

UNITED STATES OF AMERICA

v.

Manning, Bradley E.
PFC, U.S. Army,
HHC, U.S. Army Garrison,
Joint Base Myer-Henderson Hall
Fort Myer, Virginia 22211

**Prosecution Proposed Plan:
Expeditions Transcription**

20 May 2013

According to the Court's Scheduling Order of 15 April 2013, the United States was required to submit its plan to ensure expeditious transcription of closed sessions by 6 May 2013. *See* Appellate Exhibit (AE) 519. This plan is necessary to facilitate the curative courtroom closure measure of reviewing and making public those portions of closed session transcripts that are unclassified. *See* AE 511. On 1 May 2013, the Government requested leave of the Court until 20 May 2013 to submit this plan. *See* AE 529. The Court granted this request via email on 2 May 2013. This filing complies with the Government's obligation to provide this plan. The plan detailed herein is geared toward allowing the greatest degree of transparency of proceedings while ensuring classified national security information remains protected. The United States hereby moves the Court to approve it. *See* AE 534.

The expeditious transcription plan outlined here provides the metric and schedule according to which transcription, review, and release can occur. The final completion date will be a function of the number of hours of closed testimony this court-martial ultimately produces coupled with the complexity of that testimony. The transcription plan involves four phases and is based on several premises. These are detailed below.

I. Premises

Available Personnel: The United States Army Military District of Washington (MDW) allocated all of its court reporters, including one permanent and two temporary civilian court reporters, to this court-martial. These individuals are currently being fully utilized by this court-martial and have the requisite security clearances to report during and transcribe closed sessions. MDW has also authorized funding for contractors to provide additional court reporter assistance. *See* AE 529. On 14 May 2013, a contract was awarded to a transcription company to provide transcription. This company will provide two court reporters with security clearances and three court reporters without security clearances. The court reporters without security clearances will transcribe open sessions remotely from audio recordings mailed to them. Therefore, at any given time, four court reporters will be available to transcribe closed sessions from audio, while three provide open-session transcription, and one reports during session.

Operational Capacity: Chapter 25-5 of Army Regulation (AR) 27-10 provides that, based on the experience level of court reporting personnel, five to ten pages of session-produced transcript can be transcribed per hour. This pace yields an eight-hour workday output of between 40 and 80 pages of final transcription product. The United States estimates that one hour of session recording will produce between 40 and 50 pages of transcript and that it would take one court

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reporter approximately eight hours (or one business day) to transcribe this one hour of proceeding. At this rate, one four-hour closed session could yield between 160 and 200 pages of transcript and require one court reporter spend four days to complete transcription. Given four court reporters will be available at any given time, the United States anticipates a four-hour closed-courtroom session could be transcribed in one day. The remaining two reporters without clearances could continue transcription of unclassified proceedings. For every 800 pages of transcript ultimately produced, court reporters require one day to proof, read, and file the product. Any page amount between 801 and 1600, will require an additional day, and so forth in 800-page increments.

II. Four Phases of the Transcription Plan

Phase 1: Transcription – As indicated above, the final transcription product for one four-hour closed session can be completed in two days (one day to transcribe and one day to finalize). This process can occur concurrently with proceedings but will require the full-time effort of the four court reporters cleared to process the classified material. Therefore, open-session transcription will necessarily be slowed until the closed-session product has been finalized.

Phase 2: Errata and Authentication – The purpose of courtroom closure is to protect national security information from unauthorized disclosure. Consistent with this requirement, the content of the closed proceedings, once transcribed, must be reviewed by the parties to ensure accuracy before information should be submitted to information equity holders to review the classification level of testimony. If this does not occur, the equity holders will be reviewing testimony that may ultimately require re-review post errata to ensure any corrected language is properly classified. The United States understands this to be the only method of avoiding spillage because if the transcript changes based on the errata, otherwise unclassified information could become classified with the changes. The Court is, of course, at liberty to authenticate the transcript at the conclusion of this errata process or wait until final production in accordance with the Court's convenience.

The Rules of Practice before Army Courts-Martial, dated 26 March 2012, provide in Rule 28.5 that counsel will review 150 pages of transcript per calendar day "while they are at home station and not on leave or pass, or in trial or conducting an Article 32 investigation." Given the parties will be conducting this errata review of potentially very complicated testimony as proceedings continue, the United States proposes the parties adhere to a 75 page per day errata standard. This process can occur concurrently with trial proceedings, so that reviewed transcript portions can be submitted to equity holders on a rolling basis.

Phase 3: Classification Review – Different equity holders have provided the United States different estimates regarding the time frame necessary to complete classification review, and other equity holders are still determining how many hours it would take to complete a classification review. One organization advised that witnesses should be the first to provide the classification review. Witnesses would review their testimony for classification level only and not as an additional errata process. However, the time necessary to effectuate this process could vary depending on witnesses' post-testimony availability and connectivity capacity. For example, State Department witnesses may be traveling to remote areas. Another organization

indicated that 50 pages of final transcript could be reviewed by the tasking process within two weeks of receiving it – requiring an additional two days of review time for each additional 50-page increment. And yet another organization estimated it would take eleven minutes to review the classification of one page and, in total, could review one hour of proceedings per day. This organization would assemble an *ad hoc* “tiger team” when this task arises.

These time frames may vary depending on the complexity and robustness of the classified testimony. Moreover, the time it takes to achieve a final product could vary depending on the time it will take the United States to compile the testimony redactions that have been submitted on the same transcript by multiple information equity holders. Ultimately, the United States suggests the Court adopt the 75 page per day errata standard for the parties and plan on external equity holders reviewing 50 pages every two weeks.

Phase 4: Public Release – Following the transcription and review of closed-session testimony, the United States proposes the closed session transcripts be released to the public in two ways. First, they will be posted electronically in the publically available *U.S. v. Manning* reading room on the HQDA website. Second, they will be made physically available at the Fort Meade courtroom. The final redacted closed-session transcript products will ultimately accompany the final publically available unclassified proceeding transcriptions.



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MAJ, JA
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 20 May 2013.



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