

is relevant to disposition for inclusion in the report to the convening authority or special trial counsel, as applicable, under R.C.M. 405(m).

(B) If the preliminary hearing officer seals any supplementary information submitted under R.C.M. 405(l), the preliminary hearing officer shall provide an analysis of those materials. The analysis of the sealed materials shall be sealed. Additionally, the preliminary hearing officer shall generally describe those matters and detail the basis for sealing them in a separate cover sheet. This cover sheet shall accompany the sealed matters and shall not contain privileged information or be sealed.

(4) The supplementary information and any summary and analysis provided by the preliminary hearing officer, and any sealed matters and cover sheets, as applicable, shall be forwarded to the convening authority or special trial counsel, as applicable, for consideration in making a disposition determination.

(5) Submissions under R.C.M. 405(l) shall be maintained as an attachment to the preliminary hearing report provided under R.C.M. 405(m).

(m) *Preliminary hearing report.*

(1) *In general.* The preliminary hearing officer shall make a timely written report of the preliminary hearing to the convening authority or, for hearings requested by a special trial counsel, to the special trial counsel. This report is advisory and does not bind the staff judge advocate, convening authority, or special trial counsel, as applicable.

(2) *Contents.* The preliminary hearing report shall include:

(A) A statement of names and organizations or addresses of counsel for the Government and defense counsel and, if applicable, a statement of why either counsel was not present at any time during the proceedings;

(B) The recording of the preliminary hearing under R.C.M. 405(k)(5);

(C) For each specification, the preliminary hearing officer's reasoning and conclusions with respect to the issues for determination under R.C.M. 405(a), including a summary of relevant witness testimony and documentary evidence presented at the hearing and any observations concerning the testimony of witnesses and the availability and admissibility of evidence at trial;

(D) If applicable, a statement that an essential witness may not be available for trial;

(E) An explanation of any delays in the preliminary hearing;

(F) A notation if counsel for the Government refused to issue a pre-referral investigative subpoena that was directed by the preliminary hearing officer and the counsel's statement of the reasons for such refusal;

(G) Recommendations for any necessary modifications to the form of the charges and specifications;

(H) A statement of whether the preliminary hearing officer examined evidence or heard witnesses relating to any uncharged offenses in accordance with R.C.M. 405(f)(2), and, for each such offense, the preliminary hearing officer's reasoning and conclusions as to whether there is probable cause to believe that the accused committed the offense and whether the convening authority would have court-martial jurisdiction over the offense if it were charged;

(I) A notation of any objections if required under R.C.M. 405(k)(7);

(J) The recommendation of the preliminary hearing officer as to the disposition that should be made of the charges and specifications in the interest of justice and discipline. In