DEPARTMENT OF THE NAVY
OFFICE OF THE JUDGE ADVOCATE GENERAL
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JAGINST 5813.1B
Code 05
26 Apr 17

JAG INSTRUCTION 5813.1B

From: Assistant Judge Advocate General (Operations & Management)

Subj: EXTENSION OF STANDARDIZATION OF GENERAL COURTS-MARTIAL AND SPECIAL COURTS-MARTIAL VERBATIM AND SUMMARIZED RECORDS OF TRIAL

Ref: (a) OPNAVINST 5215.17A

1. The above instruction has been reviewed, and the effective date extended for one year in accordance with reference (a).

G. E. SHARP

Releasability and distribution:
This instruction is cleared for public release and is available electronically only via The Judge Advocate General's Web site www.jag.navy.mil.

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IN REPLY REFER TO

JAGINST 5813.1B
Code 05
SEP 2 9 2010

JAG INSTRUCTION 5813.1B

From: Judge Advocate General

Subj: STANDARDIZATION OF GENERAL COURTS-MARTIAL AND SPECIAL COURTS-MARTIAL VERBATIM AND SUMMARIZED RECORDS OF TRIAL

Ref: (a) U.S. Government Printing Office Style Manual, 2000
(b) Manual for Courts-Martial, United States, 2008 (MCM)
(c) DD Form 490, May 2000
(d) DD Form 491, May 2000
(e) DD Form 491-1, May 2000

Encl: (1) Standard format for verbatim records of trial
(2) Standard format for summarized records of trial
(3) Boilerplates for summarized records of trial

1. Purpose

a. To reissue the standard format required for all General Courts-Martial(GCM), and Special Courts-Martial (SPCM), verbatim and summarized records of trial.

b. This is a major revision and should be reviewed in its entirety.

2. Cancellation. JAGINST 5813.1A.

3. Applicability. This instruction supplements the requirements for preparation of records of trial promulgated in references (a) and (b), and is supplemented by references (c), (d) and (e). It applies to all personnel involved in the preparation and authentication of GCM and SPCM verbatim and summarized records of trial.

4. Procedure

a. Rule for Courts-Martial (R.C.M.) 1103(b)(2)(B) requires a verbatim record of trial when any part of the sentence adjudged exceeds six months confinement, forfeiture of pay greater than two-thirds pay per month or any forfeiture of pay

for more than six months, or exceeds any other punishments that may be adjudged by a special court-martial, or a bad-conduct discharge has been adjudged. In all other cases, a summarized record of trial may be prepared. However, the convening authority may direct that a verbatim record of trial be prepared in lieu of a summarized record of trial.

b. SPCM and GCM verbatim records of trial shall be prepared in the format provided in enclosure (1).

c. SPCM and GCM summarized records of trial shall be prepared in the format provided in enclosure (2) and with the boilerplates provided in enclosure (3).

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 compact disk (CD) containing the electronically formatted evidence for inclusion in the record of trial. In cases in which the evidence of child pornography is introduced in a printed format, the government trial counsel will scan the evidentiary exhibit or exhibits into a portable document format (pdf) onto a password protected CD, which will then be substituted in the record of trial for the original evidence. The original evidence should then be returned to the Naval Criminal Investigative Service or other cognizant law enforcement agency for storage as evidence until final action on the record of trial and exhaustion of the appellate process. Under the terms of a sealing order issued by the military judge, the password to any protected CD in the record of trial shall be provided by the trial counsel to those with record of trial review responsibilities including the trial military judge who shall forward it via email to the Clerk of Court for the Navy-Marine Corps Court of Criminal Appeals.

6. Electronic Records. In cases where an electronic record of trial has been created, the electronic record shall be an exact duplicate of the hardcopy record of trial and be in a portable document format (pdf). The CD shall be attached to the hardcopy record of trial. As electronic record improvements are realized, amplification of specific processes shall be provided.

7. Delivery. All records of trial requiring review under Article 66 or 69, U.C.M.J., shall be sent to the Office of the Judge Advocate General 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. In all cases, the date of mailing or hand delivery shall be annotated on DD Form 490. The sending office must retain delivery records that verify receipt of the record by Navy-Marine Corps Appellate Review Activity.

8. Action. All personnel involved in the preparation and authentication of GCM and SPCM verbatim and summarized records of trial shall comply with the provisions of this instruction.

JAMES W. HOUCK

Distribution:
Electronic only via the OJAG website at http://www.jag.navy.mil and the Navy Directives website at http://doni.daps.dla.mil.

STANDARD FORMAT FOR VERBATIM RECORDS OF TRIAL

INTRODUCTION

The attached provides the court reporter with a guide for format in preparing verbatim transcripts of cases tried by general and special courts-martial.

Also included in these pages are notes, which are **shaded** and set off from the main body of the text. These notes give examples of transcription other than that contained in the record of trial text, as well as explanations of transcript content. These notes explain and clarify and are not part of the actual transcribed record of trial.

To ensure uniformity in format, transcriptions of all verbatim records of special and general courts-martial will follow the format and instructions contained in the following pages.

Appendices 8 and 14 and Rules for Court-Martial (R.C.M.) 1103 and 1104 in reference (b) provide further guidance in preparing, assembling and copying records of trial.

Primary duty of a court reporter: to transcribe and provide an accurate, verbatim record of proceedings.

Trial counsel shall supervise the preparation, authentication and distribution of copies of the record of trial and ensure the safeguarding of notes and recordings of the proceedings.

GENERAL INSTRUCTIONS FOR THE PREPARATION

OF VERBATIM RECORDS OF TRIAL

1. **Font size and style.** Use only Courier or Courier New fonts. Font size should be 12 point. Do not use cursive, script, or italic fonts, except when appropriate in specific situations, such as citations.

2. **Margins.** Set margins as follows:

   Left: 1 inch
   Right: 1/2 inch
   Top: 1-1/2 inches
   Bottom: 1 inch

3. **Justification and line spacing.** Use left justification and single space text, except for pleas, findings and sentence (discussed later). Begin each question and answer on a separate line. Begin each question and answer 5 spaces from the left margin with 2 spaces from the Q and A to the text. Begin carry-over Q and A lines at the left margin. Type the appropriate prefix to indicate identity of a speaker, followed by a colon and two spaces.

4. **Paragraphing.** Utilize proper paragraphing technique when typing lengthy narratives such as military judge's instructions, counsel's arguments, and lengthy "Questions and Answers, (Q & A)." Begin a paragraph for each new line of thought. Begin each new paragraph by indenting 10 spaces. Additionally, start a new paragraph for each separate element in a list; i.e. elements of an offense, legal definitions, accused's rights, and oral stipulations.

5. **Bolding.** The following entries will be bolded in the record of trial:

   a. Standard Stock Entry (SSE) for **[END OF PAGE]**.

   b. Names of persons present and absent.

   c. The calling of witnesses and stages of examination.

   d. Pleas, findings, and sentence.

   e. SSE for insertion of the charge sheet.

6. **Pagination**

a. Number all pages, **including the first page**, ½ inch (three line spaces) from the bottom of the page.

b. If an error in numbering occurs, correct it as follows:

(1) Extra page to be inserted: Use preceding page number plus an "a", such as "19a".

(a) At the bottom of the preceding page, type:

19
Next page 19a

(b) At the bottom of the inserted page, type:

19a
Next page 20

(2) Skipped number, i.e., numbers jump from 18 to 20, but nothing has been omitted from the record, on page 18, type:

18
There is no page 19
Next page 20

c. When transcribing, end text as close to 1 inch, but not more than 2 inches, from the bottom of the page. When typed text ends more than 2 inches from the bottom of the page, type the following in brackets, centered and bolded, below the last line of text:

[END OF PAGE]

This indicates to reviewing authorities that nothing has been omitted from the record of trial. Ensure that you do not split pleas, findings, the sentence, a "Q and A" or calling a witness and stage of examination.

7. **Abbreviations.** Abbreviations such as U.S., JAGC, SC, MC, and other branch designators are authorized within standard stock entries. Unless a word is actually spoken as an abbreviation within the text of your record of trial, (e.g.: U.S. Navy, USS, LNC) use only the abbreviations listed below when transcribing:

a. Mister ---------- Mr.

b. Mistress ---------- Mrs., Ms., Miss

c. Doctor ---------- Dr.

8. **Capitalization.** When there is only one charge and specification, "Charge" and "Specification" will be capitalized. When there is more than one charge and specification, "charges" and "specifications" will be capitalized only when referring to a specific charge or specification.

EXAMPLES:

The general nature of the Charge in this case....

Take a look at Charge I and the Specification thereunder.

The general nature of the charges in this case....

The elements of Specification 2 under Charge III are as follows:

When entering pleas and findings, "Charge(s)" and Specification(s)" will always be capitalized, regardless of how many there are.

EXAMPLES:

The accused pleads:

To the Charge and Specifications....

To the Charges and Specifications....

To Charge I and the two Specifications....

9. Numbers

Use the narrowest applicable rule.

a. Whole numbers

(1) A figure is used for a single number of 10 or more with the EXCEPTION of the first word of a sentence. (See RULE 9a(2)(a). below.)

(2) **Units of measurement and time**, actual or implied, are expressed in figures.

(a) **Age:** 6 years old; 52 years, 10 months, 6 days; a 3-year old; at the age of 3 (year implied).

(b) **Clock time:** 4:30 p.m.; 10 o'clock or 10 p.m.; 12 p.m. (noon); 12 a.m. (midnight); this p.m.; in the p.m.; half past 4:00. (These times would be transcribed as dictated.)

(c) **Military time:** 1600, 1630, 0800, 0930, etc.

(d) **Time (other than clock time):** 6 hours; 8 minutes; 20 seconds; 10 years; 3 months; 29 days; 7 minutes; 8 days; 4 weeks; 5 nights; 3-day UA; 15-minute recess; recess for 15 minutes.

(e) **Dates:** 1st of June, June 1st, 2nd of June, June 2nd, 3rd of June, June 3rd, 2 June, (as spoken).

(f) **Measurement:** 6 acres; 8 by 12 inches; 2 feet by 1 foot, 8 inches; 6 miles; about 10 yards; 1 gallon.

(g) **Money:** When monetary values are concerned and the money is a SPECIFIC amount, ALWAYS use numerals. When the amount is referred to in a GENERAL WAY, use words instead of numerals.

EXAMPLES:

Q. How much money was in the valise?

A. About a million dollars.

Q. Exactly how much?

A. $1,055,000.00

(3) Except as otherwise noted, a number less than 10 is spelled out within a sentence.

(4) Related numbers appearing at the beginning of a sentence, separated by no more than three words, are treated alike.

EXAMPLE:

Q. Eighteen or twenty beers?

(5) Numerals are spelled out at the beginning of a sentence, **EXCEPT** in the following instances, where figures are used:

(a) Years.

A. 1984 was a very good year.

(b) Sums of money.

A. $52.50 was the price I paid for it.

(c) Decimals.

A. 12.8 points for each question missed.

(d) Street numbers.

A. 17 Constitution Avenue.

(e) Numerical expressions beginning with "101."

Q. 101 years is a long time, isn't it?

BUT

Q. One hundred years is a long time, isn't it?

(6) Use figures with a series of three or more numbers.

(2, 12, 13, and 15)

(7) Figures will be used for related numbers, any one of which is 10 or more. The sentence will be regarded as a unit for the use of figures.

EXAMPLES:

Each of 15 major commodities (9 metal and 6 nonmetal) was in supply.

BUT

Each of nine major commodities (five metal and four nonmetal) was in supply.

OR

Petroleum came from 16 fields, of which 8 were discovered in 1956.

BUT

Petroleum came from nine fields, of which eight were discovered in 1956.

b. Fractions and mixed numbers

(1) Fractions standing alone, or if followed by "of a" or "of an" or "of the" are generally spelled out.

EXAMPLES:

One-third.

One-third of a farm.

(2) If the figure for fractions is used, it will be transcribed by separating figures with a diagonal (/) mark.

1/2-inch pipe, 1/4-mile run, 1/8-point rise

NOTE: WHEN THE MILITARY JUDGE USES FRACTIONS IN HIS INSTRUCTIONS, THESE FRACTIONS WILL BE TYPED AS FOLLOWS:

Two-thirds; three-fourths

NOTE: USE THE APOSTROPHE AFTER A FRACTION USED IN A PHRASE ABOUT FORFEITURES OR CONFINEMENT, WHERE THE "OF" HAS BEEN LEFT OUT, I.E., TWO-THIRDS' PAY PER MONTH, 4 MONTHS' CONFINEMENT, 90 DAYS' PRETRIAL CONFINEMENT.

SPECIFIC INSTRUCTIONS FOR THE PREPARATION OF RECORDS OF TRIAL

1. **Prefixes for identifying personnel.** To speed the identification of speakers use the following prefixes:

COURT-MARTIAL PARTICIPANT	TYPED
MILITARY JUDGE	MJ:
PRESIDENT (Only when speaking as presiding officer)	PRES:
COURT MEMBER	MBR (LTJG BALL):
MEMBERS	MEMBERS:
TRIAL COUNSEL	TC:
ASSISTANT TRIAL COUNSEL	ATC:
DEFENSE COUNSEL	DC:
ASSISTANT DEFENSE COUNSEL	ADC:
INDIVIDUAL MILITARY COUNSEL	IMC:
CIVILIAN DEFENSE COUNSEL	CDC:
WITNESS (When speaking but NOT answering a question on examination.)	WIT:
ACCUSED (When speaking but NOT answering a question on examination.)	ACC:
COURT REPORTER	REPORTER:

2. **Verbatim recording and transcription.** Record and transcribe the testimony of witnesses and the remarks of court personnel verbatim, including slips of the tongue, false starts, interruptions, and pauses.

a. Use two hyphens to indicate self-interruptions.

EXAMPLES: Q. What did he tell you?

A. Well, I'm no--not really certain.

Q. When did he tell you?

A. She--He told me right then what to do.

b. Use four hyphens when another interrupts the person speaking.

EXAMPLES: Q. What did the commander tell you?

A. He told me that I----

DC: Objection, Your Honor, what the

commander said is hearsay.

A. ----was wrong.

3. **Reporter's remarks/SSEs.** Enclose all remarks inserted by the reporter, and all standard stock entries, in brackets. The only exceptions are those standard stock entries calling a witness, identifying the stages of examination, identifying who is doing the questioning, and the initial SSE heading on page one that begins the record of trial. These SSEs will be **bolded** and unbracketed.

a. Notations by the reporter that must reflect a gesture will commence, if possible, on the same line or on the following line. Note the punctuation in the following examples.

EXAMPLES:

A. About this [holding hands in front of body] far from his face.

A. [Pointing toward accused.] That's the accused over there.

A. That's the accused over there [pointing to the accused].

TC: [Hands Prosecution Exhibits 2 and 3 for identification to the military judge.] I offer into evidence what have previously been marked as Prosecution Exhibits 2 and 3 for identification, and request that the words, ("for identification;" "FID;" or "ID" as spoken) be deleted.

b. If the gesture happens at the end of the sentence, the first word is not capitalized and the punctuation appears outside of the closing bracket.

EXAMPLES:

A. That's the accused over there [pointing toward accused].

Q. Is that the accused over there [pointing toward accused]?

Your determination of where a reporter's remark should appear, either within or outside of a particular sentence, depends solely upon when the gesture occurred in court. However, keep the gesture with the individual who performed it.

EXAMPLE:

TC: [Handing document to the military judge.]

AS OPPOSED TO

[The trial counsel handed the document to the military judge.]

c. Reporter notations and/or SSEs that are not directly related to actions performed during testimony will be typed flush with the left margin. Second and succeeding lines are also typed flush with the left margin, typing the first letter directly under the bracket above it.

EXAMPLES:

SSE [LT Smith, the challenged member, withdrew from the courtroom.]

SSE [The trial counsel did as directed.]

SSE [The trial counsel read Prosecution Exhibit 2 to the court-martial.]

4. Recesses, Openings, Closings and Adjournment. The record of trial must reflect the time (expressed in hours and minutes) and the date of each opening, closing, recess and adjournment of the court-martial and all Article 39(a) sessions.

There are a variety of SSEs utilized to note the starting and stopping of the proceedings in the record of trial. You must choose the appropriate SSE which will accurately reflect these breaks in a proceeding.

A trial begins with an Article 39(a) session, which is any independent period of the proceedings held outside the presence of the court members. The initial Article 39(a) session is noted in the record of trial, on page 1, as follows:

SSE **PROCEEDINGS OF A SPECIAL COURT-MARTIAL**

SSE [The military judge called the Article 39(a) session to order at Naval Justice School, Newport, Rhode Island, at 0905 hours, 1 December 2000, pursuant to the following orders:]

SSE [Court-Martial Convening Order Number 4-00, Naval Justice School, Newport, Rhode Island, dated 1 November 2000.]

SSE **[END OF PAGE]**

If there are any modifications to the convening order, they will be reflected in the Page 1 SSE, as follows:

SSE **PROCEEDINGS OF A SPECIAL COURT-MARTIAL**

SSE [The military judge called the Article 39(a) session to order at Naval Justice School, Newport, Rhode Island, at 0905 hours, 1 December 2000, pursuant to the following orders:]

SSE [Court-Martial Convening Order Number 4-00, Naval Justice School, Newport, Rhode Island, dated 1 November 2000 as amended by Court-Martial Amending Order 4A-00, Naval Justice School, Newport, Rhode Island dated 15 November 2000.]

SSE **[END OF PAGE]**

If the Article 39(a) session recesses before its completion, reflect that fact in the record of trial as follows:

SSE [The session recessed at 0915 hours, 1 December 2000.]

When the Article 39(a) session is later called back to order, reflect that fact in the record of trial as follows:

SSE [The session was called to order at 0930 hours, 1 December 2000.]

The military judge will adjourn the Article 39(a) session at its conclusion. Reflect the adjournment as follows:

SSE [The session adjourned at 0945 hours, 1 December 2000.]

In a members trial, Article 39(a) sessions may be held at any time during the course of a trial. If one is held, stop typing on the page you are on and type **[END OF PAGE]**, centered, bolded and in all caps on the next line below the last line of text (if you're not within 2 inches of the bottom of the page). Begin typing on the top of a new page, using the SSE shown above for calling an Article 39(a) session to order.

In a court-martial with members, once the military judge adjourns the original Article 39(a) session, the members will enter the courtroom and take their seats. The military judge will then call the court-martial to order. In a court-martial following election of trial by military judge alone, there are no Article 39(a) sessions because the military judge is then the court. Use the following SSE to reflect this initial meeting of the entire court-martial whether composed of members or military judge alone:

SSE [The court-martial was called to order at 0950 hours, 1 December 2000, pursuant to the orders previously inserted in the record.]

If the court-martial subsequently recesses, that fact should be reflected as follows:

SSE [The court-martial recessed at 1005 hours, 1 December 2000.]

When the court-martial comes back into session, following the above recess, that fact should be reflected as follows:

SSE [The court-martial was called to order at 1015 hours, 1 December 2000.]

There are only two occasions during a court-martial when it will close and re-open: a court-martial will "close" to allow deliberation on the accused's guilt or innocence, and if the accused is found guilty, the court-martial will "close" to deliberate on a sentence.

Use the following SSE for closing the court-martial:

SSE [The court-martial closed at 1200 hours, 1 December 2000.]

Use the following SSE to re-open a closed court-martial:

SSE [The court-martial opened at 1230 hours, 1 December 2000.]

In a court-martial with members, the military judge may refer to Article 39(a) sessions as "out-of-court" sessions. In this situation, use the SSE for opening and recessing Article 39(a) sessions.

5. Calling of witnesses

a. The record must reflect that a witness was called or recalled by the prosecution, defense or court-martial itself. For military enlisted witnesses, the SSE must state the service member's name, rating and armed force. For officer witnesses, it is also necessary to show the officer's designator, when applicable (i.e., JAGC, DC, MC, SC, CEC, etc.). For civilian witnesses, the SSE must state the person's name followed by civilian. SSEs for calling witnesses are bolded and NOT placed in brackets. The witness' rank and name will be typed in all capital letters. Type only the middle initial, not the whole middle name, unless the witness goes by a first initial and middle name (i.e. D. Sean Moore). The SSE begins flush with the left margin.

EXAMPLES (MILITARY WITNESSES):

SSE MASTER CHIEF LEGALMAN (SURFACE WARFARE/AIR WARFARE) CALVIN N. RICHARDS, U.S. Navy, was called as a witness for the prosecution, was sworn, and testified as follows:

SSE CHIEF LEGALMAN (SURFACE WARFARE) GABE L. KAPLER, U.S. Navy, was called as a witness for the defense, was sworn, and testified as follows:

SSE LIEUTENANT DON A. MARTIN, JAGC, U.S. Naval Reserve, was called as a witness for the court-martial, was sworn, and testified as follows:

SSE CHIEF YEOMAN JAMES R. JEFFERY, U.S. Coast Guard, was recalled as a witness for the court-martial, was reminded of his previous oath, and testified as follows:

EXAMPLES (CIVILIAN WITNESSES):

SSE PAUL Y. DUNCAN, civilian, was called as a witness for the prosecution, was sworn, and testified as follows:

SSE SALLY GRUMP, civilian, was called as a witness for the defense, was sworn, and testified as follows:

NOTE: NO TITLES, SUCH AS MR., MRS., MISS, OR DR. ARE USED FOR CIVILIAN WITNESSES.

b. The record must reflect the warning (if one is given) and the departure from the courtroom of each witness. If a witness is warned by the military judge prior to being excused and withdrawing from the courtroom, use the following SSE:

SSE [The witness was instructed and withdrew from the courtroom.]

c. If the accused is called as a witness, he or she will take the witness stand to testify. The calling of the accused will use the same SSE as identified in 5.a. above. Once the accused has completed his or her testimony, the military judge will direct him or her to return to his/her seat at counsel table. Use the following SSE to reflect that movement:

SSE [The accused resumed his seat at the defense table.]

6. Stages of examination

a. You must record and transcribe the proper stage of examination. The stages of examination usually follow the order below. Transcribe each stage into the record of trial in UPPER-CASE letters, bolded and centered on the page, two lines below the SSE which shows the calling of the witness, or after the previous stage of examination has ended.

EXAMPLES:

SSE **DIRECT EXAMINATION**

SSE **CROSS-EXAMINATION**

SSE **REDIRECT EXAMINATION**

SSE **RECROSS-EXAMINATION**

SSE **EXAMINATION BY THE COURT-MARTIAL**

b. After identifying the stage of examination, you must identify the person who conducted the examination by using one of the following SSEs as applicable.

EXAMPLES:

SSE Questions by the trial counsel:

SSE Questions by the assistant trial counsel:

SSE Questions by the defense counsel:

SSE Questions by assistant defense counsel:

SSE Questions by civilian defense counsel:

SSE Questions by individual military counsel:

SSE Questions by the military judge:

SSE Questions by (member's name):

c. Identify individual questions posed by the questioner by using a "Q.".

EXAMPLE:

Q. Please state your name, rate, and armed force for the record.

d. Identify answers by the witness in response to questions posed by the questioner having control to the stage of examination by an "A.".

EXAMPLE:

A. I am Seaman Danny Thomas, and I'm in the U.S. Navy.

e. Identify answers by the witness in response to questions asked by anyone else using the prefix "WIT:".

EXAMPLE:

MJ: Seaman Thomas, please speak up, I couldn't hear the last part of your answer.

WIT: Yes, sir. I said, "I'm in the U.S. Navy."

7. **Standard Stock Entries.** (SSEs) show movement in a courtroom, and abbreviate actions within a trial, such as swearing of a witness; reading an exhibit; etc. Except as previously noted, all SSEs will appear flush with the left margin and enclosed in brackets.

EXAMPLES:

a. Member leaving the courtroom:

SSE [Lieutenant Junior Grade Smith, the challenged member, withdrew from the courtroom.]

All members leaving the courtroom:

SSE [The members of the court-martial withdrew from the courtroom.]

b. When the military judge has instructed someone in the court-martial to do something:

SSE [The (trial counsel) (defense counsel) (accused) (court reporter) (members of the court-martial) (court-martial) (bailiff) (witness)(all persons) did as directed.]

c. Swearing:

SSE [The assistant trial counsel was sworn.]

SSE [The accused was sworn.]

SSE [The members of the court-martial were sworn.]

d. Instead of typing what is read verbatim in open court, the following SSE may be inserted:

SSE [The trial counsel read Prosecution Exhibit 2 to the court-martial.]

NOTE: STIPULATIONS MUST BE TYPED VERBATIM.

e. The military judge directs counsel to approach the bench for a sidebar conference:

SSE [The trial counsel and defense counsel did as directed.]

f. The above SSE concerning sidebars would be followed by:

SSE [The trial counsel and defense counsel resumed their respective seats at the counsel tables.]

THESE ARE THE AUTHORIZED STANDARD STOCK ENTRIES. DO NOT USE ANY OTHER LANGUAGE IN A STANDARD STOCK ENTRY.

PROCEEDINGS OF A COURT-MARTIAL

[The military judge called the Article 39(a) session to order at , at hours, .]

[Court-Martial Convening Order Number , dated .]

[END OF PAGE]

[THE CHARGE SHEET FOLLOWS AND IS NOT A NUMBERED PAGE.]

[The session recessed at hours, .]

[The session adjourned at hours, .]

[The session was called to order at hours, .]

[The court-martial was called to order at hours, , pursuant to the orders previously inserted in the record.]

[The court-martial was called to order at hours, .]

[The court-martial recessed at hours, .]

[The court-martial adjourned at hours, .]

[The court-martial closed at hours, .]

[The court-martial opened at hours, .]

[The accused did as directed.]

[The trial counsel did as directed.]

[The defense counsel did as directed.]

[The members did as directed.]

[The accused and defense counsel did as directed.]

[The accused was sworn.]

[All persons did as directed and the members were sworn.]

[The members of the court-martial were sworn.]

[The members of the court-martial withdrew from the courtroom.]

[, the challenged member withdrew from the courtroom.]

[The witness was duly warned and withdrew from the courtroom.]

[The witness withdrew from the courtroom.]

[The accused resumed his seat at defense counsel table.]

[The trial counsel read Prosecution Exhibit to the court-martial.]

In addition to the above SSEs, the calling of a witness, stage of examination and individual conducting the examination are also considered SSEs.

Any other movement in the courtroom that is not listed above is considered to be a gesture and should be typed with the speaker prefix of the individual performing the gesture.

EXHIBITS

a. Court-martial proceedings. During the course of a trial, there are usually exhibits presented to the court-martial, which are first marked for identification. As a reporter, you should meet with counsel prior to trial and mark the exhibits so as not to delay the proceedings. In a long, contested case, however, it's inevitable that some exhibits will need to be marked during the proceedings. Marking exhibits in court should be done with pencil, preferably in the lower right hand corner of the document. If there is not room for the marking in the lower right hand corner, then mark them in the lower left or some other inconspicuous place on the document, as follows:

PE 1 for ID

OR

DE A for ID

OR

AE I

REMEMBER, APPELLATE EXHIBITS ARE NEITHER OFFERED NOR RECEIVED, SO THEY ARE NOT MARKED "FOR IDENTIFICATION."

Photographs and other documents that cannot be marked on the front should be marked on the back. Some physical items of evidence will require you to tag them with their exhibit number. Ensure you have evidence tags available to you for this purpose. Physical evidence which cannot be placed in the record of trial will have to be photographed after court, and these photographs will be placed in the record of trial.

If the reporter marks the exhibit in open court, the sponsoring counsel will announce which exhibit they are marking as follows:

"This will be Defense Exhibit A for identification."

OR

"These will be Prosecution Exhibits 5 through 8 for identification."

OR

"This will be Appellate Exhibit I."

When an exhibit, which has been marked for identification, is finally offered and received into evidence, the words, "for identification" must be crossed out. This can be accomplished in several different ways.

(1) The reporter may cross out the words in court at the direction of the military judge;

(2) The reporter may cross-out the words at the conclusion of the trial, as directed by the military judge; or

(3) The military judge will cross out the words.

b. Preparation of exhibits for the record of trial.

(1) Erase pencil markings and type or rubber-stamp the full exhibit number directly on the exhibit. The page in which the exhibit was offered, admitted and/or rejected will appear immediately below the marking. For Appellate Exhibits, use the page in which the exhibit was marked and appended.

EXAMPLES:

PROSECUTION EXHIBIT 1
OFFERED: PAGE 10
ADMITTED: PAGE 11

DEFENSE EXHIBIT C FOR IDENTIFICATION
OFFERED: PAGE 32
REJECTED: PAGE 41

APPELLATE EXHIBIT III
MARKED: PAGE 7
APPENDED: PAGE 8

Exhibits which are not of the standard 8 1/2 x 11 size, such as photographs, documents that need folding because of size, etc., will be mounted on a standard 8 1/2 x 11 sheet of plain bond paper. Photographs will be marked on the front without covering any portion

of the photograph; if possible, otherwise markings may be placed on the back.

(2) Exhibits will be assembled in the following order, separated by the use of heavy stock dividers, colored, and labeled directly on the divider or with gummed labels.

(a) Prosecution exhibits received/admitted into evidence.

(b) Defense exhibits received/admitted into evidence.

(c) Prosecution exhibits not received into evidence.

(d) Defense exhibits not received into evidence.

(e) Appellate exhibits.

If you use copies of documents, photographs, or descriptions of items rather than the originals, be certain they are attested to or authenticated. The trial counsel normally signs this attestation. Place the appropriate attestation entry on the exhibit, preferably on the lower left corner of the exhibit, if space is available.

EXAMPLES:

A true copy. Attest:

PETER R. RYAN
LT, JAGC, USN
Trial Counsel

A true photograph. Attest:

PETER R. RYAN
LT, JAGC, USN
Trial Counsel

NOTE: PLACE PHOTO ATTESTATIONS AND EXHIBIT MARKINGS ON REVERSE SIDE OF PHOTOS.

A true description. Attest:

PETER R. RYAN
LT, JAGC, USN
Trial Counsel

A true extract. Attest:

PETER R. RYAN
LT, JAGC, USN
Trial Counsel

SAMPLE PLEAS

Listed below are a number of examples of pleadings. They are listed only to give you some idea to what the pleading should look like in the record of trial. **REMEMBER, THESE ARE ONLY SAMPLES!** As a court reporter, it is your responsibility to record the pleadings verbatim, and then enter them in the record of trial in the proper format. **DO NOT CHANGE WHAT WAS ACTUALLY SAID IN THE COURT-MARTIAL. RATHER, TAKE WHAT WAS SAID AND ENTER IT IN YOUR RECORD OF TRIAL IN THE PROPER BLOCKED FORMAT.**

Indent 10 spaces from the left margin and divide the pleading by 7 spaces from the end of the longest line. Single space between specifications of the same charge, and double space between charges. SEE EXAMPLES. **NOTE BLOCK FORMAT, BOLD PRINT, AND LINE SPACING.**

*****PLEAS, FINDINGS, AND SENTENCE ARE SINGLE-SPACED AND BOLDED.**

EXAMPLES:

DC: The accused pleads:

To the Charge and Specification: Not Guilty.

§§§

To Charge I:	Guilty.
To the Specification thereunder:	Guilty.
To Charge II:	Guilty.
To Specification 1 thereunder:	Not Guilty.
To Specification 2 thereunder:	Guilty.

§§§

To Charge III and two Specifications thereunder: **Guilty.**

MJ: I'm sorry, Specifications 2, 3 and 4 of Charge II?

DC: Oh, I'm sorry, Your Honor, not guilty.

§§§

To the Specification under Charge II:	Not Guilty, excepting the word, "culpable"; as excepted, Guilty.
To Charge II:	Not Guilty, but guilty to the lesser included offense of Article 134, negligent homicide.

NOTE: REMEMBER, THESE ARE ONLY EXAMPLES. BE SURE TO TYPE VERBATIM, GET THE PUNCTUATION AND CAPITALIZATION CORRECT.

Elements of the Offense

When an accused pleads guilty to any offense, the military judge conducts a providence inquiry to determine whether the accused actually believes he is guilty. Part of the inquiry requires that the elements of the offense be stated to the accused. Whenever the military judge reads the elements of the offense to the accused or the members, they will be indented 10 spaces from the left margin.

EXAMPLE:

MJ: ...Please follow along on your copy of the charge sheet as I list the elements of the offense for you. The elements are:

First, that at the time and place alleged, you wrongfully took from the possession of the true owner, the property described in the specification;

Second, that such property belonged to a certain person named or described, as alleged;

Third, that the property was of the value alleged; and

Fourth, that the taking by you was with the intent to temporarily deprive the owner of the use and benefit of the property.

EXAMPLE:

MJ: The elements of Specifications 1 and 3 under Charge I are similar. In each case, the elements are:

That, during the period February to December CY-1, you knew that you had certain duties onboard U. S. Naval Base Guantanamo Bay, Cuba;

That, you were derelict in the performance of those duties;

In the case of Specification 1:

That, you were derelict in the performance of those duties, in that, on divers occasions, which means more than once, you drew your weapon from your holster, cycled the action, pointed the weapon at other Marines and pulled the trigger, thereby failing to follow weapons safety rules;

In the case of Specification 3:

That, you were derelict in your duties, in that, on divers occasions, you failed to keep your 9 millimeter service pistol in Condition 3 Weapons Status, as it was your duty to do;

In the case of both specifications:

That, this dereliction in those duties was willful on your part.

Stipulations of Fact and Testimony

Stipulations of fact and stipulations of testimony are shortcuts to introducing evidence to the court-martial.

When both sides agree to enter into a stipulation of fact, the facts contained in the stipulation cannot be contradicted by either side. For example, rather than calling in a witness and introducing into evidence a calendar to show that 25 December 1999 was a Saturday, both sides can stipulate to that fact and offer the written stipulation as evidence.

A stipulation may also be used to introduce testimony before the court-martial in lieu of calling a witness to testify. A stipulation of testimony may be rebutted.

When a stipulation of fact or testimony is offered, it is usually read out loud in court by the party offering the stipulation and is transcribed verbatim in the record of trial. When transcribing stipulations, each element of the stipulation shall begin a new paragraph.

EXAMPLE:

TC: It is hereby stipulated by myself and the defense counsel, with the express consent of the accused, that if Ensign Robert Q. Lewis, U.S. Navy, were present here in court to testify, he would testify substantially as follows:

That he is Ensign Robert Q. Lewis, U.S. Navy, assigned as the Personnel Officer at the Naval Justice School, Newport, Rhode Island;

That he knows the accused, Yeoman Third Class Thomas L. Woogie, U.S. Navy;

That he is the custodian of the accused's service record;

That as custodian of the service record, it is his responsibility to prepare all appropriate service record entries, as well as retain the record books of all Naval Justice School staff members;

That Prosecution Exhibit 1 for identification, is a Page 601-6R from the service record of the accused, relating to a period of unauthorized absence commencing on 1 December 20CY(-1), and terminating by apprehension on 2 January 20CY;

That he prepared the exhibit on 6 January 20CY;

That all the information recorded in this document was known by him, personally, at the time the document was prepared; and

That the signature at the bottom of the document is his.

Sample Findings

Findings as to guilt or innocence of the accused are set forth in the record of trial in the same manner as pleadings; indent 10 spaces from the left margin and divide the pleading by 7 spaces from the end of the longest line. Single space between specifications of the same charge, and double space between charges. Listed below are a number of examples of findings. They are listed only to give you an idea about what the pleading should look like in the record to trial. **REMEMBER, THESE ARE ONLY SAMPLES!** As a court reporter, it is your responsibility to record the pleadings verbatim, and then enter them in the record of trial in the proper format. **DO NOT CHANGE WHAT WAS ACTUALLY SAID IN THE COURT-MARTIAL. RATHER, TAKE WHAT WAS SAID AND ENTER IT IN YOUR RECORD OF TRIAL IN THE PROPER BLOCKED FORMAT.**

*****PLEAS, FINDINGS, AND SENTENCE ARE SINGLE-SPACED AND BOLDED.**

EXAMPLES:

MJ: This court finds you:

Of the Charge and Specification: Not Guilty.
**§§§

Of Charge I:	Guilty.
Of the Specification thereunder:	Guilty.
Of Charge II:	Guilty.
Of Specification 1 thereunder:	Not Guilty.
Of Specification 2 thereunder:	Guilty.

§§§

Sentence

After the court-martial has deliberated in closed session and determined an appropriate sentence, the court-martial will open. At that time, the president of the court-martial (when composed of members) or the military judge (when tried by judge alone) will announce the sentence.

The sentence is transcribed verbatim and typed single spaced, in block format and bold print. Each line of the sentence is indented 10 spaces from the left margin. Each punishment is listed on a separate line. Subsequent lines of the same punishment are indented 2 spaces below the line above it.

EXAMPLE:

PRES: Yeoman Third Class Thomas L. Woogie, U.S. Navy, it is my duty, as president of this court-martial, to inform you that this court-martial sentences you:

To be discharged from the naval service with a bad conduct discharge;
To be confined for 3 months;
To forfeit $250.00 pay per month for 3 months; and
To be reduced to the grade of pay grade E-1.

ASSEMBLY OF THE RECORD OF TRIAL

1. The record of trial, including allied papers accompanying the record, are set forth in R.C.M. 1103(b)(2)(B), (2)(D), and (3). Arrangement of the contents of the record shall be as set forth on DD Form 490, with heavy stock dividers used to separate major components of the record as follows:

a. DD FORM 490 "Front Cover" followed by the JAGINST 5814.1A post-trial review checklist and a stock divider labeled "Post-Trial Documents":

(1) Any orders transferring the accused to a confinement facility or paperwork pertaining to excess/appellate leave;

(2) Appellate rights statement and the accused's election as to appellate counsel or waiver thereof, if not marked as an appellate exhibit;

(3) DD Form 494, "Court-Martial Data Sheet", if any;

(4) Any briefs of counsel submitted after trial;

(5) Court-Martial Orders promulgating the results of trial;

(6) Proof of service of the Staff Judge Advocate's recommendation and any response to the recommendation;

(7) Either proof of service on the accused of the Staff Judge Advocate's Recommendation or a statement explaining why the accused was not served personally;

(8) Signed review of the Staff Judge Advocate including any addenda and attached clemency matters;

(9) Matters submitted by the accused pursuant to R.C.M. 1105;

(10) Any request for deferment of post-trial confinement;

(11) Any request for deferment/waiver of automatic forfeitures and any action thereon;

(12) Any request for deferment of reduction in grade and any action thereon.

b. Stock divider labeled "Article 32 Investigation" followed by DD Form 457 "Investigating Officer's Report" pursuant to Article 32, if any, and all related exhibits and attachments. The original, signed investigation will be placed in the original record of trial.

c. Stock divider labeled "Pretrial Allied Papers" followed by:

(1) Advice of the Staff Judge Advocate or Legal Officer;

(2) Requests by counsel and action of the convening authority taken thereon;

(3) Any other papers, endorsements, or investigations which accompanied the charges when referred for trial;

(4) Record of any former trial.

d. Stock divider labeled "Record of Trial" followed by:

(1) Errata Sheet, if any;

(2) DD Form 490, page 1, Index sheet;

(3) DD Form 490, page 2 including receipt of accused or defense counsel for copy of record or certificate in lieu of receipt;

(4) Page 1 of the record of proceedings followed by:

(a) Convening order and all amending orders;

(b) Any written orders detailing the military judge or counsel;

(c) Request for trial by military judge alone if not marked as an Appellate Exhibit;

(d) Any written request for enlisted members if not marked as an Appellate Exhibit;

(e) Verbatim transcript of the proceedings, including all Article 39(a) sessions and original charge sheet;

(f) Authentication sheet followed by "Certificate of Correction", if any;

(g) If not previously inserted as part of the court-martial promulgating order, insert the action of the convening authority and if appropriate, action of the officer exercising general court-martial jurisdiction.

e. Stock divider labeled "Prosecution Exhibits Admitted" followed by exhibits.

f. Stock divider labeled "Defense Exhibits Admitted" followed by exhibits.

g. Stock divider labeled "Prosecution Exhibits Not Admitted" followed by exhibits which were marked but not offered and/or admitted into evidence.

h. Stock divider labeled "Defense Exhibits Not Admitted" followed by exhibits that were marked but not offered and/or admitted into evidence.

i. Stock divider labeled "Appellate Exhibits" followed by exhibits.

j. Stock divider labeled "Post-Trial Sessions" followed by post-trial sessions, if any.

k. Stock divider labeled "Vacation Proceedings" followed by any records of proceedings in connection with vacation of a suspension.

NOTE: STOCK DIVIDERS WILL BE OF THE SAME CONSISTENCY AS THE FRONT AND BACK COVER, COLORED, AND LABELED DIRECTLY ON DIVIDER OR WITH GUM LABELS.

IF A PARTICULAR COMPONENT IS NOT APPLICABLE IN THE RECORD OF TRIAL, SUCH AS AN ARTICLE 32 INVESTIGATION, EXHIBITS NOT ADMITTED, POST-TRIAL PROCEEDINGS AND VACATION HEARINGS, DO NOT INSERT THE STOCK DIVIDER.

2. Binding. Each volume of a record of trial should be no more than 1.5 inches thick and bound at the top with metal or plastic fasteners. **DO NOT** interlace or "piggy-back" prong fasteners to create an oversized volume. When it becomes necessary to assemble

the record of trial in more than one volume, the volumes will be numbered consecutively, on the front cover (DD Form 490), as illustrated below:

Volume 1 of 4 (Pages 1-250)
Volume 2 of 4 (Pages 251-400)
Volume 3 of 4 (Pages 401-652)
Volume 4 of 4 (Pages 653-901 and Exhibits)

Make the first volume of a multi-volume record an inch thick or smaller to allow for inclusion of post-trial documents. Limit subsequent volumes to 1.5 inches, unless dividing them requires assembling an additional volume smaller than a half inch.

Label the upper right-hand corner or DD Form 490 to reflect which copy it is, i.e., "**ORIGINAL**," "**ACCUSED**," "**REVIEW**" etc.

STANDARD FORMAT SUMMARIZED RECORDS OF TRIAL

INTRODUCTION

This guide is not all-inclusive. Events will occur during trial that cannot be recounted using a boilerplate (BP) or a Standard Stock Entry (SSE). Use plain language to accurately reflect such events. Remember the record must speak the truth.

To ensure uniformity of format, transcriptions of all summarized records of special and general courts-martial will follow the format and instructions contained in the following pages.

Appendices 8 and 13 and R.C.M. 1103 and 1104 in the MCM provide further guidance in preparing, assembling, and copying records of trial.

GENERAL INSTRUCTIONS FOR PREPARATION OF SUMMARIZED RECORDS OF TRIAL

1. **Font size and style**. Use only Courier or Courier New fonts. Font size should be 12 point. Do not use cursive, script, or italic fonts, except when appropriate in specific situations, such as citations.

2. **Margins**. Set margins as follows:

Left: 1 inch
Right: 1/2 inch
Top: 1-1/2 inches
Bottom: 1 inch

3. **Justification and line spacing**. Use left justification and single space text, double spacing between SSEs and BPs.

4. **Bolding**. Bold the following entries in the record of trial:

   a. Initial SSE on page 1.

   b. SSE for **[END OF PAGE]**.

c. Names of persons present and absent (TYPED IN ALL CAPS).

d. The calling of witnesses and stages of examination. **THE RATE AND NAME OF WITNESSES WILL ALSO APPEAR IN ALL CAPS.**

e. Pleas, findings, and sentence.

5. Pagination

a. Number all pages, **including the first page**, 1/2 inch (three line spaces) from the bottom of the page.

b. If there is an error in the page numbering, apply the pagination rules for verbatim records of trial.

c. When transcribing, end text as close to 1 inch, but not more than 2 inches from the bottom of the page. When typed text ends more than 2 inches from the bottom of the page, type the following in brackets, centered and bolded, below the last line of text:

[END OF PAGE]

This indicates to reviewing authorities that nothing has been omitted from the record of trial.

6. Abbreviations, grammar, punctuation, and numbers. Apply the rules for verbatim transcripts.

7. SSEs. No SSE will appear in brackets in the summarized record, with the exception of the **[END OF PAGE]** and **[THE CHARGE SHEET FOLLOWS AND IS NOT A NUMBERED PAGE.]**. The SSEs contained in the verbatim record of trial will be used in the summarized record of trial.

8. Article 39(a) sessions. Article 39(a) sessions may be held at any time throughout the course of a trial. If one is held, stop typing on the page you are on and type **[END OF PAGE]**, if more than 2 inches from the bottom. Begin typing on the top of a new page, using the SSE for calling the Article 39(a) session to order. When the Article 39(a) session adjourns, stop typing on the page you are on, following the rule for **[END OF PAGE]**. Begin typing on a new page, using the SSE for calling the court to order. This will be done for every Article 39(a) session.

every Article 39(a) session.

9. **Exhibits**. Apply the rules for verbatim transcripts regarding marking and assembling exhibits.

10. **Pleas, findings and sentence**. Apply the rules for verbatim transcripts. Pleas, findings and sentence will be blocked and bolded.

11. **Verbatim entries**. The following entries will be typed verbatim in a summarized record of trial:

a. Pleas
b. Findings
c. Sentence
d. Stipulations

When typing these entries verbatim, be sure to remove any false starts, speaker correction or stutters.

12. **Assembly**. Assemble the summarized record of trial in the same manner as a verbatim record of trial.

BOILERPLATES - SUMMARIZED RECORD OF TRIAL

Boilerplates (BPs) are used to summarize the general proceedings of a court-martial. You must place the boilerplates in the order in which they occur in open court. Normally a boilerplate will not be broken into separate sentences. There are a few exceptions to this rule and those few will be identified.

Parentheses ( ) used around a group of words, a word, punctuation, or a letter indicate that you will need to determine what the proper information is, i.e., (C)charge(s), if there is only one charge or a specific charge, it would be reflected as "Charge or Charge I," or more than one charge would be reflected as "charges."

Brackets [ ] used around a group of words or a word indicate that you will need to fill in the information, i.e., [Command] would be filled in as "Naval Justice School, Newport, Rhode Island".

GENERAL NATURE OF THE CHARGE(S)

1. The trial counsel stated the general nature of the (C)charge(s) and (S)specification(s) in the case. The (C)charge(s) (was/were) preferred by [RANK/FULL NAME, BRANCH]; and (was/were) properly referred to trial by [CONVENING AUTHORITY'S RANK/FULL NAME, CORPS DESIGNATOR, BRANCH] (Commanding Officer/Commander) [COMMAND, CITY, STATE]. The (C)charge(s) (was/were) served on the accused on [date].

NOTE: If the personal data information is not verbally stated for the convening authority, take the information from the court-martial convening order.

QUALIFICATIONS AND DETAILING OF COUNSEL

2. The (trial) (defense) counsel announced (his/her/the) legal qualifications and status as to oath(s) (of all members of the prosecution/defense), and that (he/she/all members of the prosecution/defense) had been detailed by (Commander/Commanding Officer/Officer-in-Charge/Senior Defense Counsel,) [COMMAND, CITY, STATE].

The (trial/defense) counsel further stated that (he/she/no member of the prosecution/defense had/had not) acted in any manner which might tend to disqualify (him/her/them).

AWARDS AND DECORATIONS

3. The military judge ascertained from the defense counsel that the accused was attired in the appropriate uniform with all awards and decorations to which (he/she) was entitled.

INQUIRY CONCERNING COUNSEL RIGHTS

4. The military judge informed the accused of (his/her) rights to be represented by military and civilian counsel as set forth in Articles 27 and 38, UCMJ and R.C.M. 506.

AND

5. The accused responded that (he/she) understood (his/her) rights with respect to counsel, and that (he/she) chose to be represented by [RANK/LAST NAME].

DETAILING OF THE MILITARY JUDGE

6. The military judge stated that (he/she) had been detailed to the court-martial by (his/her own order as) (the Circuit Military Judge,/the Head, [REGION] Judicial Circuit/Branch Office, [COMMAND, CITY, STATE]. (He/She) further stated (his/her) legal qualifications and status as to oath.

VOIR DIRE AND/OR CHALLENGE OF THE MILITARY JUDGE

7. The military judge stated that (he/she) would not be a witness for either side in the case and was not aware of any grounds for challenge against (him/her).

AND

8. Neither side desired to voir dire or challenge the military judge for cause.

OR

NOTE: REFLECT THE FOLLOWING IF VOIR DIRE IS CONDUCTED BY EITHER SIDE:

9(a). The (trial/defense) counsel conducted voir dire.

AND

9(b). The (trial/defense) counsel had no challenge for cause against the military judge.

OR

9(c). The (trial/defense) counsel challenged the military judge for cause on the grounds that_____.
The military judge ruled that _____.

STATUTORY WAITING PERIOD

10. The military judge ascertained from the accused that (he/she) was willing to go forward with the trial and knowingly waived (his/her) right to a (3/5)-day waiting period between the service of (the Charge/charges) and the date of court.

EXPLANATION OF THE TYPES OF TRIALS

11. The military judge advised the accused of (his/her) right to be tried before a court-martial composed of members, including, at the accused's request, at least one-third enlisted persons; and that if the accused were found guilty of any offense, the members would determine any sentence to be adjudged.

AND

12. The military judge further advised the accused that (he/she) could request trial before military judge alone, and that if such a request were approved, the military judge would determine the accused's guilt or innocence, and if the accused were found guilty, determine any sentence to be adjudged.

AND

13. The accused indicated that (he/she) understood (his/her) forum rights, had discussed those rights with counsel, and desired to be tried by (military judge alone/members/members, including one-third enlisted members).

14. **(MJ ALONE)**

After the military judge ascertained that the accused knew that (he/she) would be the military judge in the accused's case, the military judge approved the accused's (written/oral) request for trial by military judge alone(.)(, marked as Appellate Exhibit ( )).

OR

15. **(ENLISTED MEMBERS)**

The trial counsel stated that the accused's request for enlisted members had been marked as Appellate Exhibit [ ].

ARRAIGNMENT

NOTE: SEE BP #35(a) for distribution of charges if this occurs prior to arraignment.

16. **(MEMBERS)**

The accused was arraigned on the following (C)charge(s) and (S)specification(s):

17. **(MJ ALONE)**

NOTE: THIS BOILERPLATE CAN BE BROKEN UP. THE MILITARY JUDGE WOULD ANNOUNCE THAT THE COURT-MARTIAL WAS ASSEMBLED. THEN THE TRIAL COUNSEL WOULD STATE THAT COPIES OF THE CHARGES HAD BEEN GIVEN TO ALL COURT PERSONNEL - BP 35(A). THEN THE ACCUSED WOULD BE ARRAIGNED ON THE CHARGES.

The military judge announced that the court-martial was assembled (,)(.) (and) (t)The accused was arraigned on the following (C)charge(s) and (S)specification(s):

17(a). **PRESENTATION OF CHARGES ON THE CHARGE SHEET**

The military judge ascertained that there were no corrections to the (C)charge(s) and (S)specification(s) on the charge sheet; or summarize corrections.

17(b). The military judge indicated an R.C.M. 802 conference was held among the trial and defense counsel and the military judge (in the presence of the accused) on (date)(earlier today), and the following matters were discussed: [insert summary]. Both counsel concurred with the summary of the military judge.

ENTRY OF PLEAS

18. The defense counsel had no motions to present. The accused pled as follows: **VERBATIM**

OR

NOTE: SEE BP #84 IF DEFENSE COUNSEL PRESENTS A MOTION.

AND

18(a). The accused pled as follows:

PLEAS WILL BE INDENTED 10 SPACES, BOLDED AND TYPED VERBATIM. SINGLE SPACE BETWEEN THE CHARGE AND SPECIFICATIONS, DOUBLE SPACING BETWEEN MULTIPLE CHARGES.

18(b). In response to an inquiry by the military judge, the accused confirmed his/her please were correctly entered.

GUILTY PLEA INQUIRY

19. The military judge inquired into the providence of the accused's pleas of guilty. The military judge informed the accused of the right to plead not guilty and to be tried by a court-martial; and that at such a court-martial, the accused would have the right to a trial of the facts, to confront and cross-examine witnesses against the accused, and the right against self-incrimination. Further, that by pleading guilty, the accused waived the rights to a trial of the facts, to confront and cross-examine witnesses, and against self-incrimination. The accused stated that (he/she) understood and expressly waived those rights.

ADVISEMENT OF MAXIMUM PUNISHMENT

20. The military judge informed the accused that the maximum punishment for the offense(s) to which (he/she) had pled guilty was:

THE MAXIMUM PUNISHMENT ADVICE WILL BE BLOCKED AND BOLDED, INDENT 10 SPACES.

AND

21. The accused stated that (he/she) understood the maximum authorized punishment that could be awarded as a result of (his/her) pleas of guilty.

GUILTY PLEA INQUIRY

22. The accused stated that (he/she) was pleading guilty voluntarily, and because (he/she) believed in (his/her) own mind that (he/she) was in fact guilty, and that (he/she) had not been pressured or coerced into doing so.

AND

23. The military judge further informed the accused that the military judge would question the accused, under oath, about the offense(s) to which the accused pled guilty, and that if the accused answered those questions untruthfully under oath, the accused's answers could be used against the accused in a prosecution for perjury or false statement. In addition, the government may later ask that your answers be used against you in the sentencing portion of the trial. The accused stated that (he/she) understood.

AND

24. The military judge explained to the accused the elements of the offense(s) and all applicable legal definitions to which the pleas of guilty had been entered. In response to the questions of the military judge as to the offense(s) to which the accused had pled guilty, the accused responded, under oath, substantially as follows:

SUMMARIZE PROVIDENCE INQUIRY

25. Counsel for both sides (and the accused) stated that there was no pretrial agreement in the case.

AND

26. The military judge ascertained from the accused that there were no agreements, promises, or other benefits that were an inducement in connection with the accused's pleas of guilty.

AND

27. The military judge advised the accused that, subject to the discretion of the military judge, the accused could withdraw (his/her) pleas of guilty at any time prior to the announcement of

sentence, and the accused acknowledged that (he/she) understood this advice.

GUILTY PLEA (PRETRIAL AGREEMENT)

28. The military judge ascertained that there was a pretrial agreement, which was marked as Appellate Exhibit []. (The sentence limitation portion of the pretrial agreement was marked as Appellate Exhibit [ ]). In response to questions of the military judge, the accused indicated that (he/she) had discussed the contents of the pretrial agreement with (his/her) defense counsel and that (he/she) fully understood the terms of the pretrial agreement.

The military judge explained fully each and every provision of the pretrial agreement, and ascertained that the accused fully understood all provisions of same, that the accused entered into the pretrial agreement voluntarily, had not been forced or coerced into entering the agreement, and was satisfied that the advice of counsel was in his/her best interests. The military judge ascertained from both counsel and the accused, that there were no agreements or understandings other than those contained in the pretrial agreement. Counsel for both sides stated that their understanding of the pretrial agreement comported with that of the military judge.

The military judge further stated that (he/she) considered the agreement to be in accord with appellate case law, public policy, and (his/her) own notions of fundamental fairness. The pretrial agreement was accepted.

(MJ ALONE)

29. The military judge stated that (he/she) would not review the sentence limitation portion of the pretrial agreement, Appellate Exhibit [ ], until after sentencing; but that (he/she) would, at that time, inquire as to the accused's understanding of the maximum sentence which could finally be approved by the convening authority.

GUILTY PLEA ACCEPTED

30. The military judge announced that (he/she) found that the accused had knowingly, intelligently, and consciously waived (his/her) rights against self-incrimination, to a trial of the facts by a court-martial, and to confront the witnesses against (him/her). The military judge further found the pleas to have been made voluntarily and with a factual basis, and accepted them.

NOTE: IF THERE IS MORE THAN ONE CHARGE IN THE CASE AND THE ACCUSED ENTERED MIXED PLEAS, ADD THE FOLLOWING:

31. The military judge ascertained from the trial counsel that the prosecution (intended/did not intend) to go forward on the offense(s) to which the accused had pled not guilty.

NOTE: SEE BP's #66 THROUGH #68 FOR ENTRY OF FINDINGS.

ASSEMBLY OF THE COURT

32. **(MEMBERS)**

The members were sworn. The court-martial was assembled. The records of the case disclosed no grounds for challenge.

33. **(MJ ALONE)**

NOTE: THIS BOILERPLATE CAN BE BROKEN UP. THE MILITARY JUDGE WOULD ANNOUNCE THAT THE COURT-MARTIAL WAS ASSEMBLED. THEN THE TRIAL COUNSEL WOULD STATE THAT COPIES OF THE CHARGES HAD BEEN GIVEN TO ALL COURT PERSONNEL - BP 35(A). THEN THE ACCUSED WOULD BE ARRAIGNED ON THE CHARGES.

The military judge announced that the court-martial was assembled (,)(.) (and) (t)The accused was arraigned on the following (C)charge(s) and (S)specification(s):

PRELIMINARY INSTRUCTIONS TO THE MEMBERS

34. The military judge administered preliminary instructions to the members of the court-martial.

DISTRIBUTION OF CHARGES

35. The trial counsel distributed copies of the (C)charge(s).

35(a). The trial counsel stated that all parties to the trial had been furnished with a copy of the (C)charge(s).

QUESTIONS/VOIR DIRE PROCEDURES

36. The military judge asked preliminary questions of the members.

37. The (trial/defense) counsel requested to individually voir dire [RANK/LAST NAME].

38. The (trial/defense) counsel conducted (no) voir dire.

CHALLENGING MEMBERS

39. The trial counsel had no challenges for cause.

40. The (trial/defense) counsel had no (further) challenges for cause.

OR

NOTE: WHEN A CHALLENGE IS DENIED, ANY STATEMENT MADE BY THE CHALLENGED MEMBER WILL BE SUMMARIZED.

41. [RANK/LAST NAME], member, stated that _____
_____.

42. The (trial/defense) counsel challenged [RANK/LAST NAME] for cause on the grounds that _____
_____.

AND

43. The (trial/defense) counsel presented (no) (rebuttal) argument on the challenge.

AND

44. The military judge (denied/sustained) the challenge.

AND

45. The (trial/defense) counsel challenged [RANK/LAST NAME] peremptorily.

OR

46. The (trial/defense) counsel had no peremptory challenge.

OR

47. Neither side desired to (voir dire or) challenge any member of the court-martial (for cause) (or) (peremptorily).

NOTE: NO CHALLENGES FOR NEWLY DETAILED MEMBER(S):

48. Neither side had (voir dire) (or) (challenge for cause) against [RANK/LAST NAME] and did not desire to exercise their right to a peremptory challenge against the new member.

ANNOUNCEMENT OF PLEAS TO THE MEMBERS

NOTE: USED DURING FINDINGS AND SENTENCING PROCEDURES:

49. The military judge stated that, at an earlier session of the trial held on [date pleas were entered], the accused pled as follows:

NOTE: ADD THE FOLLOWING BOILERPLATE ENTRY DURING FINDINGS ONLY IF THE ACCUSED PLED TO ALL CHARGES AND SPECIFICATIONS. ADD THE BOILERPLATE ENTRY BELOW DURING THE SENTENCING PROCEDURE.
THE MILITARY JUDGE ALSO INFORMS THE MEMBERS OF ACCEPTANCE OF A GUILTY PLEA TO A LESSER INCLUDED OFFENSE IF THE GOVERNMENT IS GOING FORWARD ON THE GREATER OFFENSE:

50. The military judge further stated that (he/she) accepted the accused's pleas of guilty and entered findings of guilty as to (all charges/(the) Charge [ ] and (its/their (S)specification(s)) (by exceptions and substitutions).

OPENING STATEMENT OF COUNSEL

51. The (trial/defense) counsel made (an/no) opening statement.

QUESTIONS BY THE MEMBERS

52. [RANK/LAST NAME], member, indicated (he/she) had a question for the witness. The question was marked as Appellate Exhibit [ ] and examined by counsel for both sides. (With neither side having an objection, the question was handed to the military judge.)

NOTE: GO TO BP #87 IF THERE IS AN OBJECTION.

CLOSING/RESTING OF CASE

53. The (prosecution/defense) rested.

ALLOCUTION RIGHTS

54. The accused was advised by the military judge of (his/her) right to testify, make an oral or written unsworn statement personally or through counsel, or to remain silent, and (his/her) right to present evidence in (his/her) own defense.

AND

55. The (accused/defense counsel) stated that (he/she/the accused) understood (his/her) rights in this regard.

EVIDENCE IN REBUTTAL/SURREBUTTAL

56. The (prosecution/defense) had (no) (rebuttal) (surrebuttal) evidence to present.

NO FURTHER EVIDENCE OFFERED

57. The (prosecution/defense) had nothing further to offer.

OR

58. Neither side had anything further to offer.

PROPOSED INSTRUCTIONS OF THE MILITARY JUDGE

59. The military judge stated that (he/she) intended to give the following instructions to the members of the court-martial:

NOTE: ANY OBJECTIONS TO INSTRUCTIONS MUST BE NOTED IN THE RECORD.

60. Neither side had any objections to the military judge's proposed instructions, nor requests for additional instructions.

ARGUMENTS BY COUNSEL

61. The (trial/defense) counsel made (no) argument.

AND

62. The trial counsel made (no) closing argument.

INSTRUCTIONS ON FINDINGS

63. The military judge instructed the members in accordance with R.C.M. 920, including the elements of each offense, (the elements of each lesser included offense,) the presumption of innocence, reasonable doubt, and burden of proof, and credibility of the witnesses as required by Article 51(c) (and on the procedures for voting on the findings worksheet) **(NOTE: INCLUDE ALL OTHER ADDITIONAL INSTRUCTIONS)**. (The members were given Appellate Exhibit [], the findings worksheet.)

NOTE: OBJECTIONS TO THE INSTRUCTIONS GIVEN BY THE MILITARY JUDGE DURING FINDINGS AND SENTENCING MUST BE NOTED.

64. Neither side had any objections to the instructions as given by the military judge, nor requests for additional instructions.

65. The members had no questions concerning the instructions as given by the military judge.

NOTE: ANY QUESTIONS AND/OR COMMENTS OF THE MEMBERS MUST BE NOTED.

65(a). (The/A) member(s) questioned the military judge concerning _____.

ANNOUNCEMENT OF FINDINGS

66. The (military judge/president) announced that the accused was found:

NOTE: INDENT 10 SPACES. FINDINGS WILL BE BOLDED AND TRANSCRIBED VERBATIM, SINGLE SPACING BETWEEN SPECIFICATIONS UNDER A CHARGE AND DOUBLE SPACING BETWEEN MULTIPLE CHARGES.

67. **(GUILTY PLEA)**

The military judge announced that, in accordance with (his/her) pleas of guilty, the accused was found:

NOTE: INDENT 10 SPACES. FINDINGS WILL BE BOLDED AND TRANSCRIBED VERBATIM, SINGLE SPACING BETWEEN SPECIFICATIONS UNDER A CHARGE AND DOUBLE SPACING BETWEEN MULTIPLE CHARGES.

68. **(ACQUITTAL)**

After trial on the merits, the accused was found as follows:

NOTE: INDENT 10 SPACES. FINDINGS WILL BE BOLDED AND TRANSCRIBED VERBATIM, SINGLE SPACING BETWEEN SPECIFICATIONS UNDER A CHARGE AND DOUBLE SPACING BETWEEN MULTIPLE CHARGES.

PRESENTATION OF DATA ON THE CHARGE SHEET

69. The military judge ascertained that there were no corrections or additions to the personal data concerning the accused on the charge sheet.

OR

69(a). The trial counsel presented the data as to pay, service, and restraint of the accused as shown on the charge sheet. (The defense counsel had no objection to the data as read.)

EVIDENCE OF PREVIOUS CONVICTION(S) - AGGRAVATION

70. The trial counsel stated that (he/she) had (no) evidence of (one) previous conviction(s) (, marked as Prosecution Exhibit(s) [ ] (and) (through) [ ] (for identification)).

NOTE: WHEN USING THE ABOVE BP, YOU WILL ALSO NEED TO USE BPS 88 AND 89.
IF THE PROSECUTION HAS NO EVIDENCE OF PREVIOUS CONVICTIONS, BUT HAS EVIDENCE TO OFFER IN AGGRAVATION, USE BPS 88 AND 89.

ACCUSED'S RIGHTS IN EXTENUATION AND MITIGATION

71. The military judge informed the accused of (his/her) right to present matters in extenuation and mitigation, including the right to make a sworn or unsworn statement, or to remain silent.

72. The (accused/defense counsel) stated that (he/she/the accused) understood (his/her) rights in this regard. (The accused/defense counsel (further) stated that (he/she/the accused) (would/desired to) (remain silent/make a(n) (sworn/unsworn) statement) (on behalf of the accused)).

72(a). The defense counsel stated that the accused desired to make an unsworn statement.

72(b). **UNSWORN STATEMENT**

NOTE: THE ABOVE BP WILL BE CENTERED, BOLDED AND APPEAR IN ALL CAPS.

73. The accused made an unsworn statement substantially as follows:

TRANSCRIBE VERBATIM, REMOVING ALL FALSE STARTS AND STUTTERS. ENSURE TO USE PROPER PARAGRAPHING TECHNIQUES AS OUTLINED IN THE VERBATIM TRANSCRIPT.

IF THE UNSWORN STATEMENT IS MADE USING THE "Q" AND "A" TECHNIQUE, SUMMARIZE ACCORDINGLY.

REMEMBER: IF THE ACCUSED MAKES A SWORN STATEMENT, THE ACCUSED WILL TAKE THE STAND AND WILL BE TREATED AS A WITNESS AND ALL SSES FOR CALLING WITNESSES AND STAGES OF EXAM WILL APPLY.

OR

73(a). The defense counsel made an unsworn statement on behalf of the accused substantially as follows:

TRANSCRIBE VERBATIM, REMOVING ALL FALSE STARTS AND STUTTERS. ENSURE TO USE PROPER PARAGRAPHING TECHNIQUES AS OUTLINED IN THE VERBATIM TRANSCRIPT.

NOTE: IF THE DEFENSE HAS DOCUMENTARY EVIDENCE TO OFFER IN EXTENUATION AND MITIGATION, USE BOILERPLATES 88 AND 89.

ANNOUNCEMENT OF MAXIMUM PUNISHMENT TO THE MEMBERS

74. The military judge instructed the members that the maximum punishment that could be adjudged for the offense(s) of which the accused had been found guilty was:

THE MAXIMUM PUNISHMENT ADVICE WILL BE BLOCKED AND BOLDED, INDENT 10 SPACES.

INSTRUCTIONS ON SENTENCING

75. The military judge further instructed the members concerning the procedures for voting, the responsibility of the members, and the matters the members should consider, in accordance with R.C.M. 1005(e). (The members were given Appellate Exhibit [ ], the sentence worksheet.)

ANNOUNCEMENT OF SENTENCE

76. The (military judge/president) announced the following sentence:

NOTE: INDENT 10 SPACES. THE SENTENCE WILL BE TRASCRIBED VERBATIM, BLOCKED AND BOLDED. EACH ELEMENT OF THE SENTENCE SHALL BE TRANSCRIBED ON A SEAPRATE LINE.

EFFECT OF PRETRIAL AGREEMENT ON SENTENCE

77. The military judge examined Appellate Exhibit [ ], the quantum of punishment, and ascertained that the accused understood its terms.

78. The military judge explained to the accused the effect that Appellate Exhibit [ ] would have on the sentence that could be approved by the convening authority. Counsel and the accused concurred with the military judge's assessment of the sentencing provisions of the pretrial agreement.

78(a) The military judge found the pretrial agreement as a whole to be in accord with appellate case law, not contrary to public policy, or his/her own notions of fairness and the military judge accepted the agreement.

APPELLATE RIGHTS ADVISEMENT

79. The military judge ascertained from the defense counsel that the appellate rights statement had been marked as Appellate Exhibit [ ].

OR

80. The military judge ascertained from the defense counsel that the appellate rights statement had not been marked as an appellate exhibit. The military judge directed the defense counsel to ensure the accused understood his rights under R.C.M. 1010.

81. The military judge questioned the accused concerning the accused's understanding of his post-trial and appellate rights. The accused stated that (he/she) understood (his/her) post-trial and appellate rights, and that (he/she) had no questions concerning them.

SERVICE OF THE RECORD OF TRIAL ON THE ACCUSED

82. The accused indicated (his/her) desire to have the record of trial served on (himself/herself) (his/her defense counsel).

MISCELLANEOUS ENTRIES

ACCOUNTING FOR PARTIES AFTER RECESSES, ADJOURNMENTS, ETC.

83. The military judge and all parties previously present were again present (, with the exception of the members) (, to include the members) (, with the exception of [RANK/LAST NAME]). (In addition, [RANK/LAST NAME] was present and had been detailed to the court-martial by the convening authority by (his/her) (Special/General) Court-Martial Amending Order _____ of_____.)

MOTIONS

84. The (trial/defense) counsel made a motion (to dismiss _____) (to suppress _____) (to grant appropriate relief _____) (for a finding of not guilty of _____) (to strike _____) on the grounds that _____.

AND

84(a). The (trial/defense) counsel presented (no) (rebuttal) argument on the motion.

OR

84(b). Neither side presented argument on the motion.

85. The military judge (denied/granted) the motion (and directed_____.)

86. The (trial/defense) counsel had no (further) motions to present.

OBJECTIONS

87. The (trial/defense) counsel objected to (a question/an answer) of the (trial/defense counsel/witness) on the grounds that _____ (and requested that _____). (The trial/defense counsel further requested that _____.) (After argument by (both sides/trial/ defense counsel,) (T)the military judge (sustained/overruled the objection) (and directed _____.) (The military judge further directed_____.)

OFFERING AND ADMITTING EXHIBITS

88. The (trial/defense) counsel offered (Prosecution/Defense) Exhibit(s) [ ] (through/and [ ]) for identification into evidence.

89. There being no objection by the (trial/defense) counsel, the military judge received (Prosecution/Defense) Exhibit(s) [ ] (through/and [ ]) for identification into evidence as (Prosecution/Defense) Exhibit(s) [ ] (through/and [ ]) (and stated (a) true (copy/copies) (photograph/photographs) (extract/extracts) may be substituted in the record of trial).

OR

89(a). The (trial/defense) counsel objected to (Prosecution/Defense) Exhibit(s) [ ] (through/and [ ]) for identification on the basis of:

AND

89(b). The military judge (overruled/sustained) the objection and received (Prosecution/Defense) Exhibit(s) [ ] (through/and [ ]) for identification into evidence as (Prosecution/Defense) Exhibit(s) [ ] (through/and [ ]) (and directed _____).

STIPULATIONS

90. **(STIPULATION OF FACT)**

The prosecution and the defense, with the express consent of the accused, stipulated:

That, **(TYPE VERBATIM.)**

NOTE: IF THE STIPULATION IS ACCEPTED GO TO BP #92.

91. **(STIPULATION OF TESTIMONY)**

The prosecution and the defense, with the express consent of the accused, stipulated that, if [Mr./Mrs./RANK/FULL NAME (U.S. Navy)] was present in the court-martial and testifying under oath, (he/she) would testify substantially as follows:

That, **(TYPE VERBATIM.)**

92. The military judge explained how the stipulation of (expected testimony/fact) could be used. The military judge ascertained from the accused that the accused understood and consented to the stipulation of (expected testimony/fact), (marked as Appellate Exhibit [ ]) (marked as Prosecution Exhibit [ ]/Defense Exhibit [ ]) (for identification). The military judge thereafter accepted the stipulation.

COURT FALLS BELOW QUORUM AND NEW MEMBER(S) DETAILED

93. The military judge stated that (the absence of [RANK/LAST NAME] placed the court-martial) (by reason of challenges, the court-martial was) below quorum and directed the trial counsel to notify the convening authority. The military judge further stated that the trial would resume upon notification of the convening authority's action by the trial counsel.

94. The reporter read the record of all prior proceedings in the case, which were held in the presence of the members.

PUBLISHING DOCUMENTS

95. The (trial/defense) counsel published (Prosecution Exhibit(s) [ ]/Defense Exhibit(s) [ ] (and/through [ ]) to the members.

ALLEN CREDIT

96. The military judge stated the accused would be credited with [ ] days' Allen credit and counsel for both sides concurred.