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OFFICE OF THE JUDGE ADVOCATE GENERAL
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JAG/CNLSCINST 5814.1C
CODE 20
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JAG/COMNAVLEGSVCCOM INSTRUCTION 5814.1C

Subj: POST-TRIAL PROCESSING

- Ref: (a) Manual for Courts-Martial (2019)
(b) Case Management System (CMS) Desktop Manual
(c) JAGINST 5800.7F, Change 1 (2019) Manual of the Judge Advocate General
(d) DoDI 5505.11, Fingerprint Card and Final Disposition Report Submission Requirements
(e) DoD 7730.47M, Defense Incident-Based Reporting System (DIBRS)
(f) DoDI 5505.13, Deoxyribonucleic Acid (DNA) Collection Requirements for Criminal Investigations, Law Enforcement, Corrections, and Commanders
(g) DoDI 5525.20, Registered Sex Offender Management in DoD
(h) NAVADMIN 076/18, Gun Control Act of 1968 Criminal Justice Information Reporting Requirements
(i) JAGINST 5813.1C – Standardization of GCM and SPCM Verbatim and Summarized Records of Trial
(j) Uniform Rules of Practice for U.S. Navy-Marine Corps Trial Judiciary

- Encl: (1) Statement of Trial Results Template
(2) Post-Trial Checklist
(3) Victim Post-Trial Rights Statement
(4) Convening Authority's Action Checklist
(5) Gun Control Act of 1968 Reporting Requirements
(6) Convening Authority's Action and Entry of Judgement Template

1. **Purpose.** To establish minimum requirements for post-trial processing of records of trial (ROT) and to update and reissue post-trial checklists for Region Legal Service Offices (RLSO) personnel, Staff Judge Advocates (SJA), trial judges, and legal officers (LO) for use during the court-martial review process. These procedures are intended to ensure expeditious and efficient handling of cases from sentencing through the certification of the record of trial. This instruction directs the use of enclosures (1) through (6) throughout the post-trial process.

2. **Applicability.** This instruction supersedes JAG/COMNAVLEGSVCCOMINST 5814.1B, for all cases referred to a court-martial on or after 1 January 2019. Courts-martial referred on or prior to 31 December 2018, will continue to utilize JAG/COMNAVLEGSVCCOMINST 5814.1B. For all cases where the accused was convicted of offense(s) committed before 1 January 2019, but the charge(s) were referred on or after 1 January 2019, ensure the appropriate clemency authority is utilized. See enclosure (6) for guidance. This instruction is a major revision and should be reviewed in its entirety.

3. Scope. This instruction applies to the Office of the Judge Advocate General (OJAG), all RLSOs, SJAs, trial judges, and LOs performing post-trial functions. The SJA to the Commandant of the Marine Corps will implement post-trial policies and procedures consistent with this instruction. Utilize references (a) through (j), in addition to this instruction, throughout the post-trial process.

4. Discussion

a. The government will ensure timely post-trial processing of military justice cases. In all general and special courts-martial in which the judgment includes a finding of guilty, the certified record of trial, a verbatim transcript, and attachments required under Rules for Courts-Martial (R.C.M.) 1112(f) will be prepared. For all courts-martial resulting in a sentence of confinement for six months or less and no punitive discharge, the government must ensure a certified record of trial with all required attachments is reviewed by a judge advocate pursuant to Article 65(d), Uniform Code of Military Justice (UCMJ). For all courts-martial resulting in appellate review under Article 66, UCMJ, the government must ensure: (1) the certified record of trial together with all required attachments is forwarded as soon as practicable after the Entry of Judgment (EOJ) to OJAG (Code 40), and (2) the case is docketed at the Navy-Marine Corps Court of Criminal Appeals (NMCCA) within 30 days after forwarding.

b. Per reference (a), the adjudged sentence, the type of court-martial (General Court-Martial (GCM)/Special Court Martial (SPCM)/Summary Court Martial (SCM)), and whether the government has filed an appeal, dictate the type of review:

(1) Article 64: Judge advocate review of a finding of guilty in a SCM. If the accused appeals this review, the case should be forwarded to OJAG, Code 20 for a review under Article 69.

(2) Article 65: A review under Article 65 occurs in two scenarios: (1) any GCM or SPCM in which the sentence includes six months or less confinement and no punitive discharge, or (2) the accused waived or withdrew the appeal under Article 66.

(3) Article 66(b)(1)(A): Appeal by an accused in a case in which the sentence extends to confinement for more than six months and the case is not subject to an automatic appeal.

(4) Article 66(b)(1)(B): Appeal by an accused in a case where the government previously filed an appeal under Article 62.

(5) Article 66(b)(1)(C): Appeal by the accused in a case that the government appealed the sentence pursuant to Article 56(d).

(6) Article 66(b)(1)(D): Appeal by an accused filed under an application for review with the NMCCA under Article 69(d)(1)(B) and the application was granted.

(7) Article 66(b)(3): Any sentence of death, dismissal of a commissioned officer, cadet, or midshipman, dishonorable discharge, or bad-conduct discharge, or confinement for 2 years or more receives an automatic appeal at the NMCCA.

(8) Article 69: Any review of an Article 64 or Article 65 appeal requested by an accused.

(9) Article 69(d)(1)(A): Case that is sent to the NMCCA by order of the Judge Advocate General (JAG).

c. All courts-martial shall be tracked electronically using the Case Management System (CMS) or another prescribed electronic case management system. Reference (b) contains the rules and user guide for CMS. The electronic system will serve as the primary source for court-martial data. Article 140a, UCMJ, Manual for Courts-Martial (MCM) 2019, requires the collection and analysis of data in accordance with the standards prescribed by the Secretary of Defense. When implemented by OJAG/NLSC, all RLSOs will ensure data is collected and reflected accurately in accordance with the Secretary of Defense's standards.

d. Each RLSO will establish a Post-Trial Processing Division and/or Unit (PTPD/PTPU) to fully implement this post-trial processing instruction and ensure the timely completion of the post-trial process for all courts-martial. The RLSOs will utilize installation and Region SJAs and their staff as necessary throughout the area of responsibility (AOR) to provide logistical assistance for the RLSO's PTPDs/PTPUs. RLSOs will use checklists provided in enclosures (2) and (4) in every court-martial, revising logistical requirements as necessary to accommodate local resourcing.

5. Action

a. Each RLSO Trial Department shall use enclosure (1) in preparing the Statement of Trial Results. This document will include the contents required under R.C.M. 1101(a), including, but not limited to:

(1) For each charge and specification referred to trial—

(a) a summary of each charge and specification;

(b) the plea(s) of the accused; and

(c) the finding or other disposition of each charge and specification.

(2) The sentence of the court-martial and the date the sentence was announced, and the amount of credit, if any, applied to the sentence for pretrial confinement or other reasons. If the accused was convicted of more than one specification and any part of the sentence was determined by a military judge, the Statement of Trial Results shall also specify—

(a) the confinement and fine for each specification, if any;

(b) whether any term of confinement is to run consecutively or concurrently with any other term(s) of confinement;

(c) the total amount of any fine(s) and the total amount of any confinement, after accounting for any credit and any terms of confinement that are to run consecutively or concurrently.

(3) The type of court-martial and the command by which it was convened.

(4) In a case with a plea agreement, the statement shall specify any limitations on the punishment as set forth in the plea agreement.

(5) If the military judge recommends that any portion of the sentence should be suspended, the Statement of Trial Results shall specify—

(a) the portion(s) of the sentence to which the recommendation applies;

(b) the minimum duration of the suspension; and

(c) the facts supporting the suspension recommendation.

(6) In cases involving a reduction in grade, or forfeiture of pay, the effective date of any such reduction or forfeiture shall be noted in the “Notes” block (see Articles 57–58b, UCMJ);

(7) the names and identifying numbers (case number or DoD identification number) of any co-accused shall be noted in the “Notes” block;

(8) If required under 10 U.S.C. § 1565, the requirement for processing of a deoxyribonucleic acid (DNA) sample;

(9) If required under 42 U.S.C. § 14071 or DoDI 1325.07, the requirement for sex offender registration; and

(10) A statement as to whether any offense for which the accused was convicted is a crime that triggers firearm possession prohibition in accordance with 18 U.S.C. § 922 and/or is a crime of domestic violence. See reference (h) and enclosure (5) for further details and definitions of the terms included in this sub-paragraph and crime reporting requirements generally.

b. Each RLSO is responsible for establishing procedures to ensure that upon request, the counsel for the accused and counsel for any crime victim, as defined by R.C.M. 1106A, receive a copy of the recording of all open sessions of the court-martial and, unless sealed, access to the evidence admitted at the court-martial and appellate exhibits in order to facilitate the preparation of matters submitted to the convening authority (CA). The RLSO may not release recordings of closed sessions, classified material, or any other matters ordered sealed unless otherwise

authorized by the military judge. If an accused or victim is unrepresented, a copy of the recording of all open sessions of the court-martial will be provided directly to the accused or victim upon request. This information should be provided within five (5) business days after receiving a proper request, unless otherwise impracticable. Prior to releasing any recording of the court-martial proceedings, the RLSO shall include with the recording an instruction limiting the use of the audio recording to the submission of post-trial matters under R.C.M. 1106 and 1106A.

c. The accused and any crime victim shall be afforded ten (10) days after the announcement of the sentence to submit matters for consideration pursuant to R.C.M. 1106 and R.C.M. 1106A. Both the accused and the crime victim may be given an additional twenty (20) days by the CA to submit matters upon receipt of a proper request.

d. The accused will be given an additional five (5) days to respond to any matters submitted by a crime victim.

e. Upon receipt of post-trial matters or waiver of that right, the RLSO shall forward the following to the SJA for the CA to review and take action: (1) the recording of all open sessions of the court-martial; (2) unless sealed, copies of, or access to, the evidence admitted at the court-martial, and appellate exhibits; and (3) all matters submitted by the accused and crime victim. If a CA wishes to review any sealed portion of the record, a request must be submitted to the military judge.

f. The CA, after consultation with the SJA, will determine what action, if any, will be taken. The convening authority's power to grant clemency is based on the date of the earliest offense of which the accused was convicted. The CA's action will be promptly forwarded to the military judge and incorporated as an attachment to the record of trial in accordance with R.C.M. 1112(b).

(1) For cases **referred** to trial on or after 1 January 2019, the following CA action procedures apply:

(a) If all of the offenses of which the accused was convicted occurred **after** 1 January 2019, the post-trial procedures contained in this instruction, in Articles 60a and 60b, MCM 2019, and in R.C.M. 1109 and 1110, MCM 2019, shall apply.

(b) If the accused is convicted of any offense that occurred **before** 1 January 2019, but **on or after** 24 June 2014, the clemency authority described in Article 60, MCM 2016, will apply, and the post-trial procedures contained in this instruction and all enclosures shall be utilized. A Staff Judge Advocate Recommendation (SJAR) will not be created in these cases.

(c) In a case in which the accused is convicted of any offense that occurred **before** 24 June 2014, the clemency authority described in Article 60, MCM 2012, will apply, and the post-trial procedures contained in this instruction and all enclosures shall be utilized. An SJAR will not be created in these cases.

(d) The CA's suspension authority outlined in Article 60a(c), the authority to act on a military judge's suspension recommendation, applies regardless of the date of any conviction, even if the operative version of Article 60 does not permit such suspension.

(e) Regardless of which version of clemency authority applies, and even if the CA decides to take no action, the SJA will ensure that the CA complies with the requirements of R.C.M. 1109(g) and the action is documented using enclosure (6).

(2) In cases referred to trial **before** 1 January 2019, this instruction and the enclosures contained herein do not apply (use JAG/CNLSCINSTRUCTION 5814.1B). Also apply the Article 60 provisions in place at the time of the *earliest* offense resulting in a guilty finding (to include the requirement for an SJAR) and the post-trial procedures contained in RCM 1107, MCM 2016. In a case in which the accused is convicted of an offense that occurred **before** 24 June 2014, the clemency authority described in Article 60 and R.C.M. 1107, MCM 2012, shall apply.

(3) The SJA or LO shall ensure the CA uses enclosure (6) to document the action taken in a case that is referred on or after 1 January 2019. This document shall be provided to the RLSO that conducted the court-martial as soon as practical. In an effort to support the timely completion of post-trial matters, RLSOs, via their PTPD/PTPU, shall be available to support CAs in completion of enclosure (6).

g. Upon receipt of the CA's action, the military trial judge will enter the judgment of the court-martial. Enclosure (6) will be used as the template for all EOJs. The RLSO shall provide a copy of the EOJ to the accused, designated defense counsel, CA, and upon request, the crime victim or victim's counsel.

h. The RLSO, upon receipt of the EOJ, shall compile the ROT for certification. The certified ROT is the official record of a court-martial and will be prepared as described in R.C.M. 1112. The certified ROT must contain all items listed in RCM 1112(b).

i. Once the certified ROT is compiled in accordance with R.C.M. 1112(b), the court reporter will certify the ROT in accordance with R.C.M. 1112(e) and will utilize the certification language provided in enclosure (2).

j. Once the certification is complete, the RLSO will then notify any victim of their right to obtain a copy of the certified ROT. A copy of the certified ROT will be provided to (1) a victim of an offense of which the accused was charged and the victim testified during the proceeding or (2) a victim named in a specification of which the accused was charged, upon request, without regard to the findings of the court-martial. If a victim requests the certified ROT be provided directly to them, they must provide an address for the ROT to be delivered. Prior to providing the ROT to the victim, the RLSO will ensure all documents and recordings are redacted to remove all Personally Identifiable Information to include the following: (1) social security and tax identification numbers; (2) birthdates; (3) financial account numbers; (4) home addresses; (5)

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personal email addresses and phone numbers; (6) any unsealed medical records; (7) any closed sessions pertaining to other victim(s); and (8) names of (other) minor witness(es)/victim(s). Additionally, the ROT, as provided to the victim, must not include any classified or sealed information or recordings of closed sessions. If a court-martial involves two or more crime victims, any closed session pertaining to one crime victim must be redacted from the recording provided to all other crime victims (e.g., M.R.E. 412, M.R.E. 513, and M.R.E. 514 hearings.)

k. An accused is also entitled to receive a copy of the certified ROT. If the accused requests the certified ROT be provided directly to them, they must provide an address for the ROT to be delivered. If an accused is located in a confinement facility, the ROT must be provided in a format accessible by the accused while in confinement. The ROT, as provided to the accused, must not include any classified or sealed information or recordings of closed sessions.

l. In all general and special courts-martial where there is a guilty finding, the RLSO will prepare the certified ROT for appellate review in accordance with R.C.M. 1112(f). Once the ROT is compiled in accordance with R.C.M. 1112(f), the military judge must verify the ROT and the accompanying verbatim transcript. The verification process is performed in accordance with the definitions and procedures provided in reference (j). The court reporter shall forward the ROT compiled under R.C.M. 1112(f) and the verbatim transcript to the military judge with a statement that the ROT and attachments are complete; the verbatim transcript is an accurate representation of the audio recording; and the ROT, attachments, and verbatim transcript are ready to be forwarded for appellate review. Documentation of the military judge's verification must be attached to the certified ROT before forwarding the certified ROT for appellate review. The military judge must complete this verification within twenty (20) days of receipt of the ROT. After the military judge verifies the ROT and accompanying verbatim transcript, the court reporter will certify the ROT is prepared in accordance with R.C.M. 1112(f). Prior to certification of the ROT pursuant to R.C.M. 1112(f), enclosure (2) must be completed and attached to the certified ROT.

m. A verbatim transcript will be created and appended to the certified ROT in all general and special courts-martial where a guilty finding is reached. In cases where there is a full acquittal, a summarized report, as defined by reference (i), will be created and appended to the certified record of trial. The verbatim transcript and summarized report will be created in accordance with reference (i). Upon completion of the verbatim transcript and summarized report, the transcriptionist and the court reporter (if not the transcriptionist) will certify the accuracy of the transcript or summarized report and attach that certification to the transcript or summarized report. The certification language is provided in enclosure (2).

n. A certified ROT must be completed and forwarded for appellate review no later than 120 days from the announcement of the sentence. If any RLSO is unable to forward a ROT for appellate review within 120 days, documentation of the reasons for delay must be added to the record of trial.

o. Everyone covered by this instruction is responsible for ensuring complete and timely post-trial processing of courts-martial. The RLSO responsible for prosecuting a case retains

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primary responsibility to proactively monitor the completion of required post-trial actions, document action taken and/or reasons for delay in every stage of the post-trial process, and forward completed ROTs to appellate authorities. Finally, for all courts-martial, regardless of the finding or sentence, each RLSO shall maintain a complete copy of the certified ROT until two years after the Notice of Completion of Appellate Review (NOCAR) is promulgated.

6. Responsibilities

a. Chief of Staff, Region Legal Service Offices (COS-RLSO) shall:

(1) Be primarily responsible for post-trial processing of Navy Legal Service Command (NLSC) cases until the case is received by Navy-Marine Corps Appellate Review Activity (NAMARA).

(2) Monitor NLSC cases received by NAMARA until the case is docketed by NMCCA.

(3) Coordinate, as necessary, with the Assistant Judge Advocate General (Military Justice) (Code 02) to ensure timely post-trial processing of NLSC cases.

(4) Direct RLSOs to coordinate, as necessary, with NAMARA until the case is docketed with NMCCA.

(5) Provide additional guidance consistent with this instruction, as necessary, to ensure timely post-trial processing of NLSC cases.

(6) Provide post-trial processing reports for Navy military justice cases, as necessary, to the JAG and Deputy Judge Advocate General (DJAG)/Commander, Naval Legal Service Command (CNLSC).

b. Assistant Judge Advocate General (Military Justice) (Code 02) shall:

(1) Be primarily responsible for post-trial processing of Navy and Marine Corps cases from the time the case is received by NAMARA until the case is docketed by NMCCA.

(2) Coordinate as necessary with the SJA to the CMC, COS-RLSO, and the Chief Judge of the Department of the Navy (CJDON) to ensure timely post-trial processing of Navy and Marine Corps cases.

(3) Provide additional guidance consistent with this instruction, as necessary, to ensure timely post-trial processing of military justice cases.

(4) Provide post-trial processing reports for Navy and Marine Corps military justice cases as necessary to the JAG and DJAG/CNLSC.

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(5) Ensure NAMARA provides copies of the NOCAR to the CA and the RLSO that had initial post-trial responsibility to track and report the case.

(6) For Marine Corps cases, ensure NAMARA provides copies of the NOCAR to the CA and the respective Legal Services Support Section (LSSS), in appropriately issued guidance consistent with this instruction.

(7) Ensure timely processing of cases reviewed under Articles 64, 65, 69 and 73 and any other review which does not involve NMCCA. Ensure copies of completion of review under Article 64, 65, 69, and 73 are provided to the CA and RLSO that tried the court-martial case. Provide additional guidance consistent with this instruction, as necessary, to ensure timely post-trial processing of such cases.

(8) Implement procedures to ensure victims are notified of proceedings at the Court of Criminal Appeals.

(9) Ensure the Appellate Defense Division (Code 45) is notified of the results of an Article 69 review.

c. The CJDON shall:

(1) Establish and maintain timely and accountable post-trial processes for the appellate review of Navy and Marine Corps cases, beginning when each case is docketed with NMCCA.

(2) Provide appellate processing report for all cases docketed with NMCCA beginning when each case is docketed with NMCCA to completion of appellate review as necessary to the JAG and DJAG/CNLSC.

(3) Provide additional guidance consistent with this instruction, as necessary, to facilitate the post-trial process of records of trial.

d. RLSO commanding officers shall:

(1) Ensure post-trial processing is completed in accordance with this instruction.

(2) Issue a local instruction that establishes post-trial processing procedures consistent with this instruction and specific to the requirements of that AOR.

(3) Ensure members of the command assigned to perform post-trial processing duties receive sufficient training on the post-trial processing requirements set forth in this instruction and in references (a) through (i).

(4) Identify members of the command to serve as court reporters. These court reporters must receive adequate training on court reporting and the post-trial process, to include compiling and certifying the record of trial and certifying the verbatim transcripts.

(5) Ensure all members of the command receive training on CMS and/or any other electronic case management system implemented at a later date. Implement procedures to ensure data for all cases is entered into the case management system is complete and accurate.


(6) Ensure compliance with crime reporting requirements in all courts-martial and appropriate documentation is forwarded to law enforcement agencies and uploaded into the appropriate case management systems.

7. Enforceability. Case complexity, length of trial, availability of evidence, and additional duties of courts-martial personnel contribute to the actual time required to complete the post-trial process. Inability or failure to comply with this instruction shall not constitute grounds for assignment of error on appellate review and shall not create any cause for relief against an otherwise valid nonjudicial, judicial, or administrative hearing. The goals stated herein are for management purposes only.

8. 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.

9. 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 if 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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