IN THE UNITED STATES ARMY
FIRST JUDICIAL CIRCUIT

U N I T E D S T A T E S	)	
	)	**DEFENSE REPLY TO**
v.	)	**GOVERNMENT RESPONSE TO**
	)	**DEFENSE MOTION FOR**
	)	**INSTRUCTIONS ON LESSER**
MANNING, Bradley E., PFC	)	**INCLUDED OFFENSE (LIO)**
U.S. Army, xxx-xx-9504	)	
Headquarters and Headquarters Company, U.S.	)	
Army Garrison, Joint Base Myer-Henderson Hall,	)	DATED: 29 May 2012
Fort Myer, VA 22211	)	

RELIEF SOUGHT

1. PFC Bradley E. Manning, by and through counsel, pursuant to applicable case law, Article 79, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 879 (2010), and Rule for Courts Martial (R.C.M.) 920(e)(2), requests this Court to instruct the members on the elements of Article 92(1) for a violation of Army Regulation 380-5 (AR 380-5) as a lesser included offense (LIO) of each of the offenses alleged in Specifications 1, 2, 3, 5, 7, 9, 10, 11 and 15 of Charge II.

ARGUMENT

2. The arguments raised in the Government's Response to Defense Motion for Instructions on Lesser Included Offense (LIO) [hereinafter Government's Response] can be easily cabined into one or more of the following categories: nonresponsive to the Defense arguments, without merit, incomplete, or inconsistent with established case law. Upon close inspection, none of the Government's arguments as to why Article 92(1) is not a LIO of the 18 U.S.C. Section 793(e) offenses or why Article 92(1) is not a LIO of the clause 1 and 2 Article 134 offense are correct. Accordingly, this Court should, for the reasons stated herein and in the Defense Motion for Instructions of Lesser Included Offense (LIO) [hereinafter Defense Motion], grant the relief requested by the Defense.

A. A Violation of Army Regulation 380-5, Chargeable Under Article 92(1), is a Lesser Included Offense of Each Specification Charging PFC Manning with a Violation of 18 U.S.C. Section 793(e) and Article 134

3. In its Response, the Government disputes that any of the elements of an Article 92(1) offense, charged as a violation of AR 380-5, are necessarily included in a violation of Section 793(e) charged under clause 3 of Article 134.[1] The Government's contentions are incomplete,

[1] This Reply uses the elements set out in the Defense Motion. For ease of reference, those elements are reproduced in this footnote. For the Section 793(e) violations charged in Specifications 2, 3, 5, 7, 9, 10, 11 and 15 of Charge II, those elements are:

foreclosed by clear precedent from the Court of Appeals for the Armed Forces, or both. All of its arguments are without merit. Each is discussed in turn.

4. The Government first contends that the first and second elements of the Article 92(1) offense (i.e. the existence of the lawful general regulation and the accused's duty to obey it) are not necessarily included in the first element of the Section 793(e) offense (i.e. unauthorized possession of the information) because "[t]he Government may prove unauthorized possession by means other than AR 380-5." Government Response, at 5. For support the Government offers the following citation and parenthetical: "See Arriaga, 70 M.J. at 55 (stating that there should not be an LIO instruction where it is possible to prove greater offense without also proving lesser offense)." *Id.* at 5.

5. While it may be true that the unauthorized possession element of Section 793(e) may, in some cases, be proved by means other than AR 380-5, the Government's response does not specify how, as the offenses are charged in this case, this can be done. Any proper "elements test" analysis must consider the elements of the offenses not only in the statutory abstract, but also as those elements are charged in the specification. *See United States v. Arriaga*, 70 M.J. 51, 54 (C.A.A.F. 2011) ("[C]omparison of the statutory elements *as charged in the specification* is allowed." (emphasis supplied); *id.* at 55 ("Regardless of whether one looks strictly to the statutory elements *or to the elements as charged*, housebreaking is a [LIO] of burglary . . . . [T]he offense *as charged in this case* clearly alleges the elements of both offenses." (emphases supplied)); *see also United States v. Nealy*, 71 M.J. 73, 79 & n.1 (C.A.A.F. 2012) (Baker, C.J., concurring in the result) (explaining that, under *Arriaga*, the specification itself may provide

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> (1) The accused, at or near Contingency Operating Station Hammer, Iraq, between on or about [varying date ranges], had unauthorized possession of information;
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> (2) The information was relating to the national defense, to wit: [the named information];
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> (3) The accused knew or had reason to believe that the information could be used to the injury of the United States or to the advantage of any foreign nation;
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> (4) The accused willfully communicated, delivered, or transmitted, or caused to be communicated, delivered, or transmitted the information to a person not entitled to receive it; and
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> (5) Under the circumstances, the conduct of the accused was to the prejudice of good order and discipline in the armed forces and of a nature to bring discredit upon the armed forces.

Defense Motion, at 4-5. The elements of an Article 92(1) offense for a violation of AR 380-5 are:

> (1) There was in effect a certain lawful general order or regulation in the following terms: Paragraphs 1-21 and 6-1, Army Regulation 380-5, dated 29 September 2000;
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> (2) The accused had a duty to obey this regulation; and
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> (3) That on divers occasions between on or about [varying date ranges], at or near Contingency Operating Station Hammer, Iraq, the accused violated this lawful general regulation by knowingly, willfully, or negligently disclosing classified or sensitive information to unauthorized persons.

Id. at 5.

notice to an accused of the LIOs of the charged offense(s)); *United States v. Alston*, 69 M.J. 214, 216 (C.A.A.F. 2010) (examining the elements as charged in the specification when conducting an elements test analysis). Indeed, *Alston* makes clear that the mere fact that the greater offense could, in some other case, be proved without necessarily including the lesser offense does not preclude the lesser offense from being a LIO where the greater offense, as charged in the particular specification at issue, demonstrates that the lesser offense is in fact included in the greater offense.

6. In *Alston*, the accused was charged with rape by force under Article 120(a)(1). 69 M.J. at 215. Article 120(t)(5) provides three different methods by which the force element of rape by force can be established:

> The term "force" means action to compel submission of another or to overcome or prevent another's resistance by --
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> (A) the use or display of a dangerous weapon or object;
>
> (B) the suggestion of possession of a dangerous weapon or object that is used in a manner to cause another to believe it is a dangerous weapon or object; or
>
> (C) physical violence, strength, power, or restraint applied to another person, sufficient that the other person could not avoid or escape the sexual conduct.

10 U.S.C. § 920(t)(5). However, the facts alleged in the charge in *Alston* indicated that only one of those methods – Article 120(t)(5)(C) – was implicated in that particular case:

> [T]he charge at issue alleged that [the accused] caused Private E–2 (PV2) T, a fellow soldier, to "engage in a sexual act, to wit: penetration of her vagina with his fingers by using power or strength or restraint applied to her person sufficient that she could not avoid or escape the sexual conduct."

69 M.J. at 215. The military judge instructed the members on the elements of rape by force and on the elements of the purported LIO of aggravated sexual assault under Article 120(c)(1)(B), which required causing bodily harm. *Id.*

7. The Court of Appeals for the Armed Forces found that aggravated sexual assault under Article 120(c)(1)(B) was a LIO of rape by force under Article 120(a)(1) based on the facts alleged in the charge. *Id.* at 216. In comparing the elements of the two offenses, the *Alston* Court helpfully explained:

> The second element of aggravated sexual assault – "causing bodily harm" under Article 120(c)(1)(B) – means "any offensive touching of another, however slight." Article 120(t)(8). The parallel element in the offense of rape *as charged in the present case* – using "force" under Article 120(a)(1) – means "action to compel submission of another or to overcome or prevent another's resistance by . . . physical violence, strength, power, or restraint applied to another person,

> sufficient that the other person could not avoid or escape the sexual conduct." Article 120(t)(5)(C).

Id. (emphasis supplied). The Court's conclusion that aggravated sexual assault was, based on the charged conduct, a LIO of rape by force was unaffected by the fact that the force element of rape could have been proven, in some other case, through the different methods provided in Article 120(t)(5)(A)-(B):

> The bodily harm element of aggravated sexual assault under Article 120(c) – defined in Article 120(t)(8) to include an offensive touching, however slight – is a subset of the force element in the offense of rape under Article 120(a), as defined in Article 120(t)(5)(C). *We note that the definitions of force in Article 120(t)(5)(A) and Article 120(t)(5)(B), which do not require an offensive touching, are not at issue in the present case*.

Id. (emphasis supplied).

8. Thus, *Alston* clearly demonstrates why the Government's conclusory and vague assertion that "[t]he Government may prove unauthorized possession by means other than AR 380-5[,]" Government Response, at 5, even if true in some abstract sense, is nonresponsive to the appropriate inquiry of whether the first two elements of the Article 92(1) offense are included in the first element of the Section 793(e) offense *as that offense is charged in the specification*. If the Government's theory (i.e. if there is a way to prove a particular element of the greater offense without including the relevant element of the purported LIO, then the purported LIO is not an LIO) were correct, *Alston* would have been decided differently: The fact that the force element of rape by force could be proved three different ways, *see* Article 120(t)(5)(A)-(C), and that only one of those ways included an offensive touching, would have precluded the finding of the Court of Appeals for the Armed Forces that sexual aggravated assault was, based on the charged conduct, a LIO of rape by force, *see Alston*, 69 M.J. at 216.

9. Far from providing support for the Government's theory, *Alston* unmistakably rejects it. The fact that the greater offense in the general, abstract sense (i.e. divorced from the language of the specification) allows the Government to prove the greater offense without also proving the lesser offense does not preclude the lesser offense from being a LIO of the greater offense where, as here, the greater offense, as charged in the specification, will require the Government to establish the elements of the lesser offense. In such a case, the lesser offense is properly determined to be a LIO of the greater offense. *See Alston*, 69 M.J. at 216; *see also Nealy*, 71 M.J. at 79 & n.1 (Baker, C.J., concurring in the result); *Arriaga*, 70 M.J. at 54-55.

10. *Arriaga*, notwithstanding the Government's citation to it, does not change this analysis. The *Arriaga* Court explained that:

> Regardless of whether one looks strictly to the statutory elements or to the elements as charged, housebreaking is a lesser included offense of burglary. Comparing the statutory elements, it is impossible to prove a burglary without

> also proving a housebreaking. Furthermore, the offense as charged in this case clearly alleges the elements of both offenses.

70 M.J. at 55. The Government represents that *Arriaga* "stat[es] that there should not be an LIO instruction where it is possible to prove [the] greater offense without also proving [the] lesser offense." Government Response, at 5. First of all, nowhere in the above quoted passage or the rest of the *Arriaga* opinion does the Court make any statement to this effect. *See Arriaga*, 70 M.J. at 54-55. Additionally, as demonstrated above, the Government has confused possibility in the general or abstract sense (which is not determinative in the LIO inquiry) with possibility under the facts alleged in the specification. *Arriaga* provides no support for the Government's erroneous position that because of the mere fact that the greater offense can, in some other prosecution or in some general sense, be proved without proving the elements of the lesser offense, the lesser offense is not a LIO. *Alston* is directly contrary to this position, and *Arriaga* did not modify *Alston* in this regard.

11. Returning to the proper inquiry, the Government has in no way indicated how it can prove the element of unauthorized possession of the information charged in Specifications 2, 3, 5, 7, 9, 10, 11 and 15 of Charge II without also establishing the existence of the accused's duty to obey the regulation on handling classified and sensitive information. That is not surprising, for the Government would be hard pressed to accomplish such a feat. As was stated in the Defense Motion, any "unauthorized possession of information" relating to the national defense must necessarily implicate the duties imposed by AR 380-5. Accordingly, the duty to obey the regulation on handling classified and sensitive information imposed by AR 380-5 (the first two elements of the Article 92(1) offense) is a subset of the unauthorized possession of each charged Section 793(e) violation (the first element of the Section 793(e) offense). Therefore, the first two elements of the Article 92(1) offense are necessarily included in the first element of the Section 793(e) offense.

12. The Government next contends that the first two elements of the Article 92(1) offense are not necessarily included in the fifth element of the Section 793(e) offense (i.e. the clause 1 and 2 of Article 134 element) because "[i]t is possible to prove clauses 1 and 2 without the use of AR 380-5." Government Response, at 6.

13. Much like the Government argument discussed above, this cryptic and vague sentence provides no indication of how the Government can prove clauses 1 and 2 of Article 134, based on the specifications in this case, without establishing the existence of an accused's duty to obey AR 380-5. For one thing, to the extent the Government is asserting that the first two elements of the Article 92(1) offense are not necessarily included in the fifth element of the Section 793(e) offense because it is possible, in some general and abstract sense, to prove clauses 1 and 2 without the use of AR 380-5, that argument is meritless in light of *Alston*. *See Alston*, 69 M.J. at 216 (rejecting the notion that the fact that there is some way to prove the greater offense without proving the lesser offense, the lesser offense cannot be a LIO of the greater offense, regardless of the language of the specification in any particular case); *see also supra*. The Government's inaccurate citation to *Arriaga* does not support its position. *See supra*.

14. For another thing, the Government has offered no indication of how it could prove that the conduct alleged *in this specification* constitutes a violation of clause 1 and 2 without necessarily establishing a violation of AR 380-5. As was stated in the Defense Motion, the conduct that the Government alleges was to the prejudice of good order and discipline in the armed forces and of a nature to bring discredit upon the armed forces – a Section 793(e) violation – for the fifth element of the Section 793(e) offense necessarily included a breach of a custom of the service now set forth in a punitive regulation – AR 380-5. As the violation of the regulation is necessarily included in the conduct underlying the Section 793(e) violation, the duty to obey the regulation is also included in that conduct. Accordingly, the first two elements of the Article 92(1) offense are also necessarily included in the fifth element of the Section 793(e) offense, as the Government has charged that offense in this case. The Government has offered no real response to this Defense argument.

15. Finally, the Government argues that the third element of the Article 92(1) offense (i.e. the accused knowingly, willfully, or negligently disclosed classified or sensitive information to unauthorized persons) is not necessarily included in the fourth element of the Section 793(e) offense (i.e. the accused willfully communicated, delivered, or transmitted, or caused to be communicated, delivered, or transmitted the information to a person not entitled to receive it), at least with respect to Specifications 2 and 11 of Charge II. *See* Government Motion, at 6. The Government reasons that this is because "Specifications 2 and 11 of Charge II, as written, do not require the prosecution to prove the information was classified or sensitive, as defined under AR 380-5." *Id.*

16. At the outset, with respect to this element of the Article 92(1) offense, the Government only challenges whether "sensitive or classified information" is necessarily included in the "national defense information" specified in Specifications 2 and 11 of Charge II. The Government does not dispute that the third element of the Article 92(1) offense is necessarily included in Specifications 3, 5, 7, 9, 10 and 15 of Charge II, as these specifications expressly allege that the information is "classified." *See* Charge Sheet.

17. Specifications 2 and 11 of Charge II require the Government to prove that the information is "relating to the national defense." *Id.* If the Government is able to prove that the information is relating to the national defense, it will necessarily establish that the information is "sensitive" under AR 380-5. Thus, the Government's only objection to the Defense position that the third element of the Article 92(1) offense is necessarily included in the fourth element of the Section 793(e) offense – namely, that proving that the information is national defense information will not establish that the information is classified or sensitive under AR 380-5 – is without merit.

18. In its Response, the Government proposes the following definition of national defense information: "National defense information for an 18 U.S.C. § 793 offense is information that is (1) 'closely held by the government . . . [and (2)] potentially damaging to the United States or useful to an enemy of the United States if disclosed without authorization.'" Government Response, at 6 (quoting *United States v. Rosen*, 599 F. Supp. 2d 690, 695 (E.D. Va. 2009)). Therefore, by its own admission, the Government will need to prove that the information in Specifications 2 and 11 of Charge II is "potentially damaging to the United States or useful to an

enemy of the United States if disclosed without authorization." *Id.* AR 380-5 defines "sensitive information" as:

> Any information, the loss, misuse, or unauthorized access to or modification of which could adversely affect the national interest or the conduct of federal programs, or the privacy to which individuals are entitled under section 552a of Title 5, USC (the Privacy Act), but which has not been specifically authorized under criteria established by an Executive Order or an Act of Congress to be kept secret in the interest of national defense or foreign policy.

AR 380-5, para. 5-19a; *see* Government Response, at 1-2 (containing this definition). Thus, if the Government is able to prove that the information in Specifications 2 and 11 of Charge II is national defense information (i.e. that it is "potentially damaging to the United States or useful to an enemy of the United States if disclosed without authorization") it will, of necessity, establish that the information is also sensitive information under AR 380-5 (i.e. that it is "information, the loss, misuse, or unauthorized access to or modification of which could adversely affect the national interest or the conduct of federal programs"). The fact that the definition of sensitive information is broad enough to include information that is not national defense information is irrelevant to the LIO inquiry. *See Arriaga*, 70 M.J. at 55 ("The fact that there may be an 'alternative means of satisfying an element in a lesser offense does not preclude it from being a lesser-included offense.'" (quoting *United States v. McCullough*, 348 F.3d 620, 626 (7th Cir. 2003))). As the Government has defined "national defense information" and as AR 380-5 defines "sensitive information," if information is national defense information it is, by necessity, sensitive information. Thus, for this reason and the reasons articulated in the Defense Motion, the third element of the Article 92(1) offense is necessarily included in the fourth element of the Section 793(e) offense.

19. At the end of the day, the elements test is the approach used to determine whether one offense is a "subset" of another. *See Schmuck v. United States*, 489 U.S. 705, 716 (1989); *United States v. Bonner*, 70 M.J. 1, 2 (C.A.A.F. 2011). Because every element of the Article 92(1) offense is necessarily included in one or more elements of the Section 793(e) offense, as charged under clause 3 of Article 134, the Article 92(1) offense is a subset of the Section 793(e) offense. Every violation of Section 793(e) perpetrated by a member of the Army must, of necessity, include a violation of AR 380-5. It is impossible for a member of the Army to violate Section 793(e) *in the manner alleged by the Government*, *see Arriaga*, 70 M.J. at 54-55, without also violating AR 380-5. *See Schmuck*, 489 U.S. at 719 (explaining that when it is impossible to commit the greater offense without also committing the lesser offense, the lesser offense is a LIO); *Arriaga*, 70 M.J. at 55 (similar); *see also United States v. Baba*, 21 M.J. 76, 78 (C.M.A. 1985) (Cox, J., concurring in the result) ("The elements of an offense under Article 92, Uniform Code of Military Justice, 10 U.S.C. § 892 . . . are necessarily included in the elements of an offense under Article 134, UCMJ, 10 U.S.C. § 934, and 18 U.S.C. § 793(d).").

20. Therefore, for these reasons and for the reasons stated in the Defense Motion, an Article 92(1) offense stating a violation of AR 380-5 is a LIO for each Section 793(e) offense alleged by the Government.

B. A Violation of Army Regulation 380-5, Chargeable Under Article 92(1), is a Lesser Included Offense of Specification 1 of Charge II

21. In its Response, the Government disputes that any of the elements of an Article 92(1) offense, charged as a violation of AR 380-5, are necessarily included in the clause 1 and 2 Article 134 offense charged in Specification 1 of Charge II.[2] Much like its arguments with respect to the Article 92(1) LIO for the Section 793(e) offenses, *see* Part A, *supra*, the Government's arguments with respect to the Article 92(1) LIO for the clause 1 and 2 Article 134 offense are incomplete, inconsistent with clear case law, or both. Each argument is discussed in turn.

22. The Government first argues that the first two elements of the Article 92(1) offense (i.e. the existence of the lawful general regulation and the accused's duty to obey it) are not necessarily included in the second element of the clause 1 and 2 Article 134 offense (i.e. that the conduct of the accused was to the prejudice of good order and discipline in the armed forces and of a nature to bring discredit upon the armed forces) because "it is possible to prove clauses 1 and 2 without the use of AR 380-5." Government Response, at 8.

23. This remarkably cryptic and conclusory argument is, for the reasons stated above, entirely meritless. *See* Part A, *supra*. Namely, to the extent the Government is arguing that the first two elements of the Article 92(1) offense are not necessarily included in the second element of the clause 1 and 2 Article 134 offense because it is possible, in some general and abstract sense, to prove clauses 1 and 2 without the use of AR 380-5, that argument is meritless in light of *Alston*. *See Alston*, 69 M.J. at 216. The Government's citation to *Arriaga* does not somehow do away with this indisputable fact. In addition, the Government has offered no indication of how it could prove that the conduct alleged *in this specification* constitutes a violation of clause 1 and 2 without necessarily establishing a violation of AR 380-5. The Government has thus offered no real rebuttal to the Defense argument that the conduct that is allegedly prejudicial to good order and discipline and service discrediting – wrongfully and wantonly causing intelligence to be published on the internet with the knowledge that intelligence published on the internet is accessible to the enemy – necessarily includes the breach of a custom of the service now set forth in a punitive regulation – AR 380-5. Accordingly, the Defense maintains that, the duty to obey that regulation (the first and second elements of the Article 92(1) offense) is necessarily included in the prejudicial and service discrediting conduct (the second element of the clause 1 and 2 Article 134 offense).

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[2] Like above, *see* note 1, *supra*, the elements of Specification 1 of Charge II outlined in the Defense Motion are used in this Reply. Those elements are:

> (1) The accused, 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 caused to be published on the internet intelligence belonging to the United States, having knowledge that intelligence published on the internet is accessible to the enemy; and
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> (2) Under the circumstances, the conduct of the accused was to the prejudice of good order and discipline in the armed forces and of a nature to bring discredit upon the armed forces.

Defense Motion, at 8.

24. The Government next asserts that the third element of the Article 92(1) offense (i.e. the accused knowingly, willfully, or negligently disclosed classified or sensitive information to unauthorized persons) is not necessarily included in the first element of the clause 1 and 2 Article 134 offense alleged in Specification 1 of Charge II (i.e. wrongfully and wantonly causing to be published on the internet intelligence belonging to the United States, having knowledge that intelligence published on the internet is accessible to the enemy) because "Specification 1 of Charge II, as written, does not require the prosecution to prove the intelligence was classified or sensitive under AR 380-5 – an element required for an Article 92(1) offense in violation of AR 380-5." Government Response, at 8.

25. While the Government is not "required to prove" that the intelligence was classified or sensitive in order to secure a conviction on Specification 1 of Charge II, the elements test does not ask what the Government is "required to prove." Rather, the elements test is used to determine whether one offense is a "subset" of another. *See Schmuck*, 489 U.S. at 716; *Bonner*, 70 M.J. at 2. A comparison of the definitions of "intelligence" and "sensitive information" demonstrates that if the Government is able to prove that the information in Specification 1 of Charge II is "intelligence," it will necessarily establish that the information is "sensitive information" under AR 380-5. Thus, because information that is "intelligence" is necessarily "sensitive information" under AR 380-5, the third element of the Article 92(1) offense is a subset of the first element of the clause 1 and 2 Article 134 offense charged in Specification 1 of Charge II.

26. If the information is intelligence, it means that it "may be useful to the enemy for any of the many reasons that make information valuable to belligerents." Appellate Exhibit LXXX, at 2; *see* Government Response, at 8. If the information is useful to the enemy, it is certainly "information, the loss, misuse, or unauthorized access to or modification of which could adversely affect the national interest," AR 380-5, and is thus sensitive information under AR 380-5. The fact that the definition of sensitive information is broad enough to include information that is not "intelligence" is irrelevant to the LIO inquiry. *See Arriaga*, 70 M.J. at 55 ("The fact that there may be an 'alternative means of satisfying an element in a lesser offense does not preclude it from being a lesser-included offense.'" (quoting *McCullough*, 348 F.3d at 626)). Therefore, for this reason and the reasons stated in the Defense Motion, the third element of the Article 92(1) offense is necessarily included in the first element of the clause 1 and 2 Article 134 offense charged in Specification 1 of Charge II.

27. In sum, because each of the elements of the Article 92(1) offense is necessarily included in one or more of the elements of the clause 1 and 2 Article 134 offense, the Article 92(1) offense is a subset of the charged Article 134 offense. It is impossible for a member of the Army to violate Article 134 in the manner alleged by the Government, *see Arriaga*, 70 M.J. at 54-55, without also violating AR 380-5. *See Schmuck*, 489 U.S. at 719; *Arriaga*, 70 M.J. at 55; *see also Baba*, 21 M.J. at 78 (Cox, J., concurring in the result). Therefore, the Article 92(1) offense, charged as a violation of AR 380-5 is a LIO of the clause 1 and 2 Article 134 offense charged in Specification 1 of Charge II.

CONCLUSION

28. For the reasons articulated above and in the original motion submitted by the Defense, the Defense requests that this Court instruct the members on the elements of the Article 92(1) LIO of each offense alleged in Specifications 1, 2, 3, 5, 7, 9, 10, 11 and 15 of Charge II.

Respectfully submitted,

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