Counsel Requested Instructions Checklist

Submitted By: ☐ **Prosecution** ☐ **Defense**

I. FINDINGS INSTRUCTIONS

A. Lesser Included Offenses

Ch / Sp

(_____) _____

(_____) _____

(_____) _____

(_____) _____

(_____) _____

(_____) _____

(_____) _____

(_____) _____

B. Terms Having Special Legal Significance

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☐ _____

C. Self-Defense/Defenses to Assaults

Self-Defense (5-2)

- ☐ Homicide/Aggravated Assault (5-2-1)
- ☐ Non-Aggravated Assault (5-2-2)
- ☐ Assault as LIO (5-2-3)
- ☐ Homicide/Unintended Death (5-2-4)
- ☐ Use of Force to Deter (5-2-5)
- ☐ Other Instructions – Self-Defense (5-2-6)
  - ☐ Opportunity to Withdraw (Note 2)
  - ☐ State of Mind (Note 3)
  - ☐ Voluntary Intoxication (Note 4)
  - ☐ Provocateur – Mutual Combat (Note 5)
    - ☐ Burden of Proof (Note 6)
    - ☐ Withdrawal Reviving Right (Note 7)

Defense of Another (5-3)

- ☐ Homicide/Aggravated Assault (5-3-1)
- ☐ Assault/Battery (5-3-2)
- ☐ Homicide/Agg Assault Plus LIO (5-3-3)

- ☐ Accident (5-4)
- ☐ Duress (Compulsion or Coercion) (5-5)
- ☐ Defense of Property (5-7)
- ☐ Parental Discipline (5-16)
- ☐ Causation – Lack of (5-19)

D. Other Defenses

- ☐ Accident (5-4)
- ☐ Duress (Compulsion or Coercion) (5-5)
- ☐ Entrapment (5-6)

Obedience to Orders (5-8)

- ☐ Unlawful Order (5-8-1)
- ☐ Lawful Orders (5-8-2)

- ☐ Physical Impossibility (5-9-1)
- ☐ Physical Inability (5-9-2)
- ☐ Financial and Other Inability (5-10)

Ignorance or Mistake of Fact (5-11)

- ☐ Specific Intent / Knowledge (5-11-1)
- ☐ General Intent (5-11-2)
- ☐ Article 134 Check Offenses (5-11-3)
- ☐ Drug Offenses (5-11-4)

- ☐ Voluntary Intoxication (5-12)
- ☐ Alibi (5-13)
- ☐ Voluntary Abandonment (5-15)
- ☐ Parental Discipline (5-16)
- ☐ Evidence Negating Mens Rea (5-17)
- ☐ Self-Help Under a Claim of Right (5-18)
- ☐ Causation – Lack of (5-19)

E. Pretrial Statements

- ☐ Pretrial Statements (Chapter 4)

F. Law of Principals (7-1)

- ☐ Aider and Abettor (7-1-1)
- ☐ Counseling, Commanding, Procuring (7-1-2)
- ☐ Causing an Act to be Done (7-1-3)
- ☐ Liability of Coconspirators (7-1-4)

G. Joint Offenders

- ☐ Joint Offenders (7-2)

J. Defense of Lack of Mental Responsibility

- ☐ Mental Responsibility at Time of Offense (6-4)
- ☐ Partial Mental Responsibility (6-5)
- ☐ Expert Testimony (7-9-1)
- ☐ Evaluation of Testimony (6-6)

Note: Parenthetical References are to DA PAM 27-9, Military Judges' Benchbook.

K. Evidentiary and other instructions

- ☐ Circumstantial Evidence (7-3)
  - ☐ Justifiable Inferences (Note 1)
  - ☐ Proof of Intent (Note 2)
  - ☐ Proof of Knowledge (Note 3)
- ☐ Stipulation of Fact (7-4-1)
- ☐ Stipulation of Testimony (7-4-2)
- ☐ Depositions (7-5)
- ☐ Judicial Notice (7-6)
- ☐ Credibility of Witness (7-7-1)
- ☐ Interracial Identification (7-7-2)
- ☐ Character Evidence – Accused (7-8-1)
- ☐ Character Evidence – Victim (7-8-2)
- ☐ Character for Untruthfulness (7-8-3)
- ☐ Expert Testimony (7-9-1)
- ☐ Polygraph Expert (7-9-2)
- ☐ Accomplice Testimony (7-10)
- ☐ Prior Inconsistent Statement (7-11-1)
- ☐ Prior Consistent Statement (7-11-2)
- ☐ Accused's Failure to Testify (7-12)
- ☐ Uncharged Misconduct – Accused (7-13-1)
- ☐ Prior Conviction to Impeach (7-13-2)
- ☐ Past Sex Behav Nonconsent Sex Victim (7-14)
- ☐ Variance – Find by Except & Subst (7-15)
- ☐ Value, Damage or Amount (7-16)
- ☐ Spill-Over (7-17)
- ☐ "Have you Heard" Impeach Question (7-18)
- ☐ Witness Under Grant of Immunity (7-19)
- ☐ Chain of Custody (7-20)
- ☐ Privilege (7-21)
- ☐ False Exculpatory Statements (7-22)
- ☐ Closed Trial Sessions (7-23)

L. Other Findings Instructions (Tailored or Special)

Attach Proposed Requested Language & Authority

- ☐ Topic: _____
- ☐ Topic: _____
- ☐ Topic: _____
- ☐ Topic: _____
- ☐ Topic: _____
- ☐ Topic: _____
- ☐ Topic: _____
- ☐ Topic: _____

II. SENTENCING INSTRUCTIONS

- ☐ Pretrial Confinement Credit: _____ Days
- ☐ Fine
- ☐ Article 58b CA Clemency Powers (Family)
- ☐ Mental Responsibility Sentencing Factors (6-9)
- ☐ Accused's Failure to Testify
- ☐ Accused's Not Testifying Under Oath
- ☐ Effect of Guilty Plea
- ☐ Mendacity
- ☐ Clemency (Recommend Suspension) (2-7-16)
- ☐ Clemency (Additional Instructions) (2-7-17)

Wheeler Factors (E&M or Aggravation)

E&M	A	
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Other Sentencing Instructions (Tailored or Special)

Attach Proposed Requested Language & Authority

- ☐ Topic: _____
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