

IN THE UNITED STATES ARMY COURT OF CRIMINAL APPEALS

CENTER FOR CONSTITUTIONAL
RIGHTS, et. al,

Petitioners

GOVERNMENT RESPONSE TO THE
PETITION FOR EXTRAORDINARY RELIEF
IN THE NATURE OF WRITS OF
MANDAMUS AND PROHIBITION

v.

Docket No. ARMY MISC. 20110173

UNITED STATES OF AMERICA

and

Colonel DENISE LIND,

Respondents.

TO THE HONORABLE, THE JUDGES OF THE UNITED STATES
ARMY COURT OF CRIMINAL APPEALS

COME NOW the undersigned appellate government counsel,
pursuant to Rules 20(e) and 20.1 of this Honorable Court's Rules
of Practice and Procedure, and this Court's order dated 30 May
2012, and respond to petitioners' Petition for Extraordinary
Relief (hereinafter Petition). For the reasons stated below,
this Court should summarily deny the Petition.¹

Statement of the Case and Facts

Private First Class (PFC) Bradley Manning is charged with
five specifications of violating a lawful general regulation,
one specification of aiding the enemy, one specification of
conduct prejudicial to good order and discipline and service
discrediting, eight specifications of communicating classified

¹ The government objects to petitioners request for oral argument (see
Petition at 6) as unnecessary. Petitioners provided no basis for the
request, and do not state how argument will aid the court in
considering this issue.

information, five specifications of stealing or knowingly converting government property, and two specifications of knowingly exceeding authorized access to a government computer, in violation of Articles 92, 104, and 134, Uniform Code of Military Justice (UCMJ). See Charge Sheet (Attached at Appendix 1). The convening authority referred the charges to a general court-martial on 3 February 2012, and PFC Manning was arraigned on 23 February 2012. The military judge held Article 39(a), UCMJ, sessions on 15-16 March, and 24-26 April, 2012. The next scheduled Article 39(a) session is set for 6-8 June, 2012.

On 21 March, petitioners, who are not parties to the court-martial, sent a letter to the military judge requesting the Court:

make available to the public and the media for inspection and copying all documents and information filed in the *Manning* case, including the docket sheet, all motions and responses thereto, all rulings and orders, and verbatim transcripts or other recordings of all conferences and hearings before the Court. Declaration of Shayana Kadidal (Kadidal Decl.), Exhibit A (attached to Petition).

At the 39(a) session on 24 April, the military judge marked petitioners' letter as Appellate Exhibit 66, treated it as a request to intervene, and denied the request. Kadidal Decl., ¶ 7-9.

On 23 May 2012, petitioners filed this Petition seeking similar relief. The Petition asks this Court to compel the

military judge to grant public access to all documents pertaining to the case and to require conferences held under Rule for Courts-Martial (RCM) 802 to be made part of the record in their entirety. On 30 May, this Court ordered the Government to respond to the Petition.²

Specified Issue

[WHETHER] A WRIT OF MANDAMUS AND PROHIBITION [IS APPROPRIATE] TO COMPEL THE TRIAL COURT TO GRANT PUBLIC ACCESS TO DOCUMENTS FILED IN UNITED STATES V. MANNING, INCLUDING WITHOUT LIMITATION (A) ALL PAPERS AND PLEADINGS FILED BY THE PARTIES, INCLUDING PARTICULARLY THE GOVERNMENT'S MOTION PAPERS AND RESPONSES TO DEFENSE MOTIONS, (B) COURT ORDERS, AND (C) TRANSCRIPTS OF ALL PROCEEDINGS, AND THAT ANY FURTHER RESTRICTIONS ON PUBLIC ACCESS TO THE PROCEEDINGS OR DOCUMENTS THEREIN ONLY OCCUR FOLLOWING NOTICE TO THE PUBLIC OF ANY CONTEMPLATED RESTRICTIONS, AN OPPORTUNITY FOR INTERESTED PARTIES TO BE HEARD, AND CASE-BY-CASE SPECIFIC FINDINGS OF NECESSITY AFTER CONSIDERATION OF LESS-RESTRICTIVE ALTERNATIVES.

Summary of Argument

This Court should deny the Petition because petitioners fail to meet the threshold criteria for extraordinary relief. A writ of mandamus or prohibition is appropriate only when no other adequate remedy is available. Here, petitioners have an adequate remedy under the Freedom of Information Act (FOIA) to

² The Court did not order the Government to respond to the RCM 802 issue.

request access to these documents, and therefore the Petition should be denied. See 5 U.S.C. § 552.

Jurisdictional Statement

This Court has the discretion to entertain extraordinary writs pursuant to the All Writs Act. 28 U.S.C. § 1651. The All Writs Act grants appellate courts the discretion to "issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law." *Id.*

Reasons for Denial of the Relief Requested

"The issuance of a writ under the All Writs Act is a 'drastic remedy which should only be invoked in those situations which are truly extraordinary.'" *McKinney v. Powell*, 46 M.J. 870 (Army Ct. Crim. App. 1997) (quoting *Aviz v. Carver*, 36 M.J. 1026, 1028 (N.M.C.M.R. 1993)). "The issuance of such writs is generally not favored as they disrupt the orderly judicial process of trial on the merits and then appeal." *McKinney*, 46 M.J. at 870. It follows then that the petitioner has an "extremely heavy burden" to justify the granting of a writ. *Dew v. United States*, 48 M.J. 639, 648 (Army Ct. Crim. App. 1997) (citing *McKinney*, 46 M.J. at 873 and *Bankers Life and Casualty Co. v. Holland*, 346 U.S. 379, 384, (1953)).

The Supreme Court has clearly articulated the standard for granting extraordinary relief:

[Because] the writ is one of the most potent weapons in the judicial arsenal, three conditions must be satisfied before it may issue. First, *the party seeking issuance of the writ must have no other adequate means to attain the relief he desires—a condition designed to ensure that the writ will not be used as a substitute for the regular appeals process.* Second, *the petitioner must satisfy the burden of showing that his right to issuance of the writ is clear and indisputable.* Third, even if the first two prerequisites have been met, the issuing court, in the exercise of its discretion, must be satisfied that the writ is appropriate under the circumstances.³

Based on these principles of law, A.C.C.A. Rule 20.1 lays out the three criteria a petitioner must meet to justify the granting of an extraordinary writ:

Issuance by the Court of an extraordinary writ authorized by 28 U.S.C. Section 1651(a) is not a matter of right, but of discretion sparingly exercised. *To justify the granting of any such writ, the petition must show that [1] the writ will be in aid of the Court's appellate jurisdiction, [2] that exceptional circumstances warrant the exercise of the Court's discretionary powers, and [3] that adequate relief cannot be obtained in any other form or from any other court.*⁴

³ *Cheney v. U.S. Dist. Court for Dist. of Columbia*, 542 U.S. 367, 381 (2004) (emphasis added) (internal quotation marks and brackets omitted) (quoting *Kerr v. United States Dist. Court for Northern Dist. of Cal.*, 426 U.S. 394, 403 (1976); *Bankers Life & Casualty Co. v. Holland*, 346 U.S. 379, 384 (1953); and *Ex parte Fahey*, 332 U.S. 258, 260, (1947)).

⁴ A.C.C.A. Rule 20.1 (emphasis and numbers added). Article 66(f), Uniform Code of Military Justice (UCMJ), states that "The Judge Advocates General shall prescribe uniform rules of procedure for Courts of Criminal Appeals" On 1 May 1996, the Judge

Utilizing this Court's standards for granting extraordinary relief, petitioners fail to meet the third criteria because they can obtain their requested relief, public access to court-martial documents, through the FOIA and therefore extraordinary relief is not appropriate.

The FOIA generally provides that any person has the right to obtain access to federal agency records except to the extent those records are protected from disclosure by the FOIA. See 5 U.S.C. § 552; Pub. L. No. 104-231, § 2 (1996) (Congressional Statement of Findings and Purposes); see also *Brown v. Federal Trade Commission*, 710 F.2d 1165, 1177 (6th Cir. 1983). Indeed, the "thrust of the FOIA since its initial enactment has been to provide for disclosure of governmental files unless an exemption is established." *Title Guarantee Co. v. N.L.R.B.*, 534 F.2d 484, 488 (2d Cir. 1976).

Specifically, in 5 U.S.C. § 552(a)(3)(A), Congress requires each agency, upon proper request, to "make the [requested] records promptly available to any person" unless subject to certain limited exemption. Under this statute, Congress

Advocates General approved the Joint Courts of Criminal Appeals Rules of Practice and Procedure (hereinafter Joint C.C.A. Rules) (See *In Re Court Rules*, 44 M.J. at LXIII (1 May 1996)). Joint C.C.A. Rule 26 grants the Chief Judge of each service court the authority to adopt internal rules. On 1 April 2002, by order of the Chief Judge, this Court adopted its current internal rules (hereinafter A.C.C.A. Rules). This standard for granting relief under the All Writs Act is verbatim from the standard employed by the Supreme Court of the United States. Sup. Ct. R. 20.1.

specifically included courts-martial within the definition of an "agency" and subjected them to the FOIA disclosure requirements. 5 U.S.C. § 551(1)(F) (definitions).

The Department of the Army promulgated Army Regulation (AR) 25-55, The Department of the Army Freedom of Information Act Program (1 November 1997), to comply with its disclosure obligations under the FOIA. Specifically, The Judge Advocate General (TJAG) is authorized to act on any request for records relating to courts-martial. AR 25-55, para. 5-200(d)(14).⁵ Petitioners, who bear the burden of justifying extraordinary relief, provided no evidence of any FOIA request for the documents they seek.

The attempted use of mandamus to compel disclosure of agency documents is not novel, and in several cases federal courts have denied extraordinary relief when FOIA was available. See *McLeod v. U.S. Dep't of Justice*, 2011 WL 2112477, *1 (D.D.C. 2011) (unpublished) (denying mandamus where petitioner sought Department of Justice records because relief available under FOIA); *Housley v. United States*, 978 F.2d 715 (9th Cir. 1992) (unpublished) (same); *Strunk v. U.S. Dep't of State*, 693 F.Supp.2d 112, 113 n.1 (D.D.C. 2010) (same for State Department

⁵ See also "A Citizen's Guide To Request Army Records Under the Freedom of Information Act (FOIA)", Department of the Army Freedom of Information Act Guide, March 2006, p. 16, available at http://www.armygl.army.mil/foia/docs/Citizensguide_2006.pdf (listing specific point of contact for FOIA requests at the Office of the Judge Advocate General).

records); *Pickering-George v. Registration Unit, DEA/DOJ*, 553 F.Supp.2d 3, 4 n.1 (same for DEA records). This Court should likewise deny petitioners request for extraordinary relief because FOIA is the proper vehicle for obtaining records from United States agencies. See *McLeod*, 2011 WL 2112477 at *1.

Even assuming that petitioners made a proper FOIA request, and that FOIA request was denied by both the initial and appellate denial authorities (AR 25-55, para. 5-3), then petitioners still are not entitled to mandamus at this Court because the proper remedy is to challenge the denial in federal district court. See 5 U.S.C. § 552(a)(4)(B). As provided in AR 25-55 and the FOIA statute itself, a requester "may seek an order from a United States District Court to compel release of a record after administrative remedies have been exhausted." AR 25-55, para. 5-400(b); 5 U.S.C. § 552(a)(4)(B). See also *Dep't of Air Force v. Rose*, 425 U.S. 352, 360 (1976) (the FOIA created a judicially enforceable public right to secure such information from "possibly unwilling official hands").

In short, mandamus is not appropriate in this case because Congress has established a system designed and intended to provide for public access to court-martial records. Assuming petitioners are correct about the scope of the First Amendment and common law rights of public access as applied to court-martial, those rights are fully satisfied through the FOIA.

See, e.g., *Nixon v. Warner Communications*, 435 U.S. 589, 603 (1978).⁶ Moreover, much of the case law petitioners cite to support their argument is inapposite, since FOIA does not apply to judicial documents in Article III courts. See *Brown*, 710 F.2d 1165, 1177 (citing 5 U.S.C. § 551(1)(B)).

There is no question that "[t]he public has a right to information concerning the activities of its Government." Department of Defense Regulation 5400.7-R, DOD Freedom of Information Act Program, para. C1.3.1.1. But the mechanism for enforcing that right is the FOIA, not mandamus or prohibition. This Court should not permit petitioners to use the extraordinary writ process to circumvent the procedures established by FOIA. See, e.g., *Housley*, 978 F.2d at 715 (noting that mandamus under these circumstances would permit petitioner to circumvent FOIA procedures). Therefore, the Petition should be denied.

⁶ Petitioners will likely claim in response that the FOIA will be overly burdensome and not provide the contemporaneous access they seek. First, this argument is not ripe because Petitioners have not filed a request under FOIA, had their request denied, nor filed for redress with the appropriate federal district court. Second, the government notes that petitioners cite no case for the proposition that "contemporaneous" access to court-martial documents is constitutionally required. See Petition at 8. Even in federal courts, the public's right of access may be outweighed by competing fair trial concerns, such as tainting the jury pool for companion cases. See *United States v. Boyd*, 2008 WL 2437725, *2-3 (E.D. Tenn. 2008) (citing *Beckham v. Post-Newsweek Stations, Mich., Inc.*, 789 F.2d 401 (6th Cir. 1986)).

WHEREFORE, respondent respectfully requests that this Honorable Court summarily deny the Petition for extraordinary relief.



CHAD M. FISHER
CPT, JA
Appellate Government Counsel



AMBER J. ROACH
LTC, JA
Acting Chief, Government
Appellate Division

CERTIFICATE OF SERVICE AND FILING

I hereby certify that I served a copy of the foregoing on this Honorable Court and Defense Appellate Division by hand and by mail to Baher Azmy, J. Wells Dixon, and Shayana Kadidal, CENTER FOR CONSTITUTIONAL RIGHTS, 666 Broadway, 7th Floor, New York, New York, 10012 on 8 June 2012.



ANGELA RIDDICK
Paralegal Specialist
Government Appellate Division

RECEIVED
CLERK OF COURT

2012 JUN -8 P 1:02

US ARMY JUDICIARY

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DEFENSE APPELLATE
DIVISION/USALSA

APPENDIX

CHARGE SHEET

I. PERSONAL DATA

1. NAME OF ACCUSED (Last, First, MI) MANNING, Bradley E.		2. SSN [REDACTED]	3. GRADE OR RANK PFC	4. PAY GRADE E-3
5. UNIT OR ORGANIZATION Headquarters and Headquarters Company, U.S. Army Garrison, Joint Base Myer-Henderson Hall Fort Myer, Virginia 22211			6. CURRENT SERVICE	
			a. INITIAL DATE [REDACTED]	b. TERM 4 years
7. PAY PER MONTH			9. DATE(S) IMPOSED 29 May 10 -	
a. BASIC \$1,950.00	b. SEA/FOREIGN DUTY None	c. TOTAL \$1,950.00		

II. CHARGES AND SPECIFICATIONS

10. ~~ADDITIONAL~~ ^{AF 23JAN12} CHARGE I: VIOLATION OF THE UCMJ, ARTICLE 104.

THE SPECIFICATION: In that Private First Class Bradley E. Manning, U.S. Army, did, at or near Contingency Operating Station Hammer, Iraq, between on or about 1 November 2009 and on or about 27 May 2010, without proper authority, knowingly give intelligence to the enemy, through indirect means.

~~ADDITIONAL~~ ^{AF 23JAN12} CHARGE II: VIOLATION OF THE UCMJ, ARTICLE 134.

SPECIFICATION 1: In that Private First Class Bradley E. Manning, U.S. Army, did, at or near Contingency Operating Station Hammer, Iraq, between on or about 1 November 2009 and on or about 27 May 2010, wrongfully and wantonly cause to be published on the internet intelligence belonging to the United States government, having knowledge that intelligence published on the internet is accessible to the enemy, such conduct being prejudicial to good order and discipline in the armed forces and being of a nature to bring discredit upon the armed forces.

(See Continuation Sheet)

III. PREFERRAL

11a. NAME OF ACCUSER (Last, First, MI) Leiker, Cameron A.	b. GRADE O-5	c. ORGANIZATION OF ACCUSER HQ CMD BN, USA
d. SIGNATURE OF ACCUSER [REDACTED]		e. DATE 1 MAR 2011

AFFIDAVIT: Before me, the undersigned, authorized by law to administer oaths in cases of this character, personally appeared the above named accuser this 1st day of March, 2011, and signed the foregoing charges and specifications under oath that he/she is a person subject to the Uniform Code of Military Justice and that he/she either has personal knowledge of or has investigated the matters set forth therein and that the same are true to the best of his/her knowledge and belief.

ASHDEN FEIN

Typed Name of Officer

O-3

Grade

[REDACTED]

Signature

MDW, OSJA

Organization of Officer

Trial Counsel

Official Capacity to Administer Oath
(See R.C.M. 307(b) - must be a commissioned officer)

12.

On Wed 02 MARCH 2011 0-1545 HRS, 2011, the accused was informed of the charges against him/her and of the name(s) of The accuser(s) known to me (See R.C.M. 308 (a)). (See R.C.M. 308 if notification cannot be made.)

CAMERON A. LEIKER
Typed Name of Immediate Commander

HQ CMD BN, USA
Organization of Immediate Commander

[Redacted] O-5
Grade

[Redacted]
Signature

IV. RECEIPT BY SUMMARY COURT-MARTIAL CONVENING AUTHORITY

13.

The sworn charges were received at 1055 hours, Tue, 08 March 2011 at HQ CMD BN, USA
Designation of Command or

Officer Exercising Summary Court-Martial Jurisdiction (See R.C.M. 403)

FOR THE

CAMERON A. LEIKER
Typed Name of Officer

Commanding
Official Capacity of Officer Signing

[Redacted] O-5
Grade

[Redacted]
Signature

V. REFERRAL; SERVICE OF CHARGES

14a. DESIGNATION OF COMMAND OF CONVENING AUTHORITY
Headquarters, U.S. Army Military District of Washington

b. PLACE
Fort McNair, DC

c. DATE
20120203

Referred for trial to the General Court-martial convened by Court-Martial Convening Order

Number 1, this headquarters, dated

2 February 2011, subject to the following instructions:² None.

By Command Of MG MICHAEL S. LINNINGTON
Command or Order

[Redacted]
Typed Name of Officer

Chief, Military Justice
Official Capacity of Officer Signing

[Redacted]
Grade

[Redacted]
Signature

15.

On 3 February 2011 2012, I (caused to be) served a copy hereof on ~~(each of)~~ the above named accused.

ASHDEN FEIN
Typed Name of Trial Counsel

O-3
Grade or Rank of Trial Counsel

[Redacted]
Signature

FOOTNOTES: 1 - When an appropriate commander signs personally, inapplicable words are stricken.
2 - See R.C.M. 601(e) concerning instructions. If none, so state.

CONTINUATION SHEET, DA FORM 458, MANNING, Bradley E., [REDACTED]
Headquarters and Headquarters Company, U.S. Army Garrison, Joint Base
Myer-Henderson Hall, Fort Myer, Virginia 22211

Item 10 (Cont'd):

SPECIFICATION 2: In that Private First Class Bradley E. Manning, U.S. Army, did, at or near Contingency Operating Station Hammer, Iraq, between on or about 15 February 2010 and on or about 5 April 2010, having unauthorized possession of information relating to the national defense, to wit: a video file named "12 JUL 07 CZ ENGAGEMENT ZONE 30 GC Anyone.avi", with reason to believe such information could be used to the injury of the United States or to the advantage of any foreign nation, willfully communicate, deliver, transmit, or cause to be communicated, delivered, or transmitted, the said information, to a person not entitled to receive it, in violation of 18 U.S. Code Section 793(e), such conduct being prejudicial to good order and discipline in the armed forces and being of a nature to bring discredit upon the armed forces.

SPECIFICATION 3: In that Private First Class Bradley E. Manning, U.S. Army, did, at or near Contingency Operating Station Hammer, Iraq, between on or about 22 March 2010 and on or about 26 March 2010, having unauthorized possession of information relating to the national defense, to wit: more than one classified memorandum produced by a United States government intelligence agency, with reason to believe such information could be used to the injury of the United States or to the advantage of any foreign nation, willfully communicate, deliver, transmit, or cause to be communicated, delivered, or transmitted, the said information, to a person not entitled to receive it, in violation of 18 U.S. Code Section 793(e), such conduct being prejudicial to good order and discipline in the armed forces and being of a nature to bring discredit upon the armed forces.

SPECIFICATION 4: In that Private First Class Bradley E. Manning, U.S. Army, did, at or near Contingency Operating Station Hammer, Iraq, between on or about 31 December 2009 and on or about 5 January 2010, steal, purloin, or knowingly convert to his use or the use of another, a record or thing of value of the United States or of a department or agency thereof, to wit: the Combined Information Data Network Exchange Iraq database containing more than 380,000 records belonging to the United States government, of a value of more than \$1,000, in violation of 18 U.S. Code Section 641, such conduct being prejudicial to good order and discipline in the armed forces and being of a nature to bring discredit upon the armed forces.

CONTINUATION SHEET, DA FORM 458, MANNING, Bradley E., [REDACTED]
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SPECIFICATION 5: In that Private First Class Bradley E. Manning, U.S. Army, did, at or near Contingency Operating Station Hammer, Iraq, between on or about 31 December 2009 and on or about 9 February 2010, having unauthorized possession of information relating to the national defense, to wit: more than twenty classified records from the Combined Information Data Network Exchange Iraq database, with reason to believe such information could be used to the injury of the United States or to the advantage of any foreign nation, willfully communicate, deliver, transmit, or cause to be communicated, delivered, or transmitted, the said information, to a person not entitled to receive it, in violation of 18 U.S. Code Section 793(e), such conduct being prejudicial to good order and discipline in the armed forces and being of a nature to bring discredit upon the armed forces.

SPECIFICATION 6: In that Private First Class Bradley E. Manning, U.S. Army, did, at or near Contingency Operating Station Hammer, Iraq, between on or about 31 December 2009 and on or about 8 January 2010, steal, purloin, or knowingly convert to his use or the use of another, a record or thing of value of the United States or of a department or agency thereof, to wit: the Combined Information Data Network Exchange Afghanistan database containing more than 90,000 records belonging to the United States government, of a value of more than \$1,000, in violation of 18 U.S. Code Section 641, such conduct being prejudicial to good order and discipline in the armed forces and being of a nature to bring discredit upon the armed forces.

SPECIFICATION 7: In that Private First Class Bradley E. Manning, U.S. Army, did, at or near Contingency Operating Station Hammer, Iraq, between on or about 31 December 2009 and on or about 9 February 2010, having unauthorized possession of information relating to the national defense, to wit: more than twenty classified records from the Combined Information Data Network Exchange Afghanistan database, with reason to believe such information could be used to the injury of the United States or to the advantage of any foreign nation, willfully communicate, deliver, transmit, or cause to be communicated, delivered, or transmitted, the said information, to a person not entitled to receive it, in violation of 18 U.S. Code Section 793(e), such conduct being prejudicial to good order and discipline in the armed forces and being of a nature to bring discredit upon the armed forces.

CONTINUATION SHEET, DA FORM 458, MANNING, Bradley E., [REDACTED]
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SPECIFICATION 8: In that Private First Class Bradley E. Manning, U.S. Army, did, at or near Contingency Operating Station Hammer, Iraq, on or about 8 March 2010, steal, purloin, or knowingly convert to his use or the use of another, a record or thing of value of the United States or of a department or agency thereof, to wit: a United States Southern Command database containing more than 700 records belonging to the United States government, of a value of more than \$1,000, in violation of 18 U.S. Code Section 641, such conduct being prejudicial to good order and discipline in the armed forces and being of a nature to bring discredit upon the armed forces.

SPECIFICATION 9: In that Private First Class Bradley E. Manning, U.S. Army, did, at or near Contingency Operating Station Hammer, Iraq, between on or about 8 March 2010 and on or about 27 May 2010, having unauthorized possession of information relating to the national defense, to wit: more than three classified records from a United States Southern Command database, with reason to believe such information could be used to the injury of the United States or to the advantage of any foreign nation, willfully communicate, deliver, transmit, or cause to be communicated, delivered, or transmitted, the said information, to a person not entitled to receive it, in violation of 18 U.S. Code Section 793(e), such conduct being prejudicial to good order and discipline in the armed forces and being of a nature to bring discredit upon the armed forces.

SPECIFICATION 10: In that Private First Class Bradley E. Manning, U.S. Army, did, at or near Contingency Operating Station Hammer, Iraq, between on or about 11 April 2010 and on or about 27 May 2010, having unauthorized possession of information relating to the national defense, to wit: more than five classified records relating to a military operation in Farah Province, Afghanistan occurring on or about 4 May 2009, with reason to believe such information could be used to the injury of the United States or to the advantage of any foreign nation, willfully communicate, deliver, transmit, or cause to be communicated, delivered, or transmitted, the said information, to a person not entitled to receive it, in violation of 18 U.S. Code Section 793(e), such conduct being prejudicial to good order and discipline in the armed forces and being of a nature to bring discredit upon the armed forces.

CONTINUATION SHEET, DA FORM 458, MANNING, Bradley E., [REDACTED]
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SPECIFICATION 11: In that Private First Class Bradley E. Manning, U.S. Army, did, at or near Contingency Operating Station Hammer, Iraq, between on or about 1 November 2009 and on or about 8 January 2010, having unauthorized possession of information relating to the national defense, to wit: a file named "BE22 PAX.zip" containing a video named "BE22 PAX.wmv", with reason to believe such information could be used to the injury of the United States or to the advantage of any foreign nation, willfully communicate, deliver, transmit, or cause to be communicated, delivered, or transmitted, the said information, to a person not entitled to receive it, in violation of 18 U.S. Code Section 793(e), such conduct being prejudicial to good order and discipline in the armed forces and being of a nature to bring discredit upon the armed forces.

SPECIFICATION 12: In that Private First Class Bradley E. Manning, U.S. Army, did, at or near Contingency Operating Station Hammer, Iraq, between on or about 28 March 2010 and on or about 4 May 2010, steal, purloin, or knowingly convert to his use or the use of another, a record or thing of value of the United States or of a department or agency thereof, to wit: the Department of State Net-Centric Diplomacy database containing more than 250,000 records belonging to the United States government, of a value of more than \$1,000, in violation of 18 U.S. Code Section 641, such conduct being prejudicial to good order and discipline in the armed forces and being of a nature to bring discredit upon the armed forces.

SPECIFICATION 13: In that Private First Class Bradley E. Manning, U.S. Army, did, at or near Contingency Operating Station Hammer, Iraq, between on or about 28 March 2010 and on or about 27 May 2010, having knowingly exceeded authorized access on a Secret Internet Protocol Router Network computer, and by means of such conduct having obtained information that has been determined by the United States government pursuant to an Executive Order or statute to require protection against unauthorized disclosure for reasons of national defense or foreign relations, to wit: more than seventy-five classified United States Department of State cables, willfully communicate, deliver, transmit, or cause to be communicated, delivered, or transmitted the said information, to a person not entitled to receive it, with reason to believe that such information so obtained could be used to the injury of the United States, or to the advantage of any foreign nation, in violation of 18 U.S. Code Section 1030(a)(1), such conduct being prejudicial to good order and discipline in the armed forces and being of a nature to bring discredit upon the armed forces.

CONTINUATION SHEET, DA FORM 458, MANNING, Bradley E., [REDACTED]
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SPECIFICATION 14: In that Private First Class Bradley E. Manning, U.S. Army, did, at or near Contingency Operating Station Hammer, Iraq, between on or about 15 February 2010 and on or about 18 February 2010, having knowingly exceeded authorized access on a Secret Internet Protocol Router Network computer, and by means of such conduct having obtained information that has been determined by the United States government pursuant to an Executive Order or statute to require protection against unauthorized disclosure for reasons of national defense or foreign relations, to wit: a classified Department of State cable titled "Reykjavik-13", willfully communicate, deliver, transmit, or cause to be communicated, delivered, or transmitted the said information, to a person not entitled to receive it, with reason to believe that such information so obtained could be used to the injury of the United States, or to the advantage of any foreign nation, in violation of 18 U.S. Code Section 1030(a)(1), such conduct being prejudicial to good order and discipline in the armed forces and being of a nature to bring discredit upon the armed forces.

SPECIFICATION 15: In that Private First Class Bradley E. Manning, U.S. Army, did, at or near Contingency Operating Station Hammer, Iraq, between on or about 15 February 2010 and on or about 15 March 2010, having unauthorized possession of information relating to the national defense, to wit: a classified record produced by a United States Army intelligence organization, dated 18 March 2008, with reason to believe such information could be used to the injury of the United States or to the advantage of any foreign nation, willfully communicate, deliver, transmit, or cause to be communicated, delivered, or transmitted, the said information, to a person not entitled to receive it, in violation of 18 U.S. Code Section 793(e), such conduct being prejudicial to good order and discipline in the armed forces and being of a nature to bring discredit upon the armed forces.

SPECIFICATION 16: In that Private First Class Bradley E. Manning, U.S. Army, did, at or near Contingency Operating Station Hammer, Iraq, between on or about 11 May 2010 and on or about 27 May 2010, steal, purloin, or knowingly convert to his use or the use of another, a record or thing of value of the United States or of a department or agency thereof, to wit: the United States Forces - Iraq Microsoft Outlook / SharePoint Exchange Server global address list belonging to the United States government, of a value of more than \$1,000, in violation of 18 U.S. Code Section 641, such conduct being prejudicial to good order and discipline in the armed forces and being of a nature to bring discredit upon the armed forces.

CONTINUATION SHEET, DA FORM 458, MANNING, Bradley E., [REDACTED]
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~~ADDITIONAL~~ CHARGE III: VIOLATION OF THE UCMJ, ARTICLE 92.

SPECIFICATION 1: In that Private First Class Bradley E. Manning, U.S. Army, did, at or near Contingency Operating Station Hammer, Iraq, between on or about 1 November 2009 and on or about 8 March 2010, violate a lawful general regulation, to wit: paragraph 4-5(a)(4), Army Regulation 25-2, dated 24 October 2007, by attempting to bypass network or information system security mechanisms.

SPECIFICATION 2: In that Private First Class Bradley E. Manning, U.S. Army, did, at or near Contingency Operating Station Hammer, Iraq, between on or about 11 February 2010 and on or about 3 April 2010, violate a lawful general regulation, to wit: paragraph 4-5(a)(3), Army Regulation 25-2, dated 24 October 2007, by adding unauthorized software to a Secret Internet Protocol Router Network computer.

SPECIFICATION 3: In that Private First Class Bradley E. Manning, U.S. Army, did, at or near Contingency Operating Station Hammer, Iraq, on or about 4 May 2010, violate a lawful general regulation, to wit: paragraph 4-5(a)(3), Army Regulation 25-2, dated 24 October 2007, by adding unauthorized software to a Secret Internet Protocol Router Network computer.

SPECIFICATION 4: In that Private First Class Bradley E. Manning, U.S. Army, did, at or near Contingency Operating Station Hammer, Iraq, between on or about 11 May 2010 and on or about 27 May 2010, violate a lawful general regulation, to wit: paragraph 4-5(a)(3), Army Regulation 25-2, dated 24 October 2007, by using an information system in a manner other than its intended purpose.

SPECIFICATION 5: In that Private First Class Bradley E. Manning, U.S. Army, did, at or near Contingency Operating Station Hammer, Iraq, on divers occasions between on or about 1 November 2009 and on or about 27 May 2010, violate a lawful general regulation, to wit: paragraph 7-4, Army Regulation 380-5, dated 29 September 2000, by wrongfully storing classified information.