

“(1) *Party refusal to comply.* If the other party elects not to comply with an order to deliver a statement to the moving party, the military judge shall order that the testimony of the witness be disregarded by the trier of fact and that the trial proceed, or, if it is the Government that elects not to comply, shall declare a mistrial if required in the interest of justice.”

(rrrr) R.C.M. 914A(b) is amended to read as follows:

“(b) *Definition.* As used in this rule, “remote live testimony” includes, but is not limited to, testimony by video teleconference, closed circuit television, or similar technology.”

(ssss) R.C.M. 914B(b) is amended to read as follows:

“(b) *Definition.* As used in this rule, testimony via “remote means” includes, but is not limited to, testimony by video teleconference, closed circuit television, telephone, or similar technology.”

(tttt) R.C.M. 918(a)(1)(B) is amended to read as follows:

“(B) not guilty of an offense as charged, but guilty of a lesser included offense;”.

(uuuu) R.C.M. 920(g) is amended to read as follows:

“(g) *Waiver.* Instructions on a lesser included offense shall not be given when both parties waive such an instruction. After receiving applicable notification of those lesser included offenses of which an accused may be convicted, the parties may waive a lesser included offense instruction. A written waiver is not required. The accused must affirmatively acknowledge that the accused understands the rights involved and affirmatively waive the instruction on the record. The accused’s waiver must be made freely, knowingly, and intelligently. In the case of a joint or common trial, instructions on a lesser included offense shall not be given as to an individual accused when that accused and the Government agree to waive such an instruction.”

(vvvv) R.C.M. 924(c)(2) is amended to read as follows:

“(2) the issue of the finding of guilty of the elements in a finding of not guilty only by reason of lack of mental responsibility at any time before announcement of sentence or, where there was no finding of guilty, entry of judgment.”

(www) R.C.M. 1113(b)(1) is amended to read as follows:

“(1) *Prior to referral.* Prior to referral of charges, the following individuals may examine and disclose sealed materials only if necessary for proper fulfillment of their responsibilities under the UCMJ, this Manual, governing directives, instructions, regulations, applicable rules for practice and procedure, or rules of professional conduct: the judge advocate advising the convening authority who directed the Article 32 preliminary hearing; the convening authority who directed the Article 32 preliminary hearing; the staff judge advocate to the general court-martial convening authority; a military judge detailed to an Article 30a proceeding; the general court-martial convening authority; and special trial counsel for the purposes of making a determination on referral.”

(xxxx) R.C.M. 1202(c) is amended as follows:

“(c) *Counsel in capital cases.* To the greatest extent practicable, in any case in which death is adjudged, at least one appellate defense counsel shall, as determined by the Judge Advocate General, be learned in the law applicable to capital cases. Such counsel may, if necessary, be a civilian, and, if so, may be compensated in accordance with regulations prescribed by the Secretary of Defense or the Secretary of Homeland Security, as applicable.”

(yyyy) R.C.M. 1203(e) is amended to read as follows:

“(e) *Action on cases reviewed by a Court of Criminal Appeals.*

(1) *Forwarding by the Judge Advocate General to the Court of Appeals for the Armed Forces.* The Judge Advocate General may forward the decision of the Court of Criminal Appeals