

duces tecum to produce books, papers, documents, data, or other objects or electronically stored information for pretrial investigation pursuant to Article 32 may be issued, following the convening authority's order directing such pretrial investigation, by either the investigating officer appointed under R.C.M. 405(d)(1) or the counsel representing the United States.

A subpoena normally is prepared, signed, and issued in duplicate on the official forms. See Appendix 7 for an example of a subpoena with certificate of service (DD Form 453) and a Travel Order (DD Form 453-1)."

(i) The Discussion immediately following R.C.M. 703(e)(2)(D) is amended to read as follows:

"If practicable, a subpoena should be issued in time to permit service at least 24 hours before the time the witness will have to travel to comply with the subpoena.

*Informal service.* Unless formal service is advisable, the person who issued the subpoena may mail it to the witness in duplicate, enclosing a postage-paid envelope bearing a return address, with the request that the witness sign the acceptance of service on the copy and return it in the envelope provided. The return envelope should be addressed to the person who issued the subpoena. The person who issued the subpoena should include with it a statement to the effect that the rights of the witness

to fees and mileage will not be impaired by voluntary compliance with the request and that a voucher for fees and mileage will be delivered to the witness promptly on being discharged from attendance.

*Formal service.* Formal service is advisable whenever it is anticipated that the witness will not comply voluntarily with the subpoena. Appropriate fees and mileage must be paid or tendered. See Article 47. If formal service is advisable, the person who issued the subpoena must assure timely and economical service. That person may do so by serving the subpoena personally when the witness is in the vicinity. When the witness is not in the vicinity, the subpoena may be sent in duplicate to the commander of a military installation near the witness. Such commanders should give prompt and effective assistance, issuing travel orders for their personnel to serve the subpoena when necessary.

Service should ordinarily be made by a person subject to the code. The duplicate copy of the subpoena must have entered upon it proof of service as indicated on the form and must be promptly returned to the person who issued the subpoena. If service cannot be made, the person who issued the subpoena must be informed promptly. A stamped, addressed envelope should be provided for these purposes.