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|  | DEPARTMENT OF THE AIR FORCE[Appropriate header] |

[Date]

MEMORANDUM FOR AREA DEFENSE COUNSEL (Capt \_\_\_\_\_\_\_\_\_)

FROM: TRIAL COUNSEL (Capt \_\_\_\_\_\_\_\_\_\_\_\_)

SUBJECT: Government’s Initial Discovery Request – *U.S. v. [Accused Info]*

1. On behalf of the United States, I respectfully request that you provide the information and evidence listed below. Please provide a line-by-line response to the information and evidence requested in each paragraph and subparagraph below.

2. The Prosecution requests the Defense provide the following:

a. Notice of intent to offer any alibi defense, including, but not limited to, the specific place or places at which the Defense claims the Accused to have been at the time of the alleged offense(s) and the names, addresses, and telephone numbers of any witnesses upon whom the Accused intends to rely to establish such alibi. RCM 701(b)(2).

b. Notice of any intention by the Defense to rely upon a defense of mental responsibility or any similar defense, or any intention to introduce any evidence relating to the defense of lack of mental responsibility or any similar defense. RCM 701(b)(2).

c. Notice of any intention by the Defense to rely upon a defense of good military character, or any intention to introduce any evidence relating to the defense of good military character.

d. Notice of when and where the Prosecution can inspect any books, papers, documents, photographs, or tangible objects, which are within the possession, custody, or control of the Defense and which are at all pertinent to this case, and the nature of such evidence. RCM 701(b)(3).

e. Notice of when and where the Prosecution can inspect any results or reports of physical or mental examinations, and notice of any scientific tests or experiments made in connection with this case which are within the possession, custody or control of the Defense, and the nature of such evidence. RCM 701(b)(4).

f. Notice of the complete names, addresses, and telephone numbers of all witnesses whom the Defense contemplates calling in this case, whether on an interlocutory issues, on the merits, or in sentencing. RCM 701(b)(1); RCM 701(e).

**[NOTE: Excluding witnesses for sentencing, Defense must provide the name, telephone number, and the address/location of each witness as well as a synopsis of the expected testimony sufficient to show its relevance and necessity. See RCM 703(c)(2)(B)(i); *U.S. v Rockwood*, 52 M.J. 98 (C.A.A.F. 1999). Failure to provide a synopsis will likely result in a denial of production.]**

g. Any statements, oral or written, in the possession, custody, or control of the Defense which were made by any defense witness relating to the subject matter of the witness’ testimony. RCM 914(a)(2); MRE 613.

h. Notice of any motions, issues, or other evidentiary matters the Defense intends to raise at trial, with a copy thereof, including applicable citations to authority, names and addresses of all supporting witnesses, and the contents of any offers of proof.

i. Notice of the Accused’s intended plea and the forum which the Accused will be requesting.

j. A copy of all reports or statements, oral or written, made by any experts in connection with this case within the possession, custody, or control of the Defense. RCM 701(b)(4).

k. Notice of any requests for depositions of any witness, or of any continuance or postponement of trial. RCM 702(c).

l. Notice of any contemplated requests for judicial notice, with a copy of the material sought to be judicially noticed, or, if voluminous, a summary of the material and a location where the documents can be obtained and reviewed. MRE 201&201A.

m. A copy of any findings or sentencing instructions, or other statement of the law, which the Defense contemplates requesting the Court to read to the Court members and any citations to authority upon which the Defense intends to rely thereof.

n. Notice of whether the Defense reasonably expects to disclose or cause to be disclosed any information which the Defense has reason to believe may be classified in any manner, to include a brief description of the general nature of the information in question, being careful not to disclose any information known or reasonably believed to be classified until proper permission and notice has been obtained under the provisions of MRE 504. MRE 505(h).

o. Notice of whether the Defense reasonably expects to disclose or cause to be disclosed any information which may be subject to governmental privilege, to include a brief description of the general nature of the information in question, being careful not to disclose any information known or reasonably believed to be privileged until proper permission and notice has been obtained under the provisions of MRE 505. MRE 505(h).

p. Notice of any contemplated use as evidence of a conviction more than ten years old to impeach any witness and a copy of the document or summary of the testimony which will be offered to establish the prior conviction. MRE 609.

q. Notice of when and where the prosecution may inspect any writing in the possession, custody, or control of the Defense which the Defense contemplates using to refresh the recollection of any witness. MRE 612.

r. A list of all exhibits the defense intends to offer, along with the current location and custodian for each exhibit. RCM 702(b).

s. A copy of any sentencing character letters or exhibits that the Defense contemplates entering into evidence during sentencing. RCM 702(b).

3. Both parties operate under a continuing obligation to comply with discovery requirements throughout the proceeding. If, before or during the court-martial, you discover additional evidence or material previously requested or required to be produced, which is subject to discovery or inspection under RCM 701, please promptly notify the Prosecution and the Military Judge of the existence of such evidence or material. RCM 701(d).

4. If you feel for any reason the Prosecution has failed to comply with its obligations under any of the rules governing discovery, please advise trial counsel immediately so that we can take appropriate action.

5. If you have any questions, please contact me at [DSN Number] or [Email].

[FIRST MI. LAST], Capt, USAF

Trial Counsel

**CERTIFICATE OF SERVICE**

I certify that I caused a copy of the foregoing Government’s Initial Discovery Request to be served on the Defense via electronic mail on [Date].

[FIRST MI. LAST], Capt, USAF

Trial Counsel