

- (2) The name, rank, and unit or address of the accused;
- (3) The name and rank of the military judge presiding;
- (4) The names and ranks of the members, if any, who are present;
- (5) The names and ranks of members who are absent, if presence of members is required
- (6) The names and ranks (if any) of counsel who are present;
- (7) The names and ranks (if any) of counsel who are absent; and
- (8) The name and rank (if any) of any detailed court reporter.

(b) *Later proceedings.* When the court-martial is called to order after a recess or adjournment or after it has been closed for any reason, the military judge shall ensure that the record reflects whether all parties and members who were present at the time of the adjournment or recess, or at the time the court-martial closed, are present.

(c) *Additions, replacement, and absences of personnel.* Whenever there is a replacement of the military judge, any member, or counsel, either through the appearance of new personnel or personnel previously absent or through the absence of personnel previously present, the military judge shall ensure the record reflects the change and the reason for it.

(d) Under R.C.M. 813(a)(1), the name, grade, and position of the convening authority, with the exception of the Secretary concerned, the Secretary of Defense, or the President, shall be omitted from announcement during the opening session of the court-martial.”

(w) R.C.M. 909(c) is amended to read as follows:

“(c) *Determination before referral.*

(1) If an inquiry pursuant to R.C.M. 706 conducted before referral concludes that an accused is suffering from a mental disease or defect that renders the accused mentally incompetent to stand trial, the convening authority before whom the charges are pending for

disposition may disagree with the conclusion and take any action authorized under R.C.M. 401, including referral of the charges to trial. If that convening authority concurs with the conclusion, the convening authority shall forward the charges to the general court-martial convening authority. If, upon receipt of the charges, the general court-martial convening authority similarly concurs, then he or she shall commit the accused to the custody of the Attorney General. If the general court-martial convening authority does not concur, that authority may take any action that the authority deems appropriate in accordance with R.C.M. 407, including referral of the charges to trial.

(2) Upon request of the Government or the accused, a military judge may conduct a hearing to determine the mental capacity of the accused in accordance with R.C.M. 309 and subsection (e) of this rule at any time prior to referral.”

(x) A new R.C.M. 910(f)(8) is inserted immediately after R.C.M. 910(f)(7) to read as follows:

“(8) *Basis for rejecting a plea agreement.* The military judge of a general or special court-martial shall reject a plea agreement that—

(A) contains a provision that has not been accepted by both parties;

(B) contains a provision that is not understood by the accused;

(C) except as provided in Article 53a(c), contains a provision for a sentence that is less than the mandatory minimum sentence applicable to an offense referred to in Article 56(b)(2);

(D) is prohibited by law; or

(E) is contrary to, or is inconsistent with, these rules with respect to the terms, conditions, or other aspects of plea agreements.”

(y) R.C.M. 910(j) is amended to read as follows: