UNITED STATES OF AMERICA	)	
	)	
v.	)	**Prosecution Response**
	)	**to Defense Witness List**
Manning, Bradley E.	)	
PFC, U.S. Army,	)	
HHC, U.S. Army Garrison,	)	
Joint Base Myer-Henderson Hall	)	**16 November 2012**
Fort Myer, Virginia 22211	)	

The prosecution has reviewed the Defense Witness List for Merits and Sentencing, dated 15 October 2012. Pursuant to Rule for Courts-Martial (RCM) 703 and RCM 1001(e), the prosecution makes the following determinations regarding these defense-requested witnesses:

Merits:

1. The prosecution will produce CPT Barclay Keay.

2. The prosecution will produce CPT Steven Lim.

3. The prosecution will produce CPT Casey Fulton.

4. The prosecution will produce CPT Thomas Cherepko.

5. The prosecution will produce CW2 Joshua Ehresman.

6. The prosecution will produce WO1 Kyle Balonek.

7. The prosecution will produce SFC Paul Adkins.

8. The prosecution will produce SGT David Sadtler.

9. The prosecution will produce SGT Lorena Cooley.

10. The prosecution will produce SGT Sheri Walsh.

11. The prosecution will produce SGT Chad Madaras.

12. The prosecution will not produce Mr. Cassius Hall. Mr. Hall was appointed a defense expert consultant in security matters. If the defense requires an "intelligence analyst expert witness," the defense is required to follow the procedures of RCM 703(d) to request an expert.

13. The prosecution will produce Ms. Jihrleah Showman.

14. The prosecution will not produce Colonel (Retired) Morris Davis for the merits portion of the trial. His testimony is not relevant and necessary on a matter in issue on the merits. *See* RCM 703(b)(1).

APPELLATE EXHIBIT 403
PAGE REFERENCED:____
PAGE____OF____PAGES

15. The prosecution will produce Mr. Jason Milliman.

16. The prosecution will produce Mr. Trent Struttmann.

17. The prosecution will produce Mr. Adrian Lamo.

18. The prosecution will not produce Mr. Zachary Antolak. His testimony is not relevant and necessary on a matter in issue on the merits. *See* RCM 703(b)(1).

19. The prosecution will not produce Mr. Charles Ganiel. Mr. Ganiel was appointed a defense expert consultant in security matters. If the defense requires a "security expert witness," the defense is required to follow the procedures of RCM 703(d) to request an expert.

20. The prosecution will not produce Professor Yochai Benkler for the merits portion of the trial. His testimony is not relevant and necessary on a matter in issue on the merits. *See* RCM 703(b)(1).

21. The prosecution will not produce Mr. Daniel Cindrich for the merits portion of the trial. His testimony is not relevant and necessary on a matter in issue on the merits. *See* RCM 703(b)(1).

Sentencing:

22. The prosecution will produce COL David Miller.

23. The prosecution will produce CAPT David Moulton.

24. The prosecution will produce LTC Brian Kerns.

25. The prosecution will produce MAJ Elijah Dreher.

26. The prosecution will produce MAJ Clifford Clausen.

27. The prosecution will produce CPT Matthew Freeburg.

28. The prosecution will produce CPT Michael Johnson.

29. The prosecution will produce CPT Barclay Keay.

30. The prosecution will produce CPT Michael Worsley.

31. The prosecution will produce CPT Elizabeth Fields.

32. The prosecution will produce 1LT Tanya Gaab.

33. The prosecution will produce CW2 Joshua Ehresman.

34. The prosecution will produce WO1 Kyle Balonek.

35. The prosecution will produce SFC Paul Adkins.

36. The prosecution will produce SGT Lawrence Mitchell.

37. The prosecution will produce SGT Rebecca Schwab.

38. The prosecution will produce SGT Chad Madaras.

39. The prosecution will produce SGT Daniel Padgett.

40. The prosecution will produce SGT Lorena Cooley.

41. The prosecution will produce SGT Sheri Walsh.

42. The prosecution will not produce AMB Peter Galbraith. *See* RCM 1001(e).

43. The prosecution will produce Ms. Jihrleah Showman.

44. The prosecution will not produce Ms. Lillian Smith. Ms. Smith was appointed an expert consultant in information assurance. If the defense requires an expert witness in "information assurance practices," the defense is required to follow the procedures of RCM 703(d) to request an expert.

45. The prosecution will not produce COL Dick Larry. *See* RCM 1001(e).

46. The prosecution will produce Ms. Debra Van Alstyne.

The prosecution has reviewed the Defense Witness List for Sentencing in Event of a Sentencing Only Case, dated 12 November 2012. Pursuant to RCM 703 and RCM 1001(e), the prosecution makes the following determinations regarding these defense-requested witnesses:

1. The prosecution will produce CPT Steven Lim.

2. The prosecution will produce CPT Casey Fulton.

3. The prosecution will produce CPT Thomas Cherepko.

4. The prosecution will produce SGT David Sadtler.

5. The prosecution will not produce Mr. Cassius Hall. Mr. Hall was appointed a defense expert consultant in security matters. If the defense requires an "intelligence analyst expert witness," the defense is required to follow the procedures of RCM 703(d) to request an expert.

6. The prosecution will not produce Colonel (Retired) Morris Davis. *See* RCM 1001(e).

7. The prosecution will produce Mr. Jason Milliman.

8. The prosecution will produce Mr. Adrian Lamo.

9. The prosecution will not produce Mr. Zachary Antolak. *See* RCM 1001(e).

10. The prosecution will not produce Mr. Charles Ganiel. Mr. Ganiel was appointed a defense expert consultant in security matters. If the defense requires a "security expert witness," the defense is required to follow the procedures of RCM 703(d) to request an expert.

11. The prosecution will not produce Professor Yochai Benkler. *See* RCM 1001(e).

12. The prosecution will not produce Mr. Daniel Cindrich. *See* RCM 1001(e).

The production disputes the accuracy of the proffered testimony for numerous witnesses. The defense should <u>not</u> interpret the production of a witness as the prosecution agreeing that the witness would testify substantially in accordance with the witness's proffer.

The defense also should not interpret production of a requested "expert witness" as the prosecution agreeing that the requested witness is qualified to testify as an expert.

ANGEL M. OVERGAARD
CPT, JA
Assistant Trial Counsel

I certify that I served or caused to be served a true copy of the above on Mr. David Coombs, Civilian Defense Counsel via electronic mail, on 16 November 2012.

ANGEL M. OVERGAARD
CPT, JA
Assistant Trial Counsel