

officer is not a judge advocate, an impartial judge advocate certified under Article 27(b) shall be available to provide legal advice to the preliminary hearing officer.

When practicable, the preliminary hearing officer shall be equal or senior in grade to the military counsel detailed to represent the accused and the government at the preliminary hearing. The Secretary concerned may prescribe additional limitations on the appointment of preliminary hearing officers.

The preliminary hearing officer shall not depart from an impartial role and become an advocate for either side. The preliminary hearing officer is disqualified to act later in the same case in any other capacity.

(2) *Counsel to represent the United States.* A judge advocate, not the accuser, shall serve as counsel to represent the United States, and shall present evidence on behalf of the government relevant to the limited scope and purpose of the preliminary hearing as set forth in subsection (a) of this rule.

(3) *Defense counsel.*

(A) *Detailed counsel.* Except as provided in subsection (d)(3)(B) of this rule, military counsel certified in accordance with Article 27(b) shall be detailed to represent the accused.

(B) *Individual military counsel.* The accused may request to be represented by individual military counsel. Such requests shall be acted on in accordance with R.C.M. 506(b).

(C) *Civilian counsel.* The accused may be represented by civilian counsel at no expense to the United States. Upon request, the accused is entitled to a reasonable time to obtain civilian counsel and to have such counsel present for the preliminary hearing. However, the preliminary hearing shall not be unduly delayed for this purpose. Representation by civilian counsel shall not limit the rights to military counsel under subsections (d)(3)(A) and (B) of this rule.

(4) *Others.* The convening authority who directed the preliminary hearing may also, as a matter of discretion, detail or request an appropriate authority to detail:

(A) A reporter; and

(B) An interpreter.

(e) *Scope of preliminary hearing.*

(1) The preliminary hearing officer shall limit the inquiry to the examination of evidence, including witnesses, necessary to:

(A) Determine whether there is probable cause to believe an offense or offenses have been committed and whether the accused committed it;

(B) Determine whether a court-martial would have jurisdiction over the offense(s) and the accused;

(C) Consider whether the form of the charge(s) is proper; and

(D) Make a recommendation as to the disposition of the charge(s).

(2) If evidence adduced during the preliminary hearing indicates that the accused committed any uncharged offense(s), the preliminary hearing officer may examine evidence and hear witnesses relating to the subject matter of such offense(s) and make the findings and recommendations enumerated in subsection (e)(1) of this rule regarding such offense(s) without the accused first having been charged with the offense. The accused's rights under subsection (f)(2) of this rule, and, where it would not cause undue delay to the proceedings, subsection (g) of this rule, are the same with regard to both charged and uncharged offenses. When considering uncharged offenses identified during the preliminary hearing, the preliminary hearing officer shall inform the accused of the general nature of each uncharged offense considered, and