



DEPARTMENT OF THE NAVY
OFFICE OF THE JUDGE ADVOCATE GENERAL
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JAGINST 5813.1C
Code 20
DEC 18 2018

JAG INSTRUCTION 5813.1C

From: Judge Advocate General

Subj: STANDARDIZATION OF GENERAL COURTS-MARTIAL AND SPECIAL COURTS-MARTIAL VERBATIM TRANSCRIPTS AND SUMMARIZED REPORTS TO ACCOMPANY THE RECORD OF TRIAL

Ref: (a) U.S. Government Publishing Office Style Manual, 2016
(b) Manual for Courts-Martial, United States, 2019 (MCM)
(c) JAGINST 5800.7F, Change 1

Encl: (1) Standard format for verbatim transcripts
(2) Standard format for summarized reports
(3) Preparation and certification of record of trial form

1. Purpose. To establish the standard format required for all General Courts-Martial (GCM), and Special Courts-Martial (SPCM), verbatim transcripts and summarized reports to accompany the record of trial under the rules and procedures established under the Military Justice Act 2016. This instruction directs the use of enclosures (1) through (3).

2. Applicability. This instruction supersedes JAGINST 5813.1B for all cases referred to a court-martial on or after 1 January 2019. For all cases referred to a court-martial on or prior to 31 December 2018, JAGINST 5813.1B applies. This instruction supplements the requirements for preparation of records of trial promulgated in references (a) through (c). This instruction is a major revision and should be reviewed in its entirety.

3. Scope. This instruction applies to all personnel involved in the preparation and certification of GCM and SPCM verbatim transcripts and summarized reports required to accompany the record of trial. The U.S. Marine Corps will implement transcript policies and procedures consistent with this instruction.

4. Procedure.

a. Rule for Courts-Martial (R.C.M) 1114(a), reference (b), requires a verbatim transcript of the record of trial be prepared when the sentence includes death, dismissal of a commissioned officer, cadet, or midshipman, a dishonorable or bad-conduct discharge, or confinement for more than six-months, or as otherwise required by court rule, court order, or under regulations prescribed by the Secretary concerned.

b. Reference (c) expands the requirement for verbatim transcripts to all courts-martial that result in a guilty finding for both GCMs and SPCMs. Verbatim transcripts shall be prepared in the format provided in enclosure (1).

c. Pursuant to reference (c), all GCMs and SPCMs that result in a full acquittal will be the subject of a summarized report rather than a verbatim transcript. Summarized reports that accompany the record of trial shall be prepared in the format provided in enclosure (2).

d. When a verbatim transcript is complete, both the transcriptionist and court reporter, if different, must review it for completeness and ensure it accurately reflects the audio recording of the court-martial. The court reporter shall address all "inaudibles" throughout the transcript unless the court reporter is unable to decipher the audio. When this initial review is complete, the court reporter shall provide the verbatim transcript to the military judge to verify the transcript. The military judge has 20 days to complete the verification. This verification process is not required for summarized reports.

e. Upon completion of the military judge's verification, both the court reporter and transcriptionist, if different, must certify that the verbatim transcript is complete and accurate. This certification statement will be placed on the cover sheet of the written transcript as follows: "I (name of person preparing and/or certifying the written transcript) certify that this written transcript is a true, accurate, and complete copy of the audio or other electronic recording of the court-martial proceeding in the case of (insert case name, e.g., U.S. v. Accused), which was held at (name of location, e.g., Naval Base San Diego), on (dates court-martial was held, e.g., 13-15 March 2019)."

f. When compiling the certified record of trial, the Region Legal Service Office (RLSO) or Legal Services Support Section (LSSS) must complete enclosure (3). This form must then be attached to the certified record of trial.

5. Evidence in Child Pornography Cases. For cases in which child pornography is introduced into evidence in a digital format, and published to the military judge or members on a computer monitor, the government trial counsel will provide to the court reporter a password protected CD or DVD containing the electronically formatted evidence for inclusion in the record of trial. The original evidence should be returned to the Naval Criminal Investigative Service or other cognizant law enforcement agency for storage as evidence until certification of the record of trial and completion of the appellate process. The password to any protected CD or DVD in the record of trial shall be provided via encrypted email by the trial counsel to the military judge and to those with record of trial review responsibilities, including the Clerk of Court for the Navy-Marine Corps Court of Criminal Appeals.

6. Classified Information. For cases containing classified information, prior to forwarding the certified record of trial for appellate review, the Administrative Support Division (Code 40) must be informed that the original certified record of trial contains classified information. The certified record of trial containing classified information must be packaged and transmitted in accordance with the Department of the Navy Information Security Program, SECNAVINST 5510.36 (series)

to National Security Litigation Division (Code 30) for filing. Code 30 will then notify Code 40 when any classified records of trial have been received.

7. Digital Records. In addition to the original record of trial, an electronic copy of the record of trial, including the certified transcript, shall be created. The electronic copy must be an exact duplicate of the hardcopy record of trial and be in a portable document format (pdf). That electronic record of trial will be maintained on a CD or DVD and uploaded to the OJAG (Code 40) Sharepoint site, if practicable, or the CD or DVD will be mailed to Code 40.

8. Delivery.

a. All original records of trial requiring review under Article 66, Uniform Code of Military Justice, shall be sent to the Administrative Support Division (Code 40) via FEDEX/UPS/DHL/USPS Express or by hand delivery, when feasible and authorized by trial counsel, and may not be forwarded through military or fourth class mail. If mailing the original record of trial, send it to the following address: Administrative Support Division (Code 40), Office of the Judge Advocate General, 1254 Charles Morris St. SE, Washington Navy Yard, DC 20374-5124

b. In all cases, the date of mailing or hand delivery shall be annotated in the record of trial in enclosure (3). The sending office must retain delivery records that verify receipt of the record by Administrative Support Division (Code 40).

c. The digital copy of the record of trial must be uploaded to the Code 40 Sharepoint site, if practicable, unless otherwise directed.

d. A separate digital copy of the record of trial shall be provided to the Naval Clemency & Parole Board via secure electronic transmission or email to: ncpbmailbox@navy.mil.

e. Delivery of the copies of the certified record of trial to the accused and victim must be completed in accordance with R.C.M. 1112(b) of reference (b) and reference (c). This is executed by the local RLSO or LSSS responsible for the post-trial processing of the court-martial.

9. Action. All personnel involved in the preparation and certification of GCM and SPCM verbatim transcripts and summarized reports shall comply with the provisions of this instruction.

10. Records Management. Records created as a result of this instruction, regardless of media and format, must be managed per Records Management Manual, Secretary of the Navy (SECNAV) Manual 5210.1 of January 2012. Any release of records of trial in accordance with this instruction must be in compliance with the Privacy Act, 5 U.S.C. § 552a.

11. Review and Effective Date. This instruction is effective on 1 January 2019. Per OPNAVINST 5215.17A, Code 20 will review this instruction annually on the anniversary of its effective date to ensure applicability, currency, and consistency with Federal, Department of Defense, SECNAV, and Navy policy and statutory authority using OPNAV 5215/40 Review of Instruction. As the instruction nears its five-year anniversary and it is still required, it will be reissued. Otherwise, if the instruction is no longer required, it will be processed for cancellation as soon as the cancellation is known following the guidance in E.O. 13526.


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