



Written by [Joe Wolverton, II, J.D.](#) on February 25, 2012

## Army Private Accused in WikiLeaks Case Charged with Aiding the Enemy

In what is described as “the biggest leak of classified information in U.S. history,” Manning is accused of passing over 700,000 documents and video clips to WikiLeaks, the widely known website devoted to exposing government corruption throughout the world.

At the arraignment presided over by Colonel Denise Lind at Fort Meade, Maryland, Manning refused to enter a plea. He also put off the decision of whether he prefers to a jury or a bench trial (in the latter, guilt or innocence would be determined by a judge alone).



If convicted of the charge of giving aid to the enemy, Manning could face life imprisonment. The maximum penalty for the other charges he faces is 150 years combined.

A trial date has not been scheduled.

Manning’s defense team avers that their client was unwell (“troubled”) and that he was not competent to have been allowed access to classified information.

Private Manning, 24, from Crescent, Oklahoma, has been detained since he was arrested on May 29, 2010 while on deployment with the 10th Mountain Division in Iraq. While on duty near Baghdad, Manning had access to the Secret Internet Protocol Router Network (SIPRNet) and the Joint Worldwide Intelligence Communications System. SIPRNET is the network used by the United States government to transmit classified information.

[Manning’s arrest](#) came as the result of information provided to the FBI by a computer hacker named Adrian Lamo. Lamo told agents that during an online chat in May 2010, Manning claimed to have downloaded classified information from SIPRNet and sent it to WikiLeaks.

According to published reports, the material Manning is accused of unlawfully appropriating includes a large cache of U.S. diplomatic cables (approximately 250,000), as well as videos of an American airstrike on Baghdad conducted in July 2007 and a similar attack in May 2009 on a site near Granai, Afghanistan (an event sometimes known as the Granai Massacre).

On December 16, 2011, at Fort Meade, a preliminary hearing was held in the case according to the procedures set forth under Article 32 of the Uniform Code of Military Justice.

The Article 32 hearing is a requisite step in the investigatory process of court martial as established by the Uniform Code of Military Justice. The hearing is similar in purpose and procedure to a civilian grand jury proceeding where a judge receives the testimony of witnesses and counsel to aid his inquiry into the truth of the matter set forth in the charges. At the conclusion of the hearing, the presiding officer will make a recommendation as to the disposition that should be made of the case in the interest of



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justice and discipline.

During this proceeding, military prosecutors offered evidence of Manning's transfer of hundreds of thousands of "sensitive battlefield reports" from Iraq and Afghanistan, in addition to the diplomatic communiqués and footage of the two airstrikes.

In his defense, Manning's lawyers argued that Manning was not the only one in his unit with access to the computers from which the information in controversy was obtained. As [reported by the Associated Press](#):

They say he was in emotional turmoil, partly because he was a gay soldier while U.S. armed forces still barred gays from serving openly. The defense also claims Manning's apparent disregard for security rules during stateside training and his increasingly violent outbursts after deployment were red flags that should have prevented him from having access to classified material.

The prosecutors also disclosed printed copies of excerpts of Internet chats found on Manning's personal computer. According to the Army, these transcripts prove Manning's collaboration with the founder of WikiLeaks, Julian Assange.

Assange's activities and the Obama administration's response to them were recently [chronicled by Jurist](#):

WikiLeaks has recently revealed more confidential information concerning the United States. In August, the website began publishing "The Guantanamo Files," a collection of more than 700 classified documents relating to the evidence and treatment of almost all detainees held at Guantanamo Bay between 2002 and 2008. In November 2010, US Attorney General Eric Holder condemned WikiLeaks for its publication of confidential information, saying that it threatens US national security, specifically by risking the safety of those serving the country and straining important diplomatic relationships. WikiLeaks has alleged the information must be revealed to the public as evidence of potential crimes against humanity. In July 2010, Wikileaks founder Julian Assange said that the Afghan War Diaries, a compilation of 91,000 documents leaked to the organization on the US war effort in Afghanistan, may provide evidence of war crimes committed by US forces.

Earlier this month, the military tribunal referred Manning's case to a court martial. Last April, a panel of medical experts found Manning competent to stand trial. The Army ordered a mental competency examination in order to determine Manning's capacity to stand trial as well as to ascertain with an acceptable level of medical certainty his mental state at the time of the crimes of which he is accused. The examination was designed to legally establish whether Manning was able to form the legal mental intent requisite for the various charges placed against him.

Although former Secretary of Defense Robert Gates claimed that the video footage allegedly provided by Manning inaccurately portrays the intricacies of warfare "[as seen through a soda straw](#)," others have made constitutional arguments in opposition to Manning's arrest and trial.

For example, in an [op-ed published by Jurist](#), law professor Charles Lugosi described a world where the rule of men and not the rule of law governs the affairs of the United States. Lugosi said:

Since 9/11, we are living in a political state where personal privacy, free flow of information and freedom of association have been diminished as a result of the Patriot Act, which weakens the rights of individuals while increasing the military and police power of the state and federal



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governments. The executive branch has undermined the rule of law by eroding rights established in the Constitution. One example is the Bush administration's use of offshore torture and rendition. Another is the failure to ask Congress for a Declaration of War before invading Iraq and other aggressive military expeditions. Another is the selected assassination of leaders like Osama Bin Laden.

And, regarding the Manning case specifically:

Outdated assumptions of media power and wealth no longer apply today. Profit and the desire to influence may still motivate organized institutional media controlled by magnates like Rupert Murdoch, but unorganized individuals, through websites and social networking, can expose injustice and raise the conscious awareness of the public to worthy causes and crusades. To attain this end, access to information is critical, yet it is often not legally available. This is why Private Bradley Manning allegedly chose to break the law by giving WikiLeaks information that the government refused to release in the name of national security.

At the conclusion of the Article 32 hearing, Private Manning's defense counsel claimed that regardless of who was responsible for the leaks, they did "little or no harm to national security."

Since April 2011, Manning has been held at the [Midwest Joint Regional Correctional Facility](#), a medium-security facility in Fort Leavenworth, Kansas.

*Photo of Bradley Manning: AP Images*



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