IN THE UNITED STATES ARMY
FIRST JUDICIAL CIRCUIT

UNITED STATES	)	
	)	**ORDER TO COURT SECURITY**
v.	)	**OFFICER AND DETAILED**
	)	**SECURITY EXPERTS**
MANNING, Bradley E., PFC	)	
HHC, U.S. Army Garrison	)	
Joint Base Myer-Henderson Hall	)	
Fort Myer, Virginia 22211	)	**DATED: 22 March 2012**

1. This matter comes before the Court upon the Protective Order entered on 16 March 2012 (hereinafter "Protective Order") to prevent the unauthorized disclosure or dissemination of classified national security information which will be reviewed by, or made available to, or is otherwise in the possession of, the accused and the parties in this case.

2. The Court finds this case will involve information that has been classified in the interest of the national security. The storage, handling and control of this information will require special security precautions mandated by statute, executive order, and regulation, and access to which requires the appropriate security clearances and a "need-to-know." Under Executive Order 13526, "need-to-know" means a determination within the executive branch in accordance with directives issued pursuant to this order that a prospective recipient requires access to specific classified information in order to perform or assist in a lawful and authorized governmental function.

3. Pursuant to the authority granted under Military Rule of Evidence (MRE) 505; the general supervisory authority of the Court; and in order to protect the national security, it is hereby **ORDERED** that:

a. Definitions. All definitions listed in the Protective Order shall apply herein.

b. Court Security Officer. Mr. (b) (6) shall serve as the court security officer for supervising security arrangements necessary to protect from unauthorized disclosure any classified documents or information submitted or made available to the Court in connection with the above-referenced court-martial.

(1) The defense may request to disclose classified information to recipients not authorized pursuant to the Protective Order, subject to the approval by the United States or the Court. If such request is approved, the court security officer shall verify that the intended recipients of classified information hold the required security clearance, sign the Memorandum of Understanding in Appendix A of the Protective Order, and have a need-to-know. The court security officer may request the assistance of trial counsel to verify whether the intended recipients hold the required security clearance. The court security officer shall promptly notify

the United States and the Court whether such intended recipients of classified information satisfy these three requirements.

(2) The court security officer shall accept receipt of any pleading, document, or other substantive communication filed by either party that contains classified information or information reasonably believed to be classified, if required.

(3) The court security officer shall promptly examine any pleading or other document filed by either party that contains classified information or information reasonably believed to be classified to determine any question of derivative classification or any other matter that could reasonably be believed to relate to classified information, but is not authorized to make classification determinations; that is, whether information is properly classified and verify whether the pleading or document contains classified information and is properly marked.

(4) The court security officer shall promptly deliver to the Court and opposing party any filing by either party that contains classified information, except for any *ex parte* filing which shall be delivered only to the Court, absent Court approval.

(5) The court security officer shall promptly notify the prosecution (as the Command's representative), over SIPRNET or by other approved means under Army Regulation 380-5, of any spillage of classified information.

c. Security Experts. Detailed security experts shall provide advice to their respective party concerning procedures governing the appropriate storage, handling, and transmittal of classified documents and information, pursuant to the Protective Order and applicable regulations and federal law. Detailed security experts shall also provide their respective party with procedures for preparing any document, pleading, and substantive communication that contains classified information or information reasonably believed to be classified. Detailed security experts should be consulted by the defense and the prosecution regarding any question of derivative classification or any other matter that could reasonably be believed to relate to classified information, but are not authorized to make classification determinations; that is, whether information is properly classified.

(1) A detailed security expert shall review, in-person or over SIPRNET, while in a government facility approved for classified information processing, any pleading, document, or subject of communication, including all attachments and enclosures thereto, which contains classified information or information reasonably believed to be classified, whether by original, derivative, or compilation, and verify whether the pleading or document contains classified information and is properly marked.

(2) A security expert detailed to the defense shall be present at all times that the defense intends to disclose or elicit classified information under paragraph 3(l)(6) of the Protective Order and shall promptly terminate any conversation whenever the defense elicits, or attempts to elicit, classified information not previously approved for disclosure by the United States or the Court, or whenever the intended recipient discloses classified information for which the defense has no need-to-know.

(3) If requested by the defense, a security expert detailed to the defense shall properly and promptly deliver any pleading or document filed by the defense to the court security officer and the prosecution, except for any *ex parte* filing which shall be delivered only to the Court or court security officer.

(4) Detailed security experts to the defense shall properly destroy, by means approved for classified information destruction, any documents requested by the defense, in the presence of the defense.

(5) Detailed security experts to the defense shall promptly notify the court security officer, over SIPRNET or by other approved means under Army Regulation 380-5, of any spillage of classified information.

d. Communications. Any communication related to this case, including internal communications between members of the prosecution or defense and communications between the parties, the Court, and the court security officer, that contains classified information or information reasonably believed to be classified shall not be transmitted over any standard commercial telephone instrument or office intercommunication system, including but not limited to the Internet. Any communication related to this case, including internal communications between members of the prosecution or defense and communications between the parties, the Court, and the court security officer, that contains classified information or information reasonably believed to be classified shall be transmitted over SIPRNET or by other approved means under Army Regulation 380-5.

4. Further Order. The procedures set forth in this Order may be modified by further order of the Court acting under MRE 505 and the Court's inherent supervisory authority to ensure a fair and expeditious trial.

5. Army Regulation 380-5. No procedure in this Order shall operate to supersede, or cause a violation of, any provision of Army Regulation 380-5.

ORDERED, this the 22nd day of March 2012.

(b) (6)

COL, JA
Chief Judge, 1st Judicial Circuit