

Rules of Practice
Before the Northwest Judicial Circuit
Navy-Marine Corps Trial Judiciary

PREAMBLE

The Northwest Judicial Circuit Rules of Practice (the Local Rules) supplement the Navy-Marine Corps Trial Judiciary Uniform Rules of Practice (the Uniform Rules) and the rules governing the *Professional Conduct of Attorneys Practicing under the Cognizance and Supervision of the Judge Advocate General*, JAGINST 5803.1 series (the Rules of Professional Conduct).

The Local Rules are promulgated by the Circuit Military Judge for the Northwest Judicial Circuit under RULES FOR COURTS-MARTIAL (R.C.M.) 108 and 801, pursuant to authority delegated in the Uniform Rules, and govern all Navy-Marine Corps general and special courts-martial tried in the Northwest Judicial Circuit. They are designed to promote a common understanding of the procedure for the litigation of general and special courts-martial within the circuit. The Local Rules shall be interpreted to complement the Uniform Rules and the Rules of Professional Conduct, and shall not be interpreted to supersede either.

Rule 1: APPLICABILITY

Rule 1.3: Prior to their first appearance on the record, all counsel must familiarize themselves with both the Uniform Rules and the Local Rules.

Rule 2: PURPOSE

Rule 2.1: The Local Rules are intended to promote an orderly and just disposition of courts-martial and to provide for more efficient application of judicial and legal resources within the Northwest Circuit.

Rule 3: CONSTRUCTION

No Local Rules.

Rule 4: REFERRED CHARGES

Rule 4.1.1: As soon as possible, but not later than five (5) days after referral of charges, trial counsel will provide the Circuit Military Judge and Clerk of Court with the charges and appropriate convening order. If original charge sheets are delayed, a copy or electronic copy of the charges and convening order may be provided within this five day window. The intent of this rule is to ensure that the Court is informed immediately that charges have been referred for trial by court-martial.

Rule 4.3.1: In any case involving a national security-designation, anticipated media interest, or other high-visibility matter, trial counsel should inform the Circuit Military Judge as soon as practicable after referral of charges.

Rule 5: CIVILIAN DEFENSE COUNSEL

Rule 5.5: Civilian counsel will wear appropriate conservative business attire to reflect the seriousness with which the proceedings are viewed.

Rule 6: DOCKETING/TRIAL MANAGEMENT ORDERS

Rule 6.1.1: The Circuit Military Judge is responsible for managing the docket and will conduct regular docketing sessions with counsel. The date a case is first discussed at a docketing session will be the case's docketing date.

Rule 6.1.2: The preferred method of docketing cases within the Northwest Judicial Circuit is by mutual agreement of both parties, with subsequent approval by the Circuit Military Judge. It is the responsibility of each counsel involved in this docketing process to make a good faith effort to find the earliest mutually agreeable trial schedule. Personal discussions between counsel are expected. At all times, counsel shall be prepared to support on the record their actions with regard to docketing. If counsel are able to reach a mutually agreeable trial schedule, then such schedule will be reflected on the Trial Management Order and provided to the Court at arraignment. If counsel are unable to reach a mutually agreeable trial schedule within fourteen (14) days from the case's docketing date, the trial counsel will submit, via the defense counsel, a Trial Management Order with proposed milestone dates and will request a scheduling R.C.M. 802 conference or Article 39(a) session with the Court. Defense counsel will have three (3) working days to endorse and return to the trial counsel any Trial Management Order submitted under this rule.

Rule 6.1.3: The Clerk of Court is the administrative point of contact for all docketing issues.

Rule 6.2.1: The Northwest Circuit docket can be accessed electronically at:

https://portal.secnav.navy.mil/orgs/JAG/52/Judicial_Circuits/NORTHWEST/SitePages/Home.aspx

All counsel must request access to the Northwest Circuit docket from the Clerk of the Court prior to their first appearance in court. All counsel must notify the Clerk of the Court promptly prior to any transfer or change of duties requiring removal of access to the docket.

Rule 7: PERSONALLY IDENTIFIABLE INFORMATION (PII)

No Local Rules.

**Rule 8: PRE-REFERRAL SUBPOENAS, ORDERS, WARRANTS & OTHER
COMMUNICATIONS WITH THE MILITARY JUDGE**

No Local Rules.

Rule 9: DISCOVERY/PROTECTIVE ORDERS

Rule 9.1.1: Ten (10) days prior to the commencement of trial, a party shall provide notice if it intends to offer expert testimony at trial. Notice shall include a summary of the expert's expected testimony, including the expert's qualifications, the expert's opinion, if any, and the basis for those opinions. Notice shall be served on all opposing parties and the Court.

Rule 10: MOTIONS/BILLS OF PARTICULARS

Rule 10.2.1: All motions must be filed with the court and served on opposing counsel. Filing shall occur as set forth in Rule 35. "Service" upon opposing counsel means that a true and complete copy of a pleading, notice, or document is delivered to opposing counsel.

Rule 10.2.2: Proof of physical delivery to the Clerk of the Court or opposing counsel will establish filing or service as appropriate. Proof that an electronic document was received and opened by the Clerk of the Court or opposing counsel will constitute presumptive proof of filing or service of the document in question, and will constitute presumptive proof of notice as to that document, except as to any portion of the pleading or document which was not transmitted electronically.

Rule 11: CONTINUANCES

No Local Rules.

Rule 12: SITUS

No Local Rules.

Rule 13: COURTROOM SECURITY

No Local Rules.

Rule 14: UNIFORMS

No Local Rules.

Rule 15: SPECTATORS

Rule 15.1.1: Civilian spectators will wear appropriate civilian attire to reflect the seriousness with which the proceedings are viewed.

Rule 16: PUNCTUALITY

No Local Rules.

Rule 17: BAILIFF

No Local Rules.

Rule 18: GUARDS

No Local Rules.

Rule 19: COURT REPORTERS

No Local Rules.

Rule 20: ENTRY AND DEPARTURE OF MILITARY JUDGE

No Local Rules.

Rule 21: ENTRY AND DEPARTURE OF MEMBERS

No Local Rules.

Rule 22: VOIR DIRE

No Local Rules.

Rule 23: PROHIBITED ITEMS IN THE COURTROOM

No Local Rules.

Rule 24: COUNSEL DECORUM

No Local Rules.

Rule 25: COUNSEL CONDUCT

No Local Rules.

Rule 26: WITNESSES

No Local Rules.

Rule 27: OBJECTIONS

No Local Rules.

Rule 28: STIPULATIONS

No Local Rules.

Rule 29: OFFERS OF PROOF

No Local Rules.

Rule 30: JUDICIAL NOTICE

No Local Rules.

Rule 31: EXHIBITS

Rule 31.1.1: Unsworn statements offered pursuant to R.C.M. 1001(c) will be marked as an appellate exhibit (“AE”) followed by Roman numeral as appropriate.

Rule 31.5: Counsel must obtain the express prior approval of the presiding military judge before using any form of electronic media in any session of court.

Rule 31.6: Any exhibits or evidence intended to be used during opening statement or argument must be approved for use by the presiding military judge. Counsel must ensure that electronic exhibits are properly duplicated as hard copy printouts for inclusion in the record of trial.

Rule 31.7: Counsel intending on using demonstrative aids, such as charts, diagrams, videotapes, audio tapes, or any other technological presentations during their opening statement, closing arguments, or during the presentation of the evidence must provide notice to the presiding military judge and opposing counsel prior to trial and with sufficient time to review and consider objections.

Rule 32: VIDEO TELECONFERENCE (VTC) REQUIREMENTS

No Local Rules.

Rule 33: FINDINGS AND SENTENCING INSTRUCTIONS

No Local Rules.

**Rule 34: RECORD OF TRIAL/APPELLATE RIGHTS/STATEMENT OF TRIAL
RESULTS/ENTRY OF JUDGMENT/SEALING ORDERS**

No Local Rules.

Rule 35: DOCUMENTS AND PLEADINGS

Rule 35.1.1: General Guidance for Filing

Rule 35.1.2: Except for the requirements for hard copy filing detailed below and with the exception of classified materials and materials under seal, all briefs, motions, notices, and all other pleadings must be filed electronically by e-mailing the document or pleading to the Court's organizational e-mail box listed below by 2359 on the due date unless a different time is directed by the Court.

Rule 35.1.3: *Court's Organizational E-mail Box:* [TRIJUDAC Northwest@navy.mil](mailto:TRIJUDAC_Northwest@navy.mil)

Rule 35.1.4: All documents filed electronically shall be submitted in Word format or be converted to Adobe Acrobat or pdf file format. Whenever possible, pdf files should be directly exported from Microsoft Word or other word processing software, rather than printed and scanned. If submitted in pdf, the file should be reduced in size using tools and features like Adobe Acrobat's "Reduce File Size." Prior to submitting a Word document or converting to pdf format, counsel must remove any "Track Changes," electronic notes, or other metadata counsel does not intend to file with the court and opposing counsel. All documents must be signed with a digital signature certificate.

Rule 35.1.5: Documents shall be properly oriented for viewing.

Rule 35.1.6: *Naming Convention for Electronically Filed Documents:* All documents e-mailed to the Court shall be named as follows: [Date: YYYYMMDD][Party Last Name, First Initial, Middle Initial][Filing Entity (Government-Gov, Defense-Def, Victim-Vic)][Abbreviated Document Type]. Ex. 20200614 SmithAB Gov Mot to Preadmit

Rule 35.1.7: The party making the filing is responsible for redacting all unnecessary PII in accordance with Rule 7 of the Uniform Rules.

Rule 35.1.8: Consistent with Rule 4.1.1 and notwithstanding the general requirement for electronic filings, the original charge sheet in hard copy and a hard copy original or "certified as true" copy of the convening order shall be provided to the Clerk of Court.

Rule 35.1.9: Notwithstanding the general requirement for electronic filings, original pleadings or documents exceeding 100 pages shall be filed in hard copy with the Clerk of Court.

Rule 35.1.10: Notwithstanding the general requirement for electronic filings, all video and audio files shall be provided to the Clerk of Court in hard copy.

Rule 35.1.11: *Classified and Sealed Materials.* Notwithstanding the general requirement for electronic filings, when a pleading or document references or includes classified materials or materials under seal, counsel should contact the Clerk of Court in advance of the filing deadline to receive specialized instructions for filing.

Rule 35.1.12: *Motion for Leave to File Out-of-Time:* Any filing that is submitted out-of-time, i.e., after the due date, shall be submitted to the Court along with a motion to file out-of-time, exhibiting good cause for why the Court should accept the out-of-time filing.

Rule 35.1.13: At or before the filing of any pleading or other paper relative to a case, counsel shall ensure that a copy thereof is served on all counsel of record consistent with these rules, the Uniform Rules, and the Rules of Professional Conduct.

Rule 36: VICTIMS' LEGAL COUNSEL AND OTHER NON-PARTY COUNSEL

No Local Rules.

Rule 37: VICTIM'S RIGHT TO BE HEARD

No Local Rules.

Rule 38: APPOINTMENT OF A DESIGNEE FOR CERTAIN VICTIMS

No Local Rules.

Rule 39: CONTEMPT PROCEEDINGS

No Local Rules.

Rule 40: MODEL PRETRIAL/PLEA AGREEMENT

No Local Rules.