

703(g)(3)(C). The proceeding may be conducted ex parte and may be conducted in camera.

(2) *Pre-referral warrants or orders for wire or electronic communications.* A military judge may, upon written application by a federal law enforcement officer or authorized counsel for the Government in connection with an ongoing investigation of an offense or offenses under the UCMJ, consider whether to issue a warrant or order for wire or electronic communications and related information as provided under R.C.M. 703A. The proceeding may be conducted ex parte and may be conducted in camera.

(3) *Requests for relief from subpoena or other process.* A person in receipt of a pre-referral investigative subpoena under R.C.M. 703(g)(3)(C), a victim named in a specification whose personal and confidential information has been subpoenaed under R.C.M. 703(g)(3)(C)(ii), or a service provider in receipt of a warrant or court order to disclose information about wire or electronic communications under R.C.M. 703A may request relief on grounds that compliance with the subpoena, warrant, or order is unreasonable, oppressive or prohibited by law. The military judge shall review the request and shall either order the person or service provider to comply with the subpoena, warrant, or order, or modify or quash the subpoena, warrant, or order as appropriate. In a proceeding under this paragraph, the United States shall be represented by an authorized counsel for the Government.

(4) *Pre-referral matters referred by an appellate court.* When a Court of Criminal Appeals or the Court of Appeals for the Armed Forces, in the course of exercising the jurisdiction of such court, remands the case for a pre-referral judicial proceeding, a military judge may conduct such a proceeding under this rule. This includes matters referred by a Court of Criminal Appeals under subsection (e) of Article 6b.

(5) *Pre-referral matters under subsection (c) of Article 6b.* The military judge may

designate a suitable person to assume the rights of a victim who is under 18 years of age (but who is not a member of the armed forces), or who is incompetent, incapacitated, or deceased. Upon appointment by the military judge, the legal guardian of the victim, the representative of the victim's estate, a family member, or any other person designated as suitable by the military judge, may assume the rights of the victim. Under no circumstances may the military judge designate the accused to assume the rights of the victim.

(6) *Pretrial confinement of an accused.* After action by the 7-day reviewing officer under R.C.M. 305(i)(2)(C), a military judge may, upon application of an accused for appropriate relief, review the propriety of pretrial confinement. A military judge may order release from pretrial confinement under the provisions of R.C.M. 305(j)(1).

(7) *The mental capacity or mental responsibility of an accused.*

(A) A military judge may, under the provisions of R.C.M. 706(b)(1), order an inquiry into the mental capacity or mental responsibility of an accused before referral of charges. The proceeding may be conducted ex parte and may be conducted in camera.

(B) A military judge may, under the provisions of R.C.M. 909, conduct a hearing to determine the mental capacity of the accused.

(8) *A request for individual military counsel.* When an accused requests individual military counsel prior to charges being referred to a general or special court-martial, a military judge may review the request subject to the provisions of R.C.M. 506(b).

(9) *Victim's petition for relief.*

(A) A victim of an offense under the UCMJ, as defined in Article 6b(b), may file a motion pre-referral requesting that a military judge require a preliminary hearing officer conducting a preliminary hearing under R.C.M. 405 to comply with: