

warrant, if the warrant is determined to be unreasonable or oppressive or prohibited by law.

(c) *Order procedures.*

(1) A military judge shall issue an order authorizing the disclosure of information specified in paragraph (a)(3) of this rule if the federal law enforcement officer, trial counsel, or other authorized counsel for the Government applying for the order offers specific and articulable facts showing that there are reasonable grounds to believe that the records or other information sought are relevant and material to an ongoing criminal investigation.

(2) *Quashing or modifying order.* A military judge issuing an order under paragraph (c)(1) of this rule, on a motion made promptly by the service provider, may quash or modify such order if the order is determined to be unreasonable, oppressive, or prohibited by law.

(d) *Non-disclosure orders.*

(1) A federal law enforcement officer, trial counsel, or other authorized counsel for the Government acting under this rule may apply to a military judge for an order commanding a provider of electronic communications service or remote computing service to whom a warrant or order under this rule is directed, for such period as the military judge deems appropriate, not to notify any other person of the existence of the warrant or order. The military judge shall issue the order if the military judge determines that there is reason to believe that notification of the existence of the warrant or order will result in an adverse result described in paragraph (d)(2) of this rule.

(2) An adverse result for the purposes of paragraph (d)(1) of this rule is—

- (A) endangering the life or physical safety of an individual;
- (B) flight from prosecution;
- (C) destruction of or tampering with evidence;

(D) intimidation of potential witnesses; or

(E) otherwise seriously jeopardizing an investigation or unduly delaying a trial.

(e) *No cause of action against a provider disclosing information under this rule.* As provided under 18 U.S.C. § 2703(e), no cause of action shall lie in any court against any provider of wire or electronic communication service, its officers, employees, agents, or other specified persons for providing information, facilities, or assistance in accordance with the terms of a warrant or order under this rule.

(f) *Requirement to preserve evidence.* To the same extent as provided in 18 U.S.C. § 2703(f)—

(1) A provider of wire or electronic communication services or a remote computing service, upon the request of a federal law enforcement officer, trial counsel, or other authorized counsel for the Government, shall take all necessary steps to preserve records and other evidence in its possession pending the issuance of an order or other process; and

(2) Shall retain such records and other evidence for a period of 90 days, which shall be extended for an additional 90-day period upon a renewed request by the governmental entity.

(g) *Definition.* As used in this rule, the term “federal law enforcement officer” includes an employee of the Army Criminal Investigation Command, the Naval Criminal Investigative Service, the Air Force Office of Special Investigations, or the Coast Guard Investigative Service who has authority to request a search warrant.”

(p) R.C.M. 705(d)(1) is amended to read as follows:

“(1) *In general.* Subject to such limitations as the Secretary concerned may prescribe pursuant to R.C.M. 705(a), a plea agreement that limits the sentence that can be imposed by the court-martial for one or more charges and specifications may contain:

(A) a limitation on the maximum punishment that can be imposed by the court-