

preliminary hearing and afforded the rights to counsel, cross-examination, and presentation of evidence required by this rule, no further preliminary hearing is required.

*(c) Who may direct a preliminary hearing.*

(1) Subject to R.C.M. 405(c)(2), unless prohibited by regulations of the Secretary concerned, a preliminary hearing may be directed under this rule by any court-martial convening authority. That authority may also give procedural instructions not inconsistent with these rules.

(2) For charges and specifications over which a special trial counsel has exercised authority, the special trial counsel shall determine whether a preliminary hearing is required. If a special trial counsel determines that a hearing is required, the special trial counsel shall request that a convening authority provide a preliminary hearing officer. Upon such a request, the convening authority shall provide a preliminary hearing officer and direct a preliminary hearing in accordance with this rule. If a special trial counsel determines a previous preliminary hearing is required to be reopened, the convening authority shall direct the preliminary hearing to be reopened.

*(d) Disclosures after direction of a preliminary hearing.*

(1) As soon as practicable but no later than five days after direction of an Article 32 preliminary hearing, counsel for the Government shall provide the defense with copies of, or, if impracticable, permit the defense to inspect:

(A) the order directing the Article 32 preliminary hearing pursuant to this rule (R.C.M. 405);

(B) statements, within the control of military authorities, of witnesses that counsel for the Government intends to call at the preliminary hearing;

(C) evidence counsel for the Government intends to present at the preliminary hearing; and

(D) any matters provided to the convening authority when deciding to direct the preliminary hearing.

(2) *Contraband*. If items covered by R.C.M. 405(d)(1) are contraband, the disclosure required under this rule is a reasonable opportunity to inspect said contraband prior to the preliminary hearing.

(3) *Privilege*. If items covered by R.C.M. 405(d)(1) 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. 405(d)(1) 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.

(4) *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 Part III 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) *Personnel*.

(1) Preliminary hearing officer.