

(zz) R.C.M. 703(d) is amended to read as follows:

“(d) *Employment of expert witnesses and consultants.*

(1) *Funding experts for the prosecution.* When the employment of a prosecution expert witness or consultant is considered necessary, counsel for the Government shall, in advance of employment of the expert, and with notice to the defense, submit a request for funding of the expert in accordance with regulations prescribed by the Secretary concerned.

(2) *Funding experts for the defense.* When the appointment or employment of a defense expert witness or consultant is considered necessary, the defense may submit a request for the appointment or funding of the expert in accordance with regulations prescribed by the Secretary concerned.

(A) After referral of charges, a defense request for an expert witness or consultant may be raised before the military judge. Motions for expert consultants may be raised *ex parte*.

The military judge shall determine:

(i) in the case of an expert witness, whether the testimony is relevant and necessary;

(ii) in the case of an expert consultant, whether the assistance is necessary for an adequate defense.

(B) If the military judge grants a motion for the appointment or employment of a defense expert witness or consultant, the expert witness or consultant, or an adequate substitute, shall be provided in accordance with regulations prescribed by the Secretary concerned. In the absence of advance approval by an official authorized to grant such approval under the regulations prescribed by the Secretary concerned, expert witnesses and consultants may not be paid fees other than those to which they are entitled under R.C.M. 207(g)(3)(E).

(3) *Notice of expert witnesses.*

(A) *Expert witnesses.*

(i) *Government.* In addition to the requirements of R.C.M. 701(a)(3), the Government shall provide the defense a written summary of the expected testimony from the expert witness.

(ii) *Defense.* After referral of charges, in addition to the requirements of R.C.M. 701(b)(1), the defense shall provide the Government a written summary of the expected testimony from the expert witness.

(B) *Timing.* The military judge shall set a date upon which notices under R.C.M. 703(d)(3)(A) are due to the opposing party.

(C) *Failure to comply.* If at any time it is brought to the attention of the military judge that a party has failed to comply with this rule, the military judge may take one or more of the following actions:

(i) Order the required notice;

(ii) Order the party to permit discovery;

(iii) Grant a continuance;

(iv) Prohibit the party from introducing evidence, calling a witness, or raising a defense not disclosed; and

(v) Enter such other order as is just under the circumstances.”

(aaa) R.C.M. 703(g)(3) is amended to read as follows:

“(3) *Civilian witnesses and evidence not under the control of the Government—subpoenas.*