a nature to bring discredit upon the armed forces?
ACC: (Responds.)

<u>SPECIFICATIONS 13 AND 14 OF CHARGE II</u>
MJ: Now I want you to take a look at Specifications 13 and 14 of Charge II. These Specifications allege the offense of fraud and related activity in connection with computers in violation of Title 18, United States Code Section 1030(a)(1) and Article 134, UCMJ. Your counsel has entered a plea of guilty for you to the lesser included offenses for these Specifications. The elements of the lesser included offenses to which you have enter a plea of guilty are:

(1) That at or near Contingency Operating Station Hammer, Iraq,

SPECIFICATION 13: between on or about 28 March 2010 and on or about 4 May 2010;

SPECIFICATION 14: between on or about 14 February 2010 and 15 February 2010;

you knowingly accessed a computer on a Secret Internet Protocol Router Network.

(2) you obtained information that has been determined by the United States Government by Executive Order or statute to require protection against unauthorized disclosure for reasons of national defense or foreign relations; to wit:

SPECIFICATION 13: more than 75 classified United States Department of State cables;

SPECIFICATION 14: a classified Department of State cable title "Reykjavik-13";

(3) you communicated, delivered, transmitted, or caused to be communicated, delivered or transmitted the information to a person not entitled to receive it;

(4) you acted willfully; and

(5) under the circumstances, your conduct was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces.

The same definitions for prejudice to good order and discipline in the armed forces, and of a nature to bring discredit upon the armed forces that I read for you for the offenses charged in Specifications 2, 3, 5, 7, 9, 10, and 15 of Charge II also apply to this offense. Do you need me to read these definitions to you again?
ACC: (Responds.)

An act is done "willfully" if it is done voluntarily and intentionally with the specific intent to do something the law forbids, that is, with a bad purpose to disobey or disregard the law.

An act is done "knowingly" if it is done voluntarily and intentionally and not because of mistake or accident or other innocent reason.

The term "computer" means an electronic, magnetic, optical, electrochemical, or other high speed data processing device performing logical, arithmetic, or storage functions, and includes any data

storage facility or communications facility directly related to or operating in conjunction with such device, but such term does not include an automated typewriter or typesetter, a portable hand-held calculator, or other similar device.

In determining whether the person who received the information was entitled to have it, the trier of fact may consider all the evidence introduced at trial, including any evidence concerning the classification status of the information, any evidence relating to law and regulations governing the classification and declassification of national security information, its handling, use, and distribution, as well as any evidence relating to regulations governing the handling, use, and distribution of information obtained from classified systems.

The term "person" means any individual, firm, corporation, education institution, financial institution, governmental entity, or legal or other entity.

MJ: Do you understand the elements and definitions as I have read them to you?
ACC: (Responds.)

MJ: Do you have any questions about any of them?
ACC: (Responds.)

MJ: Do you understand that your plea of guilty admits that these elements accurately describe what you did?
ACC: (Responds.)

MJ: Do you believe and admit that the elements and definitions taken together correctly describe what you did?
ACC: (Responds.)

MJ: At this time, I want you to tell me why you are guilty of the lesser included offenses of Specification 13 and 14 of Charge II. Let's begin by first having you tell me what happened with regards to Specification 14 of Charge II. Specification 14 deals with a classified Department of State cable titled "Reykjavik-13."
ACC: (Responds.)

MJ: Are you familiar with the classified Department of State cable titled "Reykjavik-13?"

ACC: (Responds.)

MJ: How are you familiar with the charged cable in Specification 14?

ACC: (Responds.)

MJ: When was the first time that you saw the charged cable in Specification 14?

ACC: (Responds.)

MJ: Where were you when you first saw the charged cable in Specification 14?

ACC: (Responds.)

MJ: Did you ever take a copy of the charged cable in Specification 14 out of the T-SCIF?

ACC: (Responds.)

MJ: When did you take a copy of the charged cable in Specification 14 out of the T-SCIF?

ACC: (Responds.)

MJ: Was the T-SCIF at or near Contingency Operating Station Hammer, Iraq?

ACC: (Responds.)

MJ: Now let's talk about Specification 13 of Charge II. Specifications 13 deals with more than seventy-five (75) classified United States Department of State cables.

MJ: Are you familiar with the charged cables in Specification 13?

ACC: (Responds.)

MJ: How are you familiar with charged cables in Specification 13?

ACC: (Responds.)

MJ: How many documents are charged in Specification 13?

ACC: (Responds.)

MJ: Do you agree that there are more than seventy-five (75) classified cables charged in Specification 13?

ACC: (Responds.)

MJ: Where, in Iraq, were you when you saw the charged cables in Specification 13?

ACC: (Responds.)

MJ: Did you ever take a copy of the charged cables in Specification 13 out of the T-SCIF?

ACC: (Responds.)

MJ: When did you take a copy of the charged cables in Specification 13 out of the T-SCIF?

ACC: (Responds.)

MJ: Was the T-SCIF at or near Contingency Operating Station Hammer, Iraq?

ACC: (Responds.)

MJ: Did you have authorization to the take the charged cables in Specifications 13 and 14 out of the T-SCIF?

ACC: (Responds.)

MJ: What did you do with the charged cables in Specifications 13 and 14 when you took them out of the T-SCIF?

ACC: (Responds.)

MJ: Did you ever communicate the charged cables in Specifications 13 and 14 to a person not entitled to receive it?

ACC: (Responds.)

MJ: Who did you communicate the charged cables in Specifications 13 and 14 to?

ACC: (Responds.)

MJ: When did you communicate the charged cables in Specification 13 to WikiLeaks?

ACC: (Responds.)

MJ: When did you communicate the charged cable in Specification 14 to WikiLeaks?

ACC: (Responds.)

MJ: How did you know that WikiLeaks was not entitled to receive the charged cables in Specifications 13 and 14?

ACC: (Responds.)

MJ: Were the cables charged in Specification 13 classified at the time you sent them to WikiLeaks?

ACC: (Responds.)

MJ: How do you know that the cables charged in Specification 13 were classified at the time that you sent them to WikiLeaks?

ACC: (Responds.)

MJ: Was the cable charged in Specification 14 classified at the time you sent it to WikiLeaks?

ACC: (Responds.)

MJ: How do you know that the cable charged in Specification 14 was classified at the time that you sent it to WikiLeaks?

ACC: (Responds.)

MJ: Did anyone tell you that you had authorization to send the charged cables in Specifications 13 and 14 to WikiLeaks.

ACC: (Responds.)

MJ: Were you sending the charged cables in Specifications 13 and 14 to WikiLeaks for some official purpose?

ACC: (Responds.)

MJ: Do you believe you had any authorization to send the charged cables in Specifications 13 and 14 to WikiLeaks?

ACC: (Responds.)

MJ: So there is no doubt in your mind that you willfully communicated the charged classified cables in Specifications 13 and 14 to a person not entitled to receive them?

ACC: (Responds.)

MJ: Now with regards to Specifications 13 and 14 do you admit that your conduct was to the prejudice of good order and discipline in the armed forces or of a nature to bring discredit upon the armed forces?

ACC: (Responds.)

MJ: Tell me why you believe your conduct with regards to Specifications 13 and 14 was prejudicial to good order and discipline in the armed forces?

ACC: (Responds.)

MJ: Tell me why you believe your conduct with regards to Specifications 13 and 14 was of a nature to bring discredit upon the armed forces?

ACC: (Responds.)

MJ: Do you admit that at or near Contingency Operating Station Hammer, Iraq,

SPECIFICATION 13: between on or about 28 March 2010 and on or about 4 May 2010;

SPECIFICATION 14: between on or about 14 February 2010 and 15 February 2010;

you knowingly accessed a computer on a Secret Internet Protocol Router Network?

ACC: (Responds.)

MJ: Do you admit that you obtained information that has been determined by the United States Government by Executive Order or statute to require protection against unauthorized disclosure for reasons of national defense or foreign relations; to wit:

SPECIFICATION 13: more than 75 classified United States Department of State cables;

SPECIFICATION 14: a classified Department of State cable title "Reykjavik-13"?

ACC: (Responds.)

MJ: Do you admit you communicated the charged information in Specifications 13 and 14 to a person not entitled to receive it?

ACC: (Responds.)

MJ: Do you admit you acted willfully in communicating the charged information in Specifications 13 and 14 to a person not entitled to receive it?

ACC: (Responds.)

MJ: Do you admit that under the circumstances, your conduct was to the prejudice of good order and discipline in the armed forces?

ACC: (Responds.)

MJ: Do you admit that under the circumstances, your conduct was of a nature to bring discredit upon the armed forces?

ACC: (Responds.)

NOTE: After covering all offenses to which the accused pled guilty, the MJ continues as follows:

MJ: Does either counsel believe any further inquiry is required?

TC/DC: (Respond.)

2–2–4. MAXIMUM PUNISHMENT INQUIRY

MJ: Trial Counsel, what do you calculate to be the maximum punishment authorized in this case based solely on the accused's guilty plea?

TC: (Responds.)

MJ: Defense Counsel, do you agree?

DC: (Responds.)

MJ: PFC Manning, the maximum punishment authorized in this case based solely on your guilty plea is reduction to E-1, total forfeiture of all pay and allowances, confinement for 20 years, and a dishonorable discharge.

MJ: On your plea of guilty alone this court could sentence you to the maximum punishment which I just stated. Do you understand that?

ACC: (Responds.)

MJ: Do you have any questions as to the sentence that could be imposed as a result of your guilty plea?

ACC: (Responds.)

MJ: Trial Counsel, is there a pretrial agreement in this case?

TC: (Responds.)

> ***NOTE: If no pretrial agreement exists, continue below. If a pretrial agreement exists and trial is by Judge Alone: Go to paragraph 2-2-6, PRETRIAL AGREEMENT (JUDGE ALONE). If a pretrial agreement exists and trial is with court members: Go to paragraph 2-2-7, PRETRIAL AGREEMENT (MEMBERS).***

2–2–5. IF NO PRETRIAL AGREEMENT EXISTS

MJ: Counsel, even though there is no formal pretrial agreement, are there any unwritten agreements or understandings in this case?

TC/DC: (Respond.)

MJ: PFC Manning, has anyone made any agreements with you or promises to you to get you to plead guilty?

ACC: (Responds.)

NOTE: Go to paragraph 2-2-8, ACCEPTANCE OF GUILTY PLEA.

2–2–8. ACCEPTANCE OF GUILTY PLEA

MJ: Defense Counsel, have you had enough time and opportunity to discuss this case with PFC Manning?

DC: (Responds.)

MJ: PFC Manning, have you had enough time and opportunity to discuss this case with your defense counsel?

ACC: (Responds.)

MJ: PFC Manning, have you, in fact, consulted fully with your defense counsel and received the full benefit of their advice?

ACC: (Responds.)

MJ: Are you satisfied that your defense counsel's advice is in your best interest?

ACC: (Responds.)

MJ: And are you satisfied with your defense counsel?

ACC: (Responds.)

MJ: Are you pleading guilty voluntarily and of your own free will?

ACC: (Responds.)

MJ: Has anyone made any threat or tried in any way to force you to plead guilty?
ACC: (Responds.)

MJ: Do you have any questions as to the meaning and effect of a plea of guilty?
ACC: (Responds.)

MJ: Do you fully understand the meaning and effect of your plea of guilty?
ACC: (Responds.)

MJ: Do you understand that even though you believe you are guilty, you have the legal right to plead not guilty and to place upon the government the burden of proving your guilt beyond a reasonable doubt?
ACC: (Responds.)

MJ: Take a moment now and consult again with your defense counsel, then tell me whether you still want to plead guilty? (Pause.) Do you still want to plead guilty?
ACC: (Responds.)

MJ: PFC Manning, I find that your plea of guilty is made voluntarily and with full knowledge of its meaning and effect. I further find that you have knowingly, intelligently, and consciously waived your rights against self-incrimination, to a trial of the facts by a court-martial, and to be confronted by the witnesses against you. Accordingly, your plea of guilty is provident and is accepted. However, I advise you that you may request to withdraw your guilty plea at any time before the sentence is announced, and if you have a good reason for your request, I will grant it.

> ***NOTE: If the accused has pled guilty to only some of the charges and specifications or has pled guilty to lesser included offenses, ask the trial counsel if the government is going forward on the offenses to which the accused has pled not guilty. If the government is going forward on any offenses, do not enter findings except to those offenses to which the accused pled guilty as charged in a members' trial (i.e., if the plea was to a LIO or by exceptions and substitutions and the government is going forward as charged, do not enter findings).***

MJ: Trial Counsel, is the Government going forward on the offenses to which the accused has plead not guilty?
TC: (Responds.)

NOTE: If issues of guilt remain in a judge alone (contest), go to Section III and in a court members (contest) go to Section V. The MJ should not inform the court members of plea and findings of guilty prior to presentation of the evidence on another specification to which the accused pled not guilty unless the accused requests it or the guilty plea was to a LIO and the prosecution intends to prove the greater offense. Unless one of these two exceptions exists, the flyer should not have any specifications/charges which reflect provident guilty pleas if other offenses are being contested.

NOTE: If no issues of guilt remain, continue below:

MJ: Accused and Defense Counsel, please rise. PFC Manning, in accordance with your plea of guilty, this court finds you: _____.

NOTE: For judge alone (sentencing), go to Section IV and for court members (sentencing only), after marking the flyer, go to Section VI.