

**IN A GENERAL COURT-MARTIAL
IN THE SECOND JUDICIAL CIRCUIT, U.S. ARMY TRIAL JUDICIARY
FORT BRAGG, NORTH CAROLINA**

UNITED STATES)	
)	
v.)	Government Notice in Accordance with
)	Paragraph 1.I of the Protective Order for
BERGDAHL, ROBERT BOWDRIE)	Classified Information
(BOWE))	
SGT, U.S. Army)	
HHC, Special Troops Battalion)	30 June 2016
U.S. Army Forces Command)	
Fort Bragg, North Carolina 28310)	


The purpose of this notice is to inform the Court that the Government inadvertently accessed, stored, and transmitted two documents that contain Sensitive Compartmented Information (SCI) outside of a SCIF, and using computers that were not certified to view SCI. In addition, those documents were potentially inadvertently viewed by three members of the Government Team who did not have the appropriate clearances. In accordance with paragraph 1.i(4) of the Court's Protective Order for Classified Information, "[a]ll Counsel and other members of the Trial and Defense teams will prepare all filings, documents, or communications that contain or may contain classified information in an approved secure government facility, using computers, printers, and other electronic office devices certified for classified information." Further, per paragraph 1.h(4) of the Court's Protective Order for Classified Information, "[n]o person shall have access to any classified information in this case unless that person has a valid security clearance at the appropriate level... ."

The documents in question were provided to Government Counsel by a Department of Defense command as part of its response to the Government's Request for Information in this case; the documents were part of the SECRET tranche of documents provided by the command via a SIPRNET portal and no indication was given that the tranche contained SCI. The Government downloaded these documents onto a Government SIPRNET (non-SCI) laptop, before storing the documents onto its closed SECRET network for review and processing. Following review, the Government burned these documents (among others) onto a CD/DVD and sent them to an Army command as part of a request for consent to allow the Defense Team to review the documents pursuant to Executive Order 13526 and MRE 505. While working on his SIPRNET computer to prepare to send the documents to another potential original classification authority (OCA) for Defense review consent, one of the Government Counsel (who is authorized SCI access) first saw that one slide in each document was marked as containing SCI. The Government Counsel immediately unplugged his laptop from the SIPR network, did not transmit the documents any further, and reported the incident to the U.S. Army Forces Command (FORSCOM) G2, the FORSCOM G6, and the Government Security Officer. The Government Counsel further immediately

coordinated to transport his laptop, the CD/DVD containing the two documents, and the SIPRNET laptop that was originally used to download the documents to the FORSCOM SCIF for storage in a safe certified for SCI. Finally, the Government Counsel immediately notified the Department of Defense command that originally provided the documents and the Army command that received the documents from the Government Team so that they could perform all required remediation measures.

Upon researching the disposition of the documents, the Government determined that six members of the Government Team may have viewed the documents, only three of whom were appropriately cleared to view SCI. The three members who were not cleared to view SCI filled out inadvertent disclosure forms and provided those forms to the FORSCOM G2.

The Government sent the two documents at issue to the intelligence community agency with cognizance over the SCI caveat for a determination as to whether the information was properly marked as SCI. On 29 June 2016 that agency confirmed that there was SCI in the documents. The Government then immediately informed the FORSCOM G2, FORSCOM G6, the Government Security Officer, the Department of Defense command that provided the documents, and the Army command that received the documents from the Government so they could continue required remediation measures.



MICHAEL PETRUSIC
CPT, JA
Trial Counsel

I certify that I have served or caused to be served a true copy of the above Government Notice in Accordance with Paragraph 1.I of the Protective Order for Classified Information via email on 30 June 2016.



MICHAEL PETRUSIC
CPT, JA
Trial Counsel