

**“Rule 308. Notification to accused of charges and required disclosures**

(a) *Immediate commander.* The immediate commander of the accused shall cause the accused to be informed of the charges preferred against the accused, and the name of the person who preferred the charges and of any person who ordered the charges to be preferred, if known, as soon as practicable.

(b) *Commanders at higher echelons.* When the accused has not been informed of the charges, commanders at higher echelons to whom the preferred charges are forwarded shall cause the accused to be informed of the matters required under R.C.M. 308(a) as soon as practicable.

(c) *Disclosures generally.* Except as otherwise provided in R.C.M. 308(d) and as soon as practicable after notification to the accused of preferred charges, counsel for the Government shall provide the defense with copies of the charges and any books, papers, documents, data, photographs, or tangible objects that accompanied the charge or charges when preferred. If extraordinary circumstances make it impracticable to provide copies, counsel for the Government shall permit the defense to inspect these items.

(d) *Information not subject to disclosure.*

(1) *Military Rules of Evidence.* Nothing in this rule shall be construed to require the disclosure of information protected from disclosure by the Military Rules of Evidence.

(2) *Work Product.* Nothing in this rule shall require the disclosure or production of notes, memoranda, or similar working papers prepared by counsel or counsel’s assistants and representatives.

(3) *Contraband.* If items covered by R.C.M. 308(c) are contraband, the disclosure required under this rule is a reasonable opportunity to inspect said contraband prior to the preliminary hearing.

(4) *Privilege.* If items covered by R.C.M. 308(c) are privileged, classified, or otherwise protected under Section V of Part III, the Military Rules of Evidence, no disclosure of those items is required under this rule. However, counsel for the Government may disclose privileged, classified, or otherwise protected information covered by R.C.M. 308(a) if authorized by the holder of the privilege or, in the case of Mil. R. Evid. 505 or 506, if authorized by a competent authority.

(5) *Protective order if privileged information is disclosed.* If the Government agrees to disclose to the accused information to which the protections afforded by Section V of the Military Rules of Evidence may apply, the convening authority, or other person designated by regulation of the Secretary concerned, may enter an appropriate protective order, in writing, to guard against the compromise of information disclosed to the accused. The terms of any such protective order may include prohibiting the disclosure of the information except as authorized by the authority issuing the protective order, as well as those terms specified by Mil. R. Evid. 505(g)(2)–(6) or 506(g)(2)–(5). (e) *Remedy.* The sole remedy for violation of this rule is a continuance or recess of sufficient length to permit the accused to adequately prepare a defense, and no relief shall be granted upon a failure to comply with this rule unless the accused demonstrates that the accused has been hindered in the preparation of a defense.”

**(u) R.C.M. 309(a)(2) is amended to read as follows:**

“(2) The matters that may be considered and ruled upon by a military judge under this rule are limited to those matters specified in R.C.M. 309(b).”

**(v) R.C.M. 309(b)(3) is amended to read as follows:**

“(3) *Requests for relief from subpoena or other process.* A person in receipt of a pre-referral investigative subpoena under R.C.M. 703(g)(3)(C), a victim named in a specification