

10 Mar 11

MEMORANDUM

From: PFC Bradley E. Manning
To: Col. Daniel J. Choike
Via: (1) CWO2 Denise Barnes
(2) Staff Judge Advocate, Office of the Staff Judge Advocate,
U.S. Army Military District of Washington, Fort McNair

Subj: REBUTTAL TO COMPLAINT OF WRONGS UNDER ARTICLE 138 UCMJ BY
PRIVATE FIRST CLASS BRADLEY MANNING U.S. ARMY

Ref: (a) Article 138, UCMJ
(b) SECNAVINST 1640.9C (Navy Corrections Manual)

1. I, PFC Bradley E. Manning, am a member of the U.S. Army on active duty, assigned to Headquarters and Headquarters Company, U.S. Army Garrison, Joint Base Myer-Henderson Hall, Fort Myer, Virginia. On 2 March 2011, I received your response to my Article 138 Complaint filed on 19 January 2011. I have elected to file the following rebuttal to your response.

2. First, my allegations of improper treatment were not correctly noted by you in your 1 March 2011 memorandum. Additionally, I am making a new allegation of wrongdoing based upon recent decisions by the Pretrial Confinement Facility ("PCF") Commander. I request that you consider the following specific allegations:

a. That the decision to retain my classification as a Maximum Custody ("MAX") detainee and to retain me under Prevention of Injury ("POI") Status after 27 August 2010 was improper.

b. That the decision to place me on Suicide Risk on 18 January 2011 was improper.

c. That the decision to strip me of all my clothing at night since 2 March 2011 was and continues to be improper.

3. Addressing each of the allegations, I would like to offer the following in rebuttal to your response:

a. That the decision to retain my classification as a MAX Custody detainee and to retain me under POI Status after 27 August 2010 was improper.

(1) While it may have been understandable to classify me as a MAX detainee initially, I should have been downgraded to Medium Custody-In (MDI) after 27 August 2010. As you noted, my initial evaluation by the duty brig supervisor ("DBS") gave me a score of "5" after reviewing the DD Form 2710, inmate background summary, and completing the DD Form 2711, initial custody classification. A score of "5" was significantly lower than the "12" or higher score normally required for MAX custody. Despite my low score, the DBS overrode the score, and indicated that he considered my previous classification in Kuwait as the primary factor in his decision.

Subj: REBUTTAL TO COMPLAINT OF WRONGS UNDER ARTICLE 138 UCMJ BY
PRIVATE FIRST CLASS BRADLEY MANNING U.S. ARMY

(2) The decision to maintain me in MAX Custody after 27 August 2010 has been an abuse of discretion. Although the ultimate decision regarding my classification rests with the PCF Commander, this decision cannot be an arbitrary one. In the instant case, the PCF Classification and Assignment Board ("C&A Board") and the PCF Commander failed to properly review my status and take into account all relevant factors. Instead, the C&A Board's recommendations and the PCF Commander's decisions have been perfunctory in nature.

(3) The PCF C&A Board failed to always document its recommendation concerning my custody classification and status on the required Brig Form 4200. This failure is indicative of how the C&A Board viewed its task. It is clear that the C&A Board and the PCF Commander unduly weighted my behavior in Kuwait, prior to receiving adequate treatment, and the nature of the charges alleged against me in determining my custody classification and status. A straightforward review of the Brig's own observation records attached as Enclosure 2 of the PCF Commander's response proves the arbitrariness of my custody classification and status. The following are excerpts from the Brig's observation records:

i) 3 August 2010 Entry: "SND (PFC Bradley Manning) did not receive any disciplinary reports or adverse spot evaluations and received an average work and training report." The entry also notes, "SNDs conduct has been average and has presented no problems to staff or inmates. During the interview SND was respectful and courteous and was well spoken. SND stated that he was doing well and was not having suicidal or homicidal feelings."

ii) 12 August 2010 Entry: "SND did not receive any disciplinary reports or adverse spot evaluations and received an average work and training report." The entry also notes, "SND stated that he would like a job in the facility library if it became possible. To this point in confinement SND's conduct has been average and has presented no problems to staff or inmates. During the interview SND was quiet, but courteous and respectful. SND answers questions but speaks very little unless responding to a question. Currently SND appears to be trying to adjust to the daily routine and observing what is going on around him. During the interview SND was well spoken, neat in appearance and maintained eye contact. SND stated that he does not have any suicidal feelings at this time."

iii) 16 August 2010 Entry: "SND was evaluated by the Brig Psychologist and found not to be a threat to himself. It is recommended that SND be removed from SR, and be placed on POI (sic) remain MAX custody."

iv) 17 August 2010 Entry: "The Brig Psychiatrist found SND to be a reduced threat to himself on 6 August 2010."

v) 24 August 2010 Entry: "SND did not receive any disciplinary reports or adverse spot evaluation and received an average work and training report." The entry also notes "[t]o this point in confinement, SND has presented no problems and has been courteous and respectful to staff. SND's conduct has been excellent, so much so that

Subj: REBUTTAL TO COMPLAINT OF WRONGS UNDER ARTICLE 138 UCMJ BY
PRIVATE FIRST CLASS BRADLEY MANNING U.S. ARMY

is it apparent that he is extremely cautious about what he says or how he acts. During the interview SND was well spoken, groomed and neat in appearance."

vi) 27 August 2010 Entry: "SND has not presented any problems since his last review on 20 August 2010 and has been an overall average detainee."

vii) 31 August 2010 Entry: "SND did not receive any disciplinary reports or adverse spot evaluations and received an above average work and training report." The entry also notes "SND was evaluated by the Brig Psychiatrist on 27 August and was recommended to be removed from POI status. The C&A Board reviewed SND on the same date and recommended that he still remain POI. SND remains courteous and respectful to staff and has presented no problems toward staff or inmates thus far. During the interview SND was well spoken, groomed and neat in appearance."

viii) 3 September 2010 Entry: "SND has not presented any problems since his last review on 27 August 2010 and has been an overall average detainee."

ix) 8 September 2010 Entry: "SND did not receive any disciplinary reports or adverse spot evaluations and received an average work and training report." The entry also notes, "SND was evaluated by the Brig Psychiatrist on 3 September and was recommended to be removed from POI status." Additionally it states, "SND continues to be cooperative with Brig staff and has presented no disciplinary problems. During the interview SND was well spoken and neat in appearance. SND's mood and appearance were consistent with his normal character and he continues to state that he is not suicidal."

x) 10 September 2010 Entry: "SND has not presented any problems since his last review on 3 SEPT 2010 and has been an overall average detainee."

xi) 14 September 2010 Entry: "SND did not receive any disciplinary reports or adverse spot evaluations and received an average work and training report." The entry also notes, "SND was evaluated by the Brig Psychiatrist on 10 September and was recommended to be removed from POI status." Finally, the entry notes, "SND has been cooperative with Brig staff and has presented no disciplinary or behavioral problems. When observed in his cell, SND is always sitting quietly on his rack and appears to be content with doing nothing else. During the interview SND was well spoken and neat in appearance. SND's mood and appearance were consistent with his normal character and he continues to state that he is not suicidal."

xii) 28 September 2010 Entry: "SND did not receive any disciplinary reports or adverse spot evaluations and received an average work and training report." The entry also notes, "SND was evaluated by the Brig Psychiatrist on 24 September and was recommended to be removed from POI status. Later, the entry notes, "SND continues to be cooperative with Brig staff and has presented no disciplinary or behavioral problems. During the interview SND was well spoken and neat

Subj: REBUTTAL TO COMPLAINT OF WRONGS UNDER ARTICLE 138 UCMJ BY
PRIVATE FIRST CLASS BRADLEY MANNING U.S. ARMY

in appearance. SND's mood and appearance were consistent with his normal character and he continues to state that he is not suicidal."

xiii) 4 October 2010 Entry: "SND was evaluated by the Brig Psychiatrist on 24 Sep 2010 and recommended to be removed from POI. SND has not presented any problems since his last review and has been an overall average detainee."

xiv) 6 October 2010 Entry: "SND did not receive any disciplinary reports or adverse spot evaluations and received an average work and training report." The entry notes, "SND appears to be content with his situation and goes through the motions of the Brig's plan of the day without incident. SND was evaluated by the Brig Psychiatrist on 1 October and was recommended to be removed from POI status." The entry also notes, "SND continues to be cooperative with Brig staff and has presented no disciplinary or behavioral problems. During the interview SND was respectful, neat in appearance and maintained eye contact. SND's mood and appearance were consistent with his normal character and he continues to state that he is not suicidal."

xv) 12 October 2010 Entry: "SND did not receive any disciplinary reports or adverse spot evaluations and received an above average work and training report."

xvi) 14 October 2010 Entry: "SND was evaluated by the Brig Psychiatrist on (no date given) and recommended to be removed from POI. SND has not presented any problems since his last review ..." The entry also notes "SND did not receive any disciplinary reports or adverse spot evaluations and received an above average work and training report."

xvii) 22 October 2010 Entry: "SND did not receive any disciplinary reports or adverse spot evaluations and received an above average work and training report." The entry notes, "SND was evaluated by the Brig Psychiatrist this past week and found fit from (sic) removal of prevention of injury classification from a psychiatric standpoint." The entry also notes, "SND was respectful and courteous and well spoken. SND's attitude and demeanor were consistent with his normal character and he continues to state that he is not suicidal."

xviii) 28 October 2010 Entry: "SND was evaluated by the Brig Psychiatrist on 15 October 2010 and recommended to be removed from POI. SND has not presented any problems since his last review on 8 October 2010 and has been an overall average detainee." Another entry on this date notes that "SND was evaluated by the Brig Psychiatrist on 22 October 2010 and recommended to be removed from POI. SND has not presented any problems since his last review on 15 October and has been an overall average detainee."

xix) 2 November 2010 Entry: "SND was evaluated by the Brig Psychiatrist on 29 October 2010 and recommended to be removed from POI. SND has not presented any problems since his last review on 22 October 2010 and has been an overall average detainee."

Subj: REBUTTAL TO COMPLAINT OF WRONGS UNDER ARTICLE 138 UCMJ BY
PRIVATE FIRST CLASS BRADLEY MANNING U.S. ARMY

xx) 5 November 2010 Entry: "SND did not receive any disciplinary reports or adverse spot evaluations and received an average work and training report." The entry also notes, "SND was evaluated by the Brig Psychiatrist on 29 October 2010 and found fit to be removed from prevention of injury classification from a psychiatric standpoint." Finally, the entry notes, "During the interview SND was respectful and courteous and was well spoken. SND appears to be in high spirits and have a positive attitude. SND's attitude and demeanor were consistent with his normal character and he continues to state that he is not suicidal."

xxi) 15 November 2010 Entry: "SND was evaluated by the Brig Psychiatrist on 13 November 2010 and recommended to ... [be removed from] POI. SND has not presented any problems since his last review on 5 NOV 2010 and has been an overall average detainee."

xxii) 17 November 2010 Entry: "SND did not receive any disciplinary reports or adverse spot evaluations and received an above average work and training report." The entry also noted that "during the interview SND was respectful and courteous and was well spoken. SND's attitude and demeanor were consistent with his normal character and stated that he is not suicidal."

xxiii) 23 November 2010 Entry: "SND was evaluated by the Brig Psychiatrist on 19 November 2010 and recommended to be removed from POI. SND has not presented any problems since his last review."

xxiv) 3 December 2010 Entry: "SND did not receive any disciplinary reports or adverse spot evaluations and received an average work and training report."

xxv) 6 December 2010 Entry: "SND was evaluated by the Brig Psychiatrist on 2 December 2010 and recommended to be removed from POI. SND has not presented any problems since his last review on [no date given] and has been an overall average detainee."

xxvi) 7 December 2010 Entry: "SND did not receive any disciplinary reports or adverse spot evaluations and received an above average work and training report." The entry also noted, "[d]uring the interview SND was courteous and well spoken and he maintained good eye contact. SND's mood and character were consistent with his normal character."

xxvii) 14 December 2010 Entry: "SND was evaluated by the Brig Psychiatrist on 10 December 2010 and recommended to remain on POI. (The Brig noted that this was the first time since 27 August 2010 that Capt Hocter recommended PFC Manning remain on POI. His main criteria was that it seemed PFC Manning was not doing well). SND has not presented any problems since his last review and has been an overall average detainee."

xxviii) 17 December 2010 Entry: "SND was evaluated by the Brig Psychiatrist on 17 December 2010 and recommended to be removed from POI. SND has not presented any problems since his last review and has been an overall average detainee"

Subj: REBUTTAL TO COMPLAINT OF WRONGS UNDER ARTICLE 138 UCMJ BY
PRIVATE FIRST CLASS BRADLEY MANNING U.S. ARMY

xxix) 22 December 2010 Entry: "SND did not receive any disciplinary reports or adverse spot evaluations and received an above average work and training report." The entry also notes, "overall, SND was respectful and cooperative during the interview."

xxx) 29 December 2010 Entry: "SND did not receive any disciplinary reports or adverse spot evaluations and received an average work and training report." The entry also stated, "SND was evaluated by Capt Hocter on 23 December 2010, and although further mental evaluation was deemed necessary, SND was recommended to be removed from POI classification from a psychiatric standpoint."

xxxii) 6 January 2011 Entry: "SND was evaluated by the Brig Psychiatrist on 30 December 2010 and recommended to be removed from POI. SND has not presented any problems since last review and has been an overall average detainee."

xxxiii) 7 January 2011 Entry: "SND was evaluated by the Brig Psychiatrist on 7 January 2011 and recommended to be removed from POI. SND has not presented any problems since his last review and has been an overall average detainee." The entry also notes that "SND did not receive any disciplinary reports or adverse spot evaluations and received an average work and training report." Finally, the entry notes that PFC Manning "is respectful and courteous to staff. During the interview SND was well spoken, maintained eye contact and his demeanor was consistent with his normal character."

xxxiiii) 11 January 2011 Entry: "SND did not receive any disciplinary reports or spot evaluations and received an above average working and training report."

xxxv) 14 January 2011 Entry: "SND was evaluated by the Brig Psychiatrist on 14 January 2010 and recommended to be removed from POI. SND has not presented any problems since his last review and has been an overall average detainee."

xxxvi) 18 January 2011 Entry: This is the first entry where any negative conduct is noted. I will explain this entry in greater detail in paragraph 4 below when I address my allegation that the decision to place me on Suicide Risk by the PCF Commander on 18 January 2011 was improper.

xxxvii) 28 January 2011 Entry: "SND did not receive any disciplinary reports or adverse spot evaluations and receive(d) an average work and training report." The entry also notes, "SND was evaluated by Col Malone on 21 January 2011 and, although further mental evaluation was deemed necessary, SND was recommended to be removed from POI classification from a psychiatric standpoint."

(4) The above observation reports were provided to me and my defense counsel, David E. Coombs, on 4 February 2011. The reports cover my conduct since my arrival on 29 July 2010 through 28 January 2011. Although, I do not have the observation reports from 29 January to present, I am confident that they would indicate I have been an

Subj: REBUTTAL TO COMPLAINT OF WRONGS UNDER ARTICLE 138 UCMJ BY
PRIVATE FIRST CLASS BRADLEY MANNING U.S. ARMY

exemplary detainee. I am also confident that the reports would reflect the Brig Psychiatrists' consistent recommendation that I am a "low risk" of self-harm and should be removed from MAX Custody and POI Status.

(5) I am being treated differently from any other detainee at the Quantico Brig. While the PCF Commander follows the recommendation of the Brig Psychiatrist in dealing with other detainees, this does not happen in my case. Other detainees usually remain on MAX custody or in POI Status for about two weeks before they are downgraded. I, however, have been left to languish under the unduly harsh conditions of MAX Custody and POI Status since my arrival on 29 July 2010. In fact, I am currently the only detainee being held under MAX Custody and the only detainee being held in POI status by the Brig. Any objective person looking at the above facts would have to conclude that this treatment is unjustified. The determination to retain me in MAX Custody and under POI Status after 27 August 2010 was improper and constitutes unlawful pretrial punishment.

b. That the decision to place me on Suicide Risk on 18 January 2011 was improper.

(1) On 18 January 2011, over the recommendation of Capt. Hocter and the defense forensic psychiatrist, Capt. Moore, CW04 Averhart placed me under Suicide Risk. The Suicide Risk assignment resulted in me being required to remain in my cell for 24 hours a day. I was stripped of all clothing with the exception of my underwear. My prescription eyeglasses were taken away from me and I was forced to sit in essential blindness.

(2) The basis for the above treatment was due to my alleged erratic behavior on 18 January 2011. On that date, I was pulled out of my cell for my one hour of recreation call. When the guards came to my cell, I noticed a change in their usual demeanor. Instead of being calm and respectful, they seemed agitated and confrontational. Also, instead of the usual two to three guards, there were four guards. Almost immediately, the guards started harassing me. The first guard told me to "turn left." When I complied, the second guard yelled "don't turn left." When I attempted to comply with the demands of the second guard, I was told by the first, "I said turn left." I responded "yes, Corporal" to the first guard. At this point, the third guard chimed in by telling me that "in the Marines we reply with 'aye' and not 'yes.'" He then asked me if I understood. I made the mistake of replying "yes, Sergeant." At this point the fourth guard yelled, "you mean 'aye,' Sergeant."

(3) The harassment by the guards continued as I was escorted to my one hour of recreation. When I arrived at the recreation room, I was told to stand still so they could remove my leg restraints. As I stood still, one of the guards yelled "I told you to stand still." I replied "yes Corporal, I am standing still." Another guard then said, "you mean 'aye' Corporal." Next, the same guard said "I thought we covered this, you say 'aye' and not 'yes,' do you understand?" I responded "aye Sergeant." Right after I replied, I was once again yelled at to "stand still." Due to being yelled at and the intensity

Subj: REBUTTAL TO COMPLAINT OF WRONGS UNDER ARTICLE 138 UCMJ BY
PRIVATE FIRST CLASS BRADLEY MANNING U.S. ARMY

of the guards, I mistakenly replied, "yes Corporal, I am standing still." As soon as I said this, I attempted to correct myself by saying "aye" instead of "yes," but it was too late. One of the guards starting yelling at me again, "what don't you understand" and "are we going to have a problem?"

(4) Once the leg restraints were taken off of me, I took a step back from the guards. My heart was pounding in my chest, and I could feel myself getting dizzy. I sat down to avoid falling. When I did this, the guards took a step towards me. I instinctively backed away from them. As soon as I backed away, I could tell by their faces that they were getting ready to restrain me. I immediately put my hands up in the air, and said "I am not doing anything, I am just trying to follow your orders." The guards then told me to start walking. I complied with their order by saying "eye" instead of "yes."

(5) I was allowed to complete my hour of recreation. During the hour, the guards did not harass me further. The guards also did not harass me when I was escorted back to my cell. Only later did I learn that there had been a protest outside the gates of Quantico the previous day. (See <http://www.youtube.com/watch?v=x4eNzokgRIw>). The rally was intended to bring attention to the conditions of my confinement. It is my belief that my treatment on 18 January 2010 by the guards and later by the PCF Commander was related to this protest and my earlier complaints.

(6) After being returned to my cell, I started to read a book. About 30 minutes later, the PCF Commander, CWO4 James Averhart, came to my cell. He asked me what had happened during my recreation call. As I tried to explain to him what had occurred, CWO4 Averhart stopped me and said "I am the commander" and that "no one could tell him what to do." He also said that he was, for all practical purposes, "God." I responded by saying "you still have to follow Brig procedures." I also said "everyone has a boss that they have to answer to." As soon as I said this, CWO4 Averhart ordered that I be placed in Suicide Risk Status.

(7) Admittedly, once I heard that I would be placed under Suicide Risk, I became upset. Out of frustration, I placed my hands to my head and clenched my hair with my fingers. I did yell "why are you doing this to me?" I also yelled "why am I being punished?" and "I have done nothing wrong." I then asked CWO4 Averhart "what have I done to deserve this type of treatment?"

(8) CWO4 Averhart did not answer any of my questions. He instructed the guards to enter my cell and take all my clothing. At first I tried to reason with CWO4 Averhart by telling him that I had been a model detainee and by asking him to just tell me what he wanted me to do and that I would do it. However, I gave up trying to reason with him once the guards entered my cell and ordered me to strip. Instead, I lowered my head and starting taking off my clothes.

(9) CWO4 Averhart placed me on Suicide Risk, over the recommendation of Capt. Hocter and the defense forensic psychiatrist, Capt. Moore. His decision was also in violation of Secretary of Navy

Subj: REBUTTAL TO COMPLAINT OF WRONGS UNDER ARTICLE 138 UCMJ BY
PRIVATE FIRST CLASS BRADLEY MANNING U.S. ARMY

Instruction ("SECNAVINST") 1649.9C Paragraph 4205.5d. As a result of being placed on Suicide Risk, I was confined to my cell for 24 hours a day. I was also stripped of all clothing with the exception of my underwear. Additionally, my prescription eyeglasses were taken away from me. Due to not having my glasses, I was forced to sit in essential blindness during the day. I remained on Suicide Risk until 21 January 2010. The determination to place me on Suicide Risk was without justification and therefore constitutes unlawful pretrial punishment.

c. That the decision to strip me of all my clothing at night since 2 March 2011 was and continues to be improper.

(1) On March 2, I was informed of your decision regarding my Article 138 complaint. Understandably frustrated by this decision after enduring over seven months of unduly harsh confinement conditions, I asked the Brig Operations Officer, MSG Papakie, what I needed to do in order to be downgraded from Maximum Custody and POI Status. MSG Papakie responded by telling me that there was nothing I could do to downgrade my detainee status and that the Brig simply considered me a risk of self-harm. Out of frustration, I responded that the POI restrictions were absurd and sarcastically told him if I really wanted to harm myself, that I could conceivably do so with the elastic waistband of my underwear or with my flip-flops.

(2) Later that same day, I was approached by GYSGT Blenis. He asked me what I had done wrong. I told him that I did not know what he was talking about. He said that I would be stripped naked at night due to something that I had said to MSG Papakie. Shocked, I told him that I hadn't said anything. I told GYSGT Blenis that I just pointed out the absurdity of my current confinement conditions.

(3) Without consulting any Brig mental health provider, Chief Warrant Officer Denise Barnes used my sarcastic comment as justification to increase the restrictions imposed upon me under the guise of being concerned that I was a suicide risk. I was not, however, placed under the designation of Suicide Risk. This is because Suicide Risk would have required a Brig mental health provider's recommendation in order for the added restrictions to continue. While the PCF Commander needed the Brig Psychiatrist's recommendation to keep me under Suicide Risk, no such recommendation was needed in order to increase my restrictions under POI Status. The conditions of POI Status require only psychiatric input, but ultimately remain the decision of the PCF Commander.

(4) In response to this specific incident, the Brig Psychiatrist met with me. After speaking to me, he assessed me as a "low risk and requiring only routine outpatient follow-up [with] no need for ... closer clinical observation." In particular, he indicated that my statement about the waist band of my underwear was in no way prompted by "a psychiatric condition."

(5) Since 2 March 2011, I have been stripped of all my clothing at night. I have been told that the PCF Commander intends on continuing this practice indefinitely. Initially, after surrendering

Subj: REBUTTAL TO COMPLAINT OF WRONGS UNDER ARTICLE 138 UCMJ BY
PRIVATE FIRST CLASS BRADLEY MANNING U.S. ARMY

my clothing to the Brig guards, I had no choice but to lay naked in my cold jail cell until the following morning. The next morning I was told to get out of my bed for the morning Duty Brig Supervisor (DBS) inspection. I was not given any of my clothing back. I got out of the bed and immediately started to shiver because of how cold it was in my cell. I walked towards the front of my cell with my hands covering my genitals. The guard told me to stand a parade rest, which required me to stand with my hands behind my back and my legs spaced shoulder width apart. I stood at "parade rest" for about three minutes until the DBS arrived. Once the DBS arrived, everyone was called to attention. The DBS and the other guards walked past my cell. The DBS looked at me, paused for a moment, and then continued to the next detainee's cell. I was incredibly embarrassed at having all these people stare at me naked. After the DBS completed his inspection, I was told to go sit on my bed. About ten minutes later I was given my clothes and allowed to get dressed.

(6) After apparent outside pressure on the Brig due to my mistreatment, I was given a suicide prevention article of clothing called a "smock" by the guards. Although I am still required to strip naked in my cell at night, I am now given the "smock" to wear. At first, I did not want to wear this item of clothing due to how coarse it was and how uncomfortable it felt. However, the Brig now orders me to wear the "smock" at night.

(7) Given the above circumstances, the decision to strip me of my clothing every night for an indefinite period of time is clearly punitive in nature. There is no mental health justification for the decision. I am under 24 hour surveillance, with guards never being more than a few feet away from my cell. I am permitted to have my underwear and clothing during the day, with no apparent concern that I will harm myself during this time period. The determination to strip me of all my clothing every night since 2 March 2011 is without justification and therefore constitutes unlawful pretrial punishment.

4. I have, both by statute and the Eighth Amendment, the right to protection against cruel and unusual punishment. See *United States v. Matthews*, 16 M.J. 354, 368 (CMA 1983); Article 55, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 855. The Secretary of the Navy Instruction 1649.9C details the procedures and safeguards for classification of inmates, evaluation of inmates and the limited use of special quarters. The Navy Instruction states "discipline is to be administered on a corrective rather than a punitive basis." Additionally it states "no persons, while being held for trial may be subjected to punishment or penalty other than arrest or confinement, nor shall the arrest or confinement imposed upon them be any more rigorous than the circumstances require." My confinement classification and status are in clear contravention of the Navy Instruction.

5. Under my current restrictions, in addition to being stripped at night, I am essentially held in solitary confinement. For 23 hours per day, I sit alone in my cell. The guards checked on me every five minutes during the day by asking me if I am okay. I am required to respond in some affirmative manner. At night, if the guards can not

Subj: REBUTTAL TO COMPLAINT OF WRONGS UNDER ARTICLE 138 UCMJ BY
PRIVATE FIRST CLASS BRADLEY MANNING U.S. ARMY

see me clearly, because I have a blanket over my head or I am curled up towards the wall, they will wake me in order to ensure that I am okay. I receive each of my meals in my cell. I am not allowed to have a pillow or sheets. I am not allowed to have any personal items in my cell. I am only allowed to have one book or one magazine at any given time to read. The book or magazine is taken away from me at the end of the day before I go to sleep. I am prevented from exercising in my cell. If I attempt to do push-ups, sit-ups, or any other form of exercise I am forced to stop by the guards. Finally, I receive only one hour of exercise outside of my cell daily. My exercise is usually limited to me walking figure eights in an empty room.

6. My defense counsel, Mr. David Coombs (a reserve Lieutenant Colonel in the Army) and I have raised our objection to these confinement conditions on multiple occasions. Based on the above, I believe that the action of holding me under MAX Custody and POI Status from 27 August 2010 to present, placing me on Suicide Risk on 18 January 2011, and forcing me to strip naked at night since 2 March 2011 is wrong under Article 138, UCMJ. I do not believe that the PCF Commander has the discretion to keep me in confinement under these circumstances.

7. I believe my classification custody and POI Status is based upon inappropriate reasons and is therefore an abuse of the PCF Commander's discretion, and a wrong within the meaning of Article 138, UCMJ. As redress, I request that you order my removal from POI Status and that you order the reduction of my classification level from MAX to MDI.

/s/

B. E. Manning
PFC, US Army

I have assisted PFC Bradley Manning with the drafting of his request for redress, and have signed for him given the present circumstances. I concur with the matters he has expressed in his rebuttal, and join him in requesting that you order his removal from POI Status and that you order a reduction in his classification level from MAX to MDI.

/s/

D. E. Coombs
Civilian Defense Counsel