UNITED STATES OF AMERICA	)	
	)	**Prosecution Response**
v.	)	**to Defense MRE 505(h)(1) Notice**
	)	**on Updated Prosecution Witness List #2,**
Manning, Bradley E.	)	**Dated 5 November 2012**
PFC, U.S. Army,	)	
HHC, U.S. Army Garrison,	)	
Joint Base Myer-Henderson Hall	)	**21 December 2012**
Fort Myer, Virginia 22211	)	

The United States reviewed the Defense MRE 505(h)(1) Notice on Updated Prosecution Witness List #2, dated 5 November 2012 (hereinafter "Defense Notice"). Except as articulated below, the United States does not object to the Defense Notice insofar as the defense does not elicit "Top Secret" or "Sensitive Compartmented Information" from any of the witnesses.

The United States respectfully requests this Court accept the below clarification and, with respect to the below objections, preclude the defense from questioning the witnesses named in I.B.1-18 regarding the information identified in the objections. This response contemplates changes made to the Government's witness list on 2 December 2012, in the Updated Prosecution Witness List #3, as well as the Defense Notice Under MRE 505(h), dated 14 December 2012.

I. RESPONSES TO THE DEFENSE MRE 505(h)(1) NOTICE

A. Clarification

The United States does not object to the defense notice for Mr. Mark Johnson (Defense Notice #32), but clarifies that the defense should be discussing the specific content of "Mr. Johnson's forensic reports" vice "Mr. Manning's forensic reports."

B. Objections

For the reasons stated below, the United States objects to the defense eliciting classified information from the following witnesses during pre-trial interviews:

1. Mr. Vann Van Diepen (Defense Notice #16): The United States no longer intends to call this witness and, therefore, objects to the defense questioning him on any classified information.

2. AMB Kenneth Gross (Defense Notice #22): The United States no longer intends to call this witness and, therefore, objects to the defense questioning him on any classified information.

3. Mr. Matthew Hosburgh (Defense Notice #29): The C3 document is not classified (see BATES 412546-412552), and the United States does not intend to elicit classified information from the witness.

4. Mr. Adrian Lamo (Defense Notice #36): Mr. Lamo is not a United States Government employee nor does he possess a security clearance. Portions of the chat contain classified information because the accused compromised the information while discussing it with Mr. Lamo; however, the United States does not intend to elicit any classified information from Mr. Lamo. The defense did not provide MRE 505(h) notice for Mr. Lamo on their witness list, dated 26 October 2012 even though he is a defense witness as well. If the defense wants to elicit classified information from the witness, it must provide more specificity in its notice.

5. CW5 Jon Larue (Defense Notice #37): The content of the Apache Video is not classified, and the United States does not intend to elicit any classified information from CW5 Larue.

6. CPT Steven Lim (Defense Notice #39): The United States only objects to the defense discussing classified information with this witness regarding the impact of the Accused's misconduct on the S2 shop. The United States does not intend to elicit any classified information regarding the impact of the Accused's misconduct on the S2 shop from this witness.

7. (b) (6) [redacted] (Defense Notice #40): The United States does not intend to elicit any classified information from this witness. He is a chain of custody witness and cannot discuss the content of the four files.

8. Mr. Kin Moy (Defense Notice #53): The United States no longer intends to call this witness and, therefore, objects to the defense questioning him on any classified information.

9. (b) (6) [redacted] (Defense Notice #54): The United States does not intend to elicit any classified information from this witness.

10. CW4 Ronald Nixon (Defense Notice #59): The United States does not elicit any classified information from this witness.

11. (b) (6) [redacted] (Defense Notice #40): The United States does not intend elicit any classified information from this witness. He is a chain of custody witness and cannot discuss the content of the four files.

12. Lt Col Robert Pope (Defense Notice #64): The United States no longer intends to call this witness and, therefore, objects to the defense questioning him on any classified information.

13. LTC Rodney Roberts (Defense Notice #65): The United States no longer intends to call this witness and, therefore, objects to the defense questioning him on any classified information.

14. (b) (6) [redacted]; (Defense Notice #68): The United States does not intend to elicit any classified information from this witness. He is a chain of custody witness and cannot discuss the content of the four files.

15. (b) (6) [redacted] (Defense Notice #75): The United States does not intend to elicit any classified information from this witness. He is a chain of custody witness and cannot discuss the content of the four files.

16. (b) (6) [redacted] (Defense Notice #78): The United States does not intend to elicit any classified information from this witness. He is a chain of custody witness and cannot discuss the content of the four files.

17. AMB Shari Villarosa (Defense Notice #82): The United States no longer intends to call this witness and, therefore, objects to the defense questioning her on any classified information.

18. Ms. Florinda White (Defense Notice #83): The United States does not intend to elicit any classified information from this witness.

CONCLUSION

The United States respectfully requests this Court accept the clarification and preclude the defense from questioning the witnesses named in I.B.1-18 regarding the information identified in the objections.

JODEAN MORROW
CPT, JA
Assistant Trial Counsel

I certify that I served or caused to be served a true copy of the above on Mr. David E. Coombs, Civilian Defense Counsel, via electronic mail, on 21 December 2012.

JODEAN MORROW
CPT, JA
Assistant Trial Counsel