



U.S. Department of Justice

*United States Attorney
District of Maryland*

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October 16, 2016

Gregory B. Craig, Esq.
Clifford Sloan, Esq.
Skadden, Arps, Slate, Meagher & Flom LLP
1440 New York Avenue, N.W.
Washington, D.C. 20005-2111

Re: James E. Cartwright

Dear Counsel:

This letter sets forth the full and complete plea offer to your client, James E. Cartwright (hereinafter referred to as “your client” or “defendant”), from the Office of the United States Attorney for the District of Maryland (hereinafter also referred to as “the Government” or “this Office”). This plea offer expires on October 17, 2016. If your client accepts the terms and conditions of this offer, please have your client execute this document in the space provided below. Upon receipt of the executed document, this letter will become the Plea Agreement (hereinafter referred to as “this Agreement”). The terms of the offer are as follows:

(1) Charges and Statutory Penalties

Your client agrees to plead guilty to a criminal Information charging your client with making false statements, in violation of 18 U.S.C. § 1001.

Your client understands that a violation of 18 U.S.C. § 1001 carries a maximum sentence of five years of imprisonment; a fine of \$250,000 or twice the pecuniary gain or loss of the offense, pursuant to 18 U.S.C. § 3571(b)(3); a term of supervised release of not more than three years, pursuant to 18 U.S.C. § 3583(b)(2); and an obligation to pay any applicable interest or penalties on fines not timely made.

In addition, your client agrees to pay a special assessment of \$100 per felony conviction to the Clerk of the United States District Court for the District of Columbia. Your client also understands that, pursuant to 18 U.S.C. § 3572 and § 5E1.2 of the United States Sentencing Commission, *Guidelines Manual* (2014) (hereinafter “Sentencing Guidelines,” “Guidelines,” or

“U.S.S.G.”), the Court may also impose a fine that is sufficient to pay the federal government the costs of any imprisonment, term of supervised release, and period of probation.

(2) Factual Stipulations

Your client agrees that the attached “Statement of Offense” fairly and accurately describes your client’s actions and involvement in the offense to which your client is pleading guilty. Please have your client sign and return the Statement of Offense as a written proffer of evidence, along with this Agreement.

(3) Additional Charges

In consideration of your client’s guilty plea to the above offense, your client will not be further prosecuted criminally by the United States for the conduct outlined in the Statement of Offense or for any other criminal offenses committed by the defendant which are known to the United States Attorney’s Office for the District of Maryland as of the date of this agreement.

(4) Sentencing Guidelines Analysis

Your client understands that the sentence in this case will be determined by the Court, pursuant to the factors set forth in 18 U.S.C. § 3553(a), including a consideration of the applicable guidelines and policies promulgated by the United States Sentencing Commission, *Guidelines Manual* (hereinafter “Sentencing Guidelines” or “U.S.S.G.”). Pursuant to Federal Rule of Criminal Procedure 11(c)(1)(B), and to assist the Court in determining the appropriate sentence, the parties agree to the following:

A. Estimated Offense Level Under the Guidelines

The parties agree that the following Sentencing Guidelines sections apply:

U.S.S.G. § 2B1.1	Base Offense Level	6
U.S.S.G. § 3B1.3	Abuse of Position of Trust	2
	Total	8

Acceptance of Responsibility

The Government agrees that a 2-level reduction will be appropriate, pursuant to U.S.S.G. § 3E1.1, provided that your client clearly demonstrates acceptance of responsibility, to the satisfaction of the Government, through your client’s allocation, adherence to every provision of this Agreement, and conduct between entry of the plea and imposition of sentence.

Nothing in this Agreement limits the right of the Government to seek denial of the adjustment for acceptance of responsibility, pursuant to U.S.S.G. § 3E1.1, and/or imposition of

an adjustment for obstruction of justice, pursuant to U.S.S.G. § 3C1.1, regardless of any agreement set forth above, should your client move to withdraw your client's guilty plea after it is entered, or should it be determined by the Government that your client has either (a) engaged in conduct, unknown to the Government at the time of the signing of this Agreement, that constitutes obstruction of justice, or (b) engaged in additional criminal conduct after signing this Agreement.

In accordance with the above, the applicable Guidelines Offense Level will be at least 6.

B. Estimated Criminal History Category

Based upon the information now available to this Office, your client has no criminal convictions.

Accordingly, your client is estimated to have no criminal history points and your client's Criminal History Category is estimated to be I. Your client acknowledges that if additional convictions are discovered during the pre-sentence investigation by the United States Probation Office, your client's criminal history points may increase. Similarly, if the United States Probation Office determines that your client has fewer convictions than estimated herein, your client's criminal history points may decrease.

C. Estimated Applicable Guidelines Range

Based upon the agreed total offense level and the estimated criminal history category set forth above, your client's estimated Sentencing Guidelines range is 0 months to 6 months (the "Estimated Guidelines Range"). In addition, the parties agree that, pursuant to U.S.S.G. § 5E1.2, should the Court impose a fine, at Guidelines level 6, the estimated applicable fine range is \$500 to \$5,000. Your client reserves the right to ask the Court not to impose any applicable fine. This Office reserves the right to ask the Court to impose a fine above the applicable fine range.

The parties agree that, solely for the purposes of calculating the applicable range under the Sentencing Guidelines, neither a downward nor upward departure from the Estimated Guidelines Range set forth above is warranted. Accordingly, neither party will seek any departure or adjustment to the Estimated Guidelines Range, nor will either party suggest that the Court consider such a departure or adjustment, except as provided above. Moreover, your client understands and acknowledges that the Estimated Guidelines Range agreed to by the parties is not binding on the Probation Office or the Court. Should the Court determine that a different guidelines range is applicable, your client will not be permitted to withdraw your client's guilty plea on that basis, and the Government and your client will still be bound by this Agreement.

Your client understands and acknowledges that the terms of this section apply only to conduct that occurred before the execution of this Agreement. Should your client commit any conduct after the execution of this Agreement that would form the basis for an increase in your client's base offense level or justify an upward departure (examples of which include, but are not

limited to, obstruction of justice, failure to appear for a court proceeding, criminal conduct while pending sentencing, and false statements to law enforcement agents, the probation officer, or the Court), the Government is free under this Agreement to seek an increase in the base offense level based on that post-agreement conduct.

(5) Agreement as to Sentencing Allocation

Your client reserves the right to seek a sentence below the Estimated Guidelines Range based upon factors to be considered in imposing a sentence pursuant to 18 U.S.C. § 3553(a), and the Government reserves the right to seek a sentence above the Estimated Guidelines Range based on § 3553(a) factors.

(6) Reservation of Allocation

The Government and your client reserve the right to describe fully, both orally and in writing, to the sentencing judge, the nature and seriousness of your client's misconduct, including any misconduct not described in the charges to which your client is pleading guilty. The parties also reserve the right to inform the presentence report writer and the Court of any relevant facts, to dispute any factual inaccuracies in the presentence report, and to contest any matters not provided for in this Agreement. In the event that the Court considers any Sentencing Guidelines adjustments, departures, or calculations different from any agreements contained in this Agreement, or contemplates a sentence outside the Guidelines range based upon the general sentencing factors listed in 18 U.S.C. § 3553(a), the parties reserve the right to answer any related inquiries from the Court. In addition, if in this Agreement the parties have agreed to recommend or refrain from recommending to the Court a particular resolution of any sentencing issue, the parties reserve the right to full allocution in any post-sentence litigation. The parties retain the full right of allocution in connection with any post-sentence motion which may be filed in this matter and/or any proceeding(s) before the Bureau of Prisons. In addition, your client acknowledges that the Government is not obligated and does not intend to file any post-sentence downward departure motion in this case pursuant to Rule 35(b) of the Federal Rules of Criminal Procedure.

(7) Court Not Bound by this Agreement or the Sentencing Guidelines

Your client understands that the sentence in this case will be imposed in accordance with 18 U.S.C. § 3553(a), upon consideration of the Sentencing Guidelines. Your client further understands that the sentence to be imposed is a matter solely within the discretion of the Court. Your client acknowledges that the Court is not obligated to follow any recommendation of the parties at the time of sentencing. Your client understands that neither the Government's recommendation nor the Sentencing Guidelines are binding on the Court.

Your client acknowledges that your client's entry of a guilty plea to the charged offense authorizes the Court to impose any sentence, up to and including the statutory maximum sentence, which may be greater than the applicable Guidelines range. The Government cannot,

and does not, make any promise or representation as to what sentence your client will receive. Moreover, it is understood that your client will have no right to withdraw your client's plea of guilty should the Court impose a sentence that is outside the Guidelines range or if the Court does not follow the parties sentencing recommendation. The Government and your client will be bound by this Agreement, regardless of the sentence imposed by the Court. Any effort by your client to withdraw the guilty plea because of the length of the sentence shall constitute a breach of this Agreement.

(8) Conditions of Release

Your client acknowledges that the final decision regarding your client's bond status or detention will be made by the Court at the time of your client's plea of guilty. The Government may move to change your client's conditions of release, including requesting that your client be detained pending sentencing, if your client engages in further criminal conduct prior to sentencing or if the Government obtains information that it did not possess at the time of your client's plea of guilty and that is relevant to whether your client is likely to flee or pose a danger to any person or the community. Your client also agrees that any violation of your client's release conditions or any misconduct by your client may result in the Government filing an ex parte motion with the Court requesting that a bench warrant be issued for your client's arrest and that your client be detained without bond while pending sentencing in your client's case.

(9) Waivers

A. Venue

Your client waives any challenge to venue in the District of Columbia.

B. Statute of Limitations

Your client agrees that, should the conviction following your client's plea of guilty pursuant to this Agreement be vacated for any reason, any prosecution, based on the conduct set forth in the attached Statement of Offense, that is not time-barred by the applicable statute of limitations on the date of the signing of this Agreement (including any counts that the Government has agreed not to prosecute or to dismiss at sentencing pursuant to this Agreement) may be commenced or reinstated against your client, notwithstanding the expiration of the statute of limitations between the signing of this Agreement and the commencement or reinstatement of such prosecution. It is the intent of this Agreement to waive all defenses based on the statute of limitations with respect to any prosecution of conduct set forth in the attached Statement of Offense that is not time-barred on the date that this Agreement is signed.

C. Trial Rights

Your client understands that by pleading guilty in this case your client agrees to waive certain rights afforded by the Constitution of the United States and/or by statute or rule. Your client agrees to forego the right to any further discovery or disclosures of information not already provided at the time of the entry of your client's guilty plea. Your client also agrees to waive, among other rights, the right to be indicted by a Grand Jury, the right to plead not guilty, and the right to a jury trial. If there were a jury trial, your client would have the right to be represented by counsel, to confront and cross-examine witnesses against your client, to challenge the admissibility of evidence offered against your client, to compel witnesses to appear for the purpose of testifying and presenting other evidence on your client's behalf, and to choose whether to testify. If there were a jury trial and your client chose not to testify at that trial, your client would have the right to have the jury instructed that your client's failure to testify could not be held against your client. Your client would further have the right to have the jury instructed that your client is presumed innocent until proven guilty, and that the burden would be on the United States to prove your client's guilt beyond a reasonable doubt. If your client were found guilty after a trial, your client would have the right to appeal your client's conviction. Your client understands that the Fifth Amendment to the Constitution of the United States protects your client from the use of self-incriminating statements in a criminal prosecution. By entering a plea of guilty, your client knowingly and voluntarily waives or gives up your client's right against self-incrimination.

Your client acknowledges discussing with you Rule 11(f) of the Federal Rules of Criminal Procedure and Rule 410 of the Federal Rules of Evidence, which ordinarily limit the admissibility of statements made by a defendant in the course of plea discussions or plea proceedings if a guilty plea is later withdrawn. Your client knowingly and voluntarily waives the rights that arise under these rules in the event your client withdraws your client's guilty plea or withdraws from this Agreement after signing it.

Your client also agrees to waive all constitutional and statutory rights to a speedy sentence and agrees that the plea of guilty pursuant to this Agreement will be entered at a time decided upon by the parties with the concurrence of the Court. Your client understands that the date for sentencing will be set by the Court.

D. Appeal Rights

Your client understands that federal law, specifically 18 U.S.C. § 3742, affords defendants the right to appeal their sentences in certain circumstances. Your client agrees to waive the right to appeal the sentence in this case, including any term of imprisonment, fine, forfeiture, award of restitution, term of supervised release, authority of the Court to set conditions of release, and the manner in which the sentence was determined, except to the extent the Court sentences your client above the statutory maximum or your client claims that your client received ineffective assistance of counsel, in which case your client would have the right to appeal the illegal sentence or above-guidelines sentence or raise on appeal a claim of

ineffective assistance of counsel, but not to raise on appeal other issues regarding the sentencing. In agreeing to this waiver, your client is aware that your client's sentence has yet to be determined by the Court. Realizing the uncertainty in estimating what sentence the Court ultimately will impose, your client knowingly and willingly waives your client's right to appeal the sentence, to the extent noted above, in exchange for the concessions made by the Government in this Agreement.

E. Collateral Attack

Your client also waives any right to challenge the conviction entered or sentence imposed under this Agreement or otherwise attempt to modify or change the sentence or the manner in which it was determined in any collateral attack, including, but not limited to, a motion brought under 28 U.S.C. § 2255 or Federal Rule of Civil Procedure 60(b), except to the extent such a motion is based on newly discovered evidence or on a claim that your client received ineffective assistance of counsel. Your client reserves the right to file a motion brought under 18 U.S.C. § 3582(c)(2), but agrees to waive the right to appeal the denial of such a motion.

F. Privacy Act and FOIA Rights

Your client also agrees to waive all rights, whether asserted directly or by a representative, to request or receive from any department or agency of the United States any records pertaining to the investigation or prosecution of this case, including and without limitation any records that may be sought under the Freedom of Information Act, 5 U.S.C. § 552, or the Privacy Act, 5 U.S.C. § 552a.

(10) Breach of Agreement

Your client understands and agrees that, if after entering this Agreement, your client fails specifically to perform or to fulfill completely each and every one of your client's obligations under this Agreement, or engages in any criminal activity prior to sentencing, your client will have breached this Agreement. In the event of such a breach: (a) the Government will be free from its obligations under this Agreement; (b) your client will not have the right to withdraw the guilty plea; (c) your client will be fully subject to criminal prosecution for any other crimes, including perjury and obstruction of justice; and (d) the Government will be free to use against your client, directly and indirectly, in any criminal or civil proceeding, all statements made by your client and any of the information or materials provided by your client, including such statements, information and materials provided pursuant to this Agreement or during the course of any debriefings conducted in anticipation of, or after entry of, this Agreement, whether or not the debriefings were previously characterized as "off-the-record" debriefings, and including your client's statements made during proceedings before the Court pursuant to Rule 11 of the Federal Rules of Criminal Procedure.

Your client understands and agrees that the Government shall be required to prove a breach of this Agreement only by a preponderance of the evidence, except where such breach is

based on a violation of federal, state, or local criminal law, which the Government need prove only by probable cause in order to establish a breach of this Agreement.

Nothing in this Agreement shall be construed to permit your client to commit perjury, to make false statements or declarations, to obstruct justice, or to protect your client from prosecution for any crimes not included within this Agreement or committed by your client after the execution of this Agreement. Your client understands and agrees that the Government reserves the right to prosecute your client for any such offenses. Your client further understands that any perjury, false statements or declarations, or obstruction of justice relating to your client's obligations under this Agreement shall constitute a breach of this Agreement. In the event of such a breach, your client will not be allowed to withdraw your client's guilty plea.

(11) Complete Agreement

No agreements, promises, understandings, or representations have been made by the parties or their counsel other than those contained in writing herein, nor will any such agreements, promises, understandings, or representations be made unless committed to writing and signed by your client, defense counsel, and the undersigned counsel for the United States.


Your client further understands that this Agreement is binding only upon the United States. This Agreement does not bind any state or local prosecutor. It also does not bar or compromise any civil, tax, or administrative claim pending or that may be made against your client.

If the foregoing terms and conditions are satisfactory, your client may so indicate by signing this Agreement and the Statement of Offense, and returning both to me no later than October 17, 2016.

Very truly yours,

ROD J. ROSENSTEIN
United States Attorney for the District of Maryland
Special Attorney to the Attorney General

By: _____


Leo J. Wise
Assistant United States Attorney
Special Attorney to the Attorney General

Elizabeth Cannon
Trial Attorney
National Security Division

DEFENDANT'S ACCEPTANCE

I have read every page of this Agreement and have discussed it with my attorney, Gregory B. Craig and Clifford Sloan. I fully understand this Agreement and agree to it without reservation. I do this voluntarily and of my own free will, intending to be legally bound. No threats have been made to me nor am I under the influence of anything that could impede my ability to understand this Agreement fully. I am pleading guilty because I am in fact guilty of the offense identified in this Agreement.

I reaffirm that absolutely no promises, agreements, understandings, or conditions have been made or entered into in connection with my decision to plead guilty except those set forth in this Agreement. I am satisfied with the legal services provided by my attorney in connection with this Agreement and matters related to it.

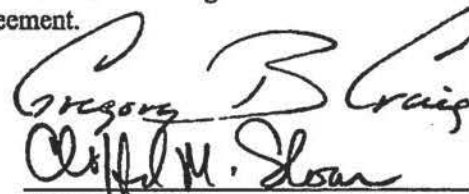
Date: 16 Oct 16


James E. Cartwright
Defendant

ATTORNEY'S ACKNOWLEDGMENT

I have read every page of this Agreement, reviewed this Agreement with my client, James E. Cartwright, and fully discussed the provisions of this Agreement with my client. These pages accurately and completely set forth the entire Agreement. I concur in my client's desire to plead guilty as set forth in this Agreement.

Date: Oct. 16, 2016


Gregory B. Craig
Clifford Sloan
Attorneys for Defendant

**UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA

v.

JAMES E. CARTWRIGHT,

Defendant.

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Cr. No. _____

STATEMENT OF OFFENSE

Should this matter proceed to trial, the United States of America would prove the following facts beyond a reasonable doubt:

Introduction

1. Defendant James E. Cartwright is a retired United States Marine Corps four-star general. Defendant James E. Cartwright served as the Vice Chairman of the Joint Chiefs of Staff from August 31, 2007 to August 3, 2011 and, prior to that, as Commander of the U.S. Strategic Command (“STRATCOM”) from 2004 to 2007.
2. The Vice Chairman of the Joint Chiefs of Staff is the second highest ranking member of the Armed Forces of the United States.
3. During his tenure as Vice Chairman of the Joint Chiefs of Staff, and prior to it, Cartwright held a “TOP SECRET” security clearance with access to “SENSITIVE COMPARTMENTED INFORMATION” (SCI).
4. Classified information is defined by Executive Order 13526 and its predecessor orders, as information in any form that: (1) is owned by, produced by or for, or under control of the United States government; (2) falls within one or more of the categories set forth in the

Order; and (3) is classified by an original classification authority who determines that its unauthorized disclosure reasonably could be expected to result in damage to the national security. Where such damage could reasonably result in "exceptionally grave" damage to the national security, the information may be classified as "TOP SECRET." Access to classified information at any level may be further restricted through compartmentalization "SENSITIVE COMPARTMENTED INFORMATION" (SCI) categories, which further restricts the dissemination and handling of the information.

5. Those persons with security clearances granting them access to classified information are prohibited by Title 18, United States Code, Section 793, and applicable rules, regulations, and orders, from disclosing classified information to persons not authorized to receive such information. Classified information may only be shared with persons determined by an appropriate United States government official to be eligible for access to classified information, who had signed an approved non-disclosure agreement, and who possessed a "need to know."
6. As Commander of STRATCOM and Vice Chairman of the Joint Chiefs of Staff, Cartwright had signed more than 36 non-disclosure agreements related to Department of Defense Special Access Programs that contained similar warnings as the one contained in the SAPI agreement described below. Cartwright also received annual training on the proper handling and the safeguarding of classified information as Vice Chairman.
7. On September 1, 2011, Cartwright retired from the United States Marine Corps.
8. Also on September 1, 2011, Cartwright executed a Debriefing Acknowledgment on a Special Access Program Indoctrination (SAPI) Agreement. SAPI Agreements are legally

binding agreements between an individual being granted, or already in possession, of a security clearance, and the United States Government where in the individual agrees to never disclose classified information without first receiving appropriate authorization.

Among other things, the SAPI Agreement states:

3. I understand that it is my responsibility to consult with appropriate management authorities in the department or agency that last authorized my access to SAPI, whether or not I am still employed or associated with that Department of Agency. . . **I further understand that I am obligated by law and regulation not to disclose any classified information or material in an unauthorized fashion.**

* * *

6. I have been advised that **any breach of this agreement may constitute violations of United States criminal laws**, including the provisions of Sections 793, 794, 798, and 592, Title 18 United States Code, and of Section 783, Title 50, United States Code. Nothing in this agreement constitutes a waiver by the United States **of the right to prosecute me for any statutory violation.**

(emphasis added)

9. When Cartwright retired from the United States Marine Corps he maintained a TOP SECRET security clearance. This TOP SECRET security clearance enabled CARTWRIGHT to engage in consulting and private employment for financial gain, including sitting on the Special Activities Committee of the Board of Directors of Raytheon Company. This Committee oversaw the company's classified U.S. government contracts.
10. Between January and June 2012, Cartwright provided and confirmed classified information, including TOP SECRET//SCI information, to David Sanger. David Sanger was a reporter for a national newspaper. David Sanger was not authorized to receive the classified information that Cartwright provided to him and confirmed to him. David

Sanger included the classified information Cartwright communicated to him in an article that was published in the national newspaper for which he worked and in a book he authored.

11. On March 2, 2012, Cartwright signed another “Classified Information Non-Disclosure Agreement.” That Agreement included the following warnings, among others:

1. Intending to be legally bound, I hereby accept the obligations contained in this Agreement in consideration of my being granted access to classified information I understand and accept that by being granted access to classified information, **special confidence and trust shall be placed in me by the United States government.**
3. **I have been advised that unauthorized disclosure . . . by me could cause damage or irreparable injury to the United States or could be used to advantage by a foreign nation.**
4. I have been advised that any unauthorized disclosure of classified information by me may constitute a violation or violations of United States **criminal laws** including, provisions of Sections 641, 793 . . .

(emphasis added)

12. In February 2012, Cartwright confirmed classified information, including TOP SECRET//SCI information, to another reporter, Daniel Klaidman. Daniel Klaidman was a reporter for a national news organization. Daniel Klaidman was not authorized to receive the classified information that Cartwright confirmed. Daniel Klaidman included the classified information Cartwright confirmed to him in an article that was published in the news magazine for which he worked.

13. On November 2, 2012, Cartwright agreed to a voluntary interview with agents of the Federal Bureau of Investigation (FBI). In that interview, Cartwright intentionally

provided false information to the interviewing agents, including, among others, the following false statements:

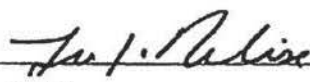
- a. After investigators showed Cartwright a list of quotes and statements from David Sanger's book, a number of which contained classified information, Cartwright falsely told investigators that he was not the source of any of the quotes and statements. Cartwright also falsely told investigators that he did not provide or confirm classified information to David Sanger.
- b. Cartwright falsely told investigators that he never discussed Country 1 with Daniel Klaidman when in truth Cartwright had confirmed certain classified information relating to Country 1 in an email he sent to Daniel Klaidman.

14. The false statements Cartwright made to the FBI were material and were made knowingly and willfully.

This Statement of Offense is not intended to be a complete recitation of all the facts known to the United States or Cartwright, but is, instead, intended to provide a sufficient factual basis for the defendant's plea to guilty to Count One of the Information, charging false statements, in violation of 18 U.S.C. § 1001.

Respectfully submitted,

ROD J. ROSENSTEIN
United States Attorney for the District of Maryland
Special Attorney to the Attorney General

By:  _____
Leo J. Wise
Assistant United States Attorney
Special Attorney to the Attorney General

Elizabeth Cannon
Trial Attorney
National Security Division

DEFENDANT'S ACCEPTANCE

I have read every word of this Statement of Offense. Pursuant to Rule 11 of the Federal Rules of Criminal Procedure, and after consulting with my attorneys, I agree and stipulate to this Statement of Offense, and declare under penalty of perjury that it is true and correct.

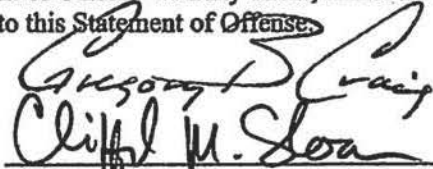
Date: 18 Oct 18


James E. Cartwright
Defendant

ATTORNEY'S ACKNOWLEDGMENT

I have discussed this Statement of Offense with my client, James E. Cartwright, and concur with his decision to stipulate to this Statement of Offense.

Date: Oct-16, 2016


Gregory B. Craig
Clifford Sloan
Attorneys for Defendant