

“(j) *Waiver*. Except as provided in paragraph (a)(2) of this rule, a plea of guilty that results in a finding of guilty waives any objection, whether or not previously raised, as to the factual issue of guilt of the offense(s) to which the plea was made and any non-jurisdictional defect as to the offense(s) to which the plea was made that occurred prior to the plea.”

**(z) R.C.M. 912A(a)(4)(A) is amended to read as follows:**

“(A) If the convening authority authorizes the military judge to impanel a specific number of alternate members, the number of members impaneled shall be the number of members required under paragraphs (1), (2), or (3) of this subsection, as applicable, plus the number of alternate members specified by the convening authority. The military judge shall not impanel the court-martial until the specified number of alternate members has been identified. New members may be detailed in order to impanel the specified number of alternate members.”

**(aa) A new R.C.M. 912A(d)(3)(C) is inserted immediately after R.C.M. 912A(d)(3)(B) to read as follows:**

“(C) In a case in which the accused has elected to be tried by a panel consisting of at least one-third enlisted members under R.C.M. 503(a)(2), the convening authority may instruct the military judge to prioritize impaneling a specific number of alternate enlisted members before impaneling alternate officer members. These members shall be identified in numerical order beginning with the lowest remaining random number assigned pursuant to R.C.M. 912(f)(5), after first identifying members under paragraph (1) of this subsection.”

**(bb) R.C.M. 914(e) is amended to read as follows:**

“(e) *Remedy for failure to produce statement*.

(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 trial counsel who elects not to comply, shall declare a mistrial if required in the interest of justice.

(2) *Exception.* In the event that the other party cannot comply with this rule because the statement is lost, and can prove, by a preponderance of evidence, that the loss of the witness statement was not attributable to bad faith or gross negligence, the military judge may exercise the sanctions set forth in paragraph (e)(1) of this rule only if—

(A) the statement is of such central importance to an issue that it is essential to a fair trial, and

(B) there is no adequate substitute for the statement.”

**(cc) R.C.M. 916(e)(2) is amended to read as follows:**

“(2) *Certain aggravated offer-type assault cases.* It is a defense to aggravated assault that the accused:

(A) Apprehended, on reasonable grounds, that bodily harm was about to be inflicted wrongfully on the accused; and

(B) In order to deter the assailant, offered but did not actually inflict or attempt to inflict substantial or grievous bodily harm.”

**(dd) A new R.C.M. 920(g) is inserted immediately after R.C.M. 920(f) 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 the reading of 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