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Sent: Tuesday, December 13, 2016 18:14
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Subject: US v Bergdahl Subject: Government Discovery Update

Your Honor,

In advance of Friday's Article 39(a), the Government provides the following update on the discovery process.

To date, we have identified 32,312 discoverable documents. We have made available 26,739 documents to the Defense. We have 3,130 documents that we are preparing to turn over to the Defense, and 2,048 documents that we are still working to send to OCAs. There are 310 documents that have either been invoked on by an OCA or will be invoked over by 15 December, and will ultimately require your review. There are 8 documents that we anticipate receiving permission to disclose to the Defense by 15 December.

The status of the remaining 77 documents was covered in an ex parte and classified email that the Government sent the Court via JWICS earlier.

Finally, the Defense submitted a sixth discovery request on 18 November, which includes requests for material from several entities that no longer exist. We have been working with CENTCOM, who we believe is most likely to have the material, and have initially identified a universe of several thousand documents. We have not yet received those documents, but will work to review them as expeditiously as possible once we do.

v/r,

JUSTIN C. OSHANA

MAJ, JA

Trial Counsel

APPELLATE EXHIBIT 28