

ACTION MEMO

July 3, 2019

FOR: JUDGE ADVOCATE GENERAL OF THE NAVY

FROM: Assistant Judge Advocate General (Military Law)

SUBJECT: JAG Instruction 5813.1D, Standardization of General Courts-Martial and Special Courts-Martial Verbatim Transcripts and Summarized Reports to Accompany the Record of Trial.

- Admiral, recommend you approve JAG Instruction 5813.1D (TAB A). TAB A reflects necessary changes to the overall post-trial process based on feedback from the field. TAB B contains a track changes version of the instruction and enclosures. TAB C contains JAG Instruction 5813.1C.
- Below is a brief summary of the proposed changes to the subject instruction:
 - Added as a reference the Post-Trial Processing Instruction.
 - Created a template for the verification and certification of the transcripts and records of trial. This is included as an enclosure.
 - Clarified that the Region Legal Service Office is primarily responsible for ensuring the accuracy of both the verbatim transcripts and the summarized reports. This was to ensure that when the court reporter provides the record of trial to the military judge for verification, the court reporter has completed a thorough review of the transcript.
 - Removed all sections in the instruction that relate to the assembly of a record of trial. These sections were incorporated into the Post-Trial Processing Instruction.
 - Enclosure (1), Format for Verbatim Transcripts
 - Revised the format and font to be in alignment with the transcripts currently being created.
 - Removed the instructions on how to assemble a record of trial. This will be added as a separate enclosure to the Post-Trial Processing Instruction.
 - Enclosure (2), Format for Summarized Reports

- Revised the format and font to be in alignment with the summarized reports currently being created.
- Enclosure (3), Verification and Certification Templates
 - This is a new enclosure that provides samples for the court reporters and military judges to use to document the verification and certification of the transcripts and record of trial.

RECOMMENDATION: Review and approve TAB A.

Approve # Do Not Approve _____
12 Aug 2019

COORDINATION: 05/06/JAD

Attachments:
As stated

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JAGINST 5813.1D
Code 20

JAG INSTRUCTION 5813.1D

From: Judge Advocate General

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

Ref: (a) U.S. Government Publishing Office Style Manual, 2016
(b) Manual for Courts-Martial, United States, 2019 (MCM)
(c) JAGINST 5800.7F, Change 1
(d) JAG/CNLSCINST 5814.1D – Post-Trial Processing Instruction

Encl: (1) Standard format for verbatim transcripts
(2) Standard format for summarized reports
(3) Verification and Certification Forms

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

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

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

4. Procedure.

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

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

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

d. The RLSO that completed the court-martial is responsible for ensuring the accuracy of the verbatim transcripts and summarized reports. When a verbatim transcript is complete, both the transcriptionist and court reporter, if different, must review it for completeness and ensure it accurately reflects the audio recording of the court-martial. The court reporter, with the assistance of the detailed trial counsel and detailed defense counsel, shall address all “inaudibles” throughout the transcript unless the court reporter is unable to decipher the audio. When this initial review is complete, the court reporter shall provide the verbatim transcript along with the completed record of trial to the military judge to verify the record of trial and attachments, including the verbatim transcript.. Prior to forwarding the record of trial to the military judge for verification, the court reporter must ensure the entire record of trial is complete and accurate and compiled in accordance with R.C.M. 1112(f) as well as reference (d). The military judge has 20 days to complete the verification. The verification must be documented using enclosure (3). This military judge verification process is not required for courts-martial that result in full acquittals.

e. Upon completion of the military judge’s verification of the record of trial and all attachments, the court reporter must certify that the verbatim transcript is complete and accurate. This certification statement will be placed on the cover sheet of the written transcript as follows: “I (name of person preparing and/or certifying the written transcript) certify that this written transcript is a true, accurate, and complete copy of the audio or other electronic recording of the court-martial proceeding in the case of (insert case name, e.g., United States v. Accused), which was held at (name of location, e.g., Naval Base San Diego), on (dates court-martial was held, e.g., 13-15 March 2019).” The certification must be documented using enclosure (3).

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

6. **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.

7. **Review and Effective Date.** This instruction is effective upon signature. Per OPNAVINST 5215.17A, Code 20 will review this instruction annually on the anniversary of its effective date to ensure applicability, currency, and consistency with Federal, Department of Defense, SECNAV, and Navy policy and statutory authority using OPNAV 5215/40 Review of Instruction. As the instruction nears its five-year anniversary and it is still required, it will be

reissued. Otherwise, if the instruction is no longer required, it will be processed for cancellation as soon as the cancellation is known following the guidance in E.O. 13526.


JOHN G. HANNINK

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**STANDARD FORMAT FOR VERBATIM TRANSCRIPTS TO ACCOMPANY
RECORDS OF TRIAL**

INTRODUCTION

The following provides the format guide for use in preparing verbatim transcripts of cases tried by general and special courts-martial.

These pages also include 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.

Rules for Courts-Martial 1112 and 1114, MCM 2019, provide further guidance for preparing, assembling, copying, and distributing records of trial.

The primary duty of a court reporter is to ensure that a complete recording of every session of a court-martial is made and to transcribe and provide an accurate, verbatim transcript of the proceedings. When that is complete, the court reporter is responsible for certifying the verbatim transcript and the complete record of trial.

The Commanding Officer at the Region Legal Service Office (RLSO) shall supervise the preparation, certification, 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 TRANSCRIPTS TO ACCOMPANY THE RECORD OF TRIAL**

1. **Font size and style.** Use only Courier, 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 inch
Top: 1-1/2 inches
Bottom: 1 inch

3. **Justification and line spacing.** Use left justification, wrap text, and double-spaced 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 lines 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; e.g., 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**, e.g., 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:

DC: 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 9.a(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. Eight or eighteen 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, E.G., TWO-THIRDS' PAY PER MONTH, 4 MONTHS' CONFINEMENT, 90 DAYS' PRETRIAL CONFINEMENT.

**SPECIFIC INSTRUCTIONS FOR THE PREPARATION OF TRANSCRIPTS AND
RECORDS OF TRIAL**

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

<u>COURT-MARTIAL PARTICIPANT</u>	<u>TYPED</u>
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 :
VICTIMS' LEGAL COUNSEL	VLC :
CIVILIAN DEFENSE COUNSEL	CDC :
WITNESS (When speaking but <u>NOT</u> answering a question on examination.)	WIT :
ACCUSED (When speaking but <u>NOT</u> answering a question on examination.)	ACC :
COURT REPORTER	REPORTER :

2. Complete recording and verbatim 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 don't -- I'm not really certain.

Q. When did he tell you?

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

b. Use two 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; hearsay.

A. -- was wrong.

3. **Standard Stock Entries (SSEs)**. SSEs show movement in a courtroom, and abbreviate actions within a trial, such as swearing of a witness; reading an exhibit; etc. Except as noted below, 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 time, at place, location.]

[Court-Martial Convening Order Number #-##, Command, dated DD Month YYYY.]

[END OF PAGE]

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

[The session recessed at time, DD Month YYYY.]

[The session adjourned at time, DD Month YYYY.]

[The session was called to order at time, DD Month YYYY.]

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

[The court-martial was called to order at time, DD Month YYYY.]

[The court-martial recessed at time, DD Month YYYY.]

[The court-martial adjourned at time, DD Month YYYY.]

[The court-martial closed at time, DD Month YYYY.]

[The court-martial opened at time, DD Month YYYY.]

[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.]

[RNK Name, the challenged member withdrew from the courtroom.]

[The witness was 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.

4. Reporter's remarks/SSEs. Enclose all remarks inserted by the reporter, and all SSEs, in brackets. The only exceptions are those SSEs 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 un-bracketed.

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. [Indicating.] That's the accused over there.

A. That's the accused over there [indicating].

TC: [Handing documents 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" 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 [indicating].

Q. Is that the accused over there [indicating]?

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 for identification to the court-martial.]

5. **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, 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, 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, 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, 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, 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. Use the following SSE to reflect this initial meeting of the entire court-martial:

SSE [The court-martial was called to order at 0950, 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, 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, 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, 1 December 2000.]

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

SSE [The court-martial opened at 1230, 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 same SSE’s for opening and recessing Article 39(a) sessions, but substitute the words “out-of-court” hearing for Article 39(a) session.

6. Calling of witnesses:

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 corps 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

telephonically 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, a civilian, was called as a witness for the prosecution, was sworn, and testified as follows:

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

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

a. 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 warned, excused, and withdrew from the courtroom.]

b. 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 the member as posed by the military judge:

SSE Questions by the victim's legal counsel:

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

EXAMPLE:

Q. Please state your name, rate, and service 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."

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. Prosecution Exhibits shall be marked with Arabic numerals, Defense exhibits shall be marked with letters, and Appellate Exhibits shall be marked with Roman numerals. When there are more than 26 Defense Exhibits, the letter system is continued using AA, BB, CC, and so on. Both prosecution and defense exhibits are marked "for identification" or "FID" when offered. This marking is erased or deleted upon that exhibit's admittance into evidence. 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 can cross out the words in court at the direction of the military judge;
- (2) The reporter can 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 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:

A true photograph. Attest:

PETER R. RYAN
LT, JAGC, USN
Trial Counsel

PETER R. RYAN
LT, JAGC, USN
Trial Counsel

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

A true description. Attest:

A true extract. Attest:

PETER R. RYAN
LT, JAGC, USN
Trial Counsel

PETER R. RYAN
LT, JAGC, USN
Trial Counsel

DC: Sir, through counsel, the accused pleads as follows:

To the original Charges
and Specifications: Guilty.

To the Additional Charge
and its sole Specification: Guilty.

DC: The accused, through counsel, pleads as follows:

To Charge I and the two
Specifications thereunder: Guilty.

To Charge II and the sole
Specification thereunder: Not Guilty.

To Specifications 1 through
3 of the Additional Charge: Not Guilty.

To Specification 4: Guilty.

To the Additional Charge: Guilty.

DC: Your Honor:

To Specification 1
of Charge I: Guilty.

To Specification 2
under Charge I: Not Guilty.

To Charge I: 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.

#####

MJ: This court finds you:

Of the Charge: Not Guilty.

Of the Specification: Not Guilty.

#####

MJ: This court finds you:

Of all Charges and Specifications: Guilty.

#####

MJ: This court finds you:

Of the Charge: Guilty.

Of Specification 1 thereunder: Guilty.

Of Specification 2 thereunder: Not Guilty.

#####

MJ: This court finds you:

Of Charge I Guilty.

Of the Specification thereunder: Guilty.

Of Charge II: Guilty.

Of Specification 1 thereunder: Not Guilty.
Of Specification 2 thereunder: Guilty.

=====

MJ: This court finds you:

Of the Charge:	Guilty.
Of the Specification:	Guilty, except the word, "steal", and substituting therefor the words, "wrongfully appropriate". Of the excepted word, Not Guilty. Of the substituted words, Guilty.

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

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.

**GENERAL INSTRUCTIONS FOR PREPARATION
OF SUMMARIZED REPORTS**

Summarized reports as described in this guide are prepared ONLY in cases that result in a full acquittal of all charges and specifications. If a guilty finding is returned for any charge or specification, a verbatim transcript must be prepared in accordance with enclosure (1), regardless of the sentence adjudged.

In a summarized report, the following events are summarized and included:

1. Each pre-trial Article 39(a) hearing, including the arraignment.
2. The general nature of the charge(s)
3. The names of the persons present at each Article 39(a).
4. The names of the persons absent at each Article 39(a).
5. The name of the accused including rate and rank at each Article 39(s).
6. The name of the court reporter, indicating the court report is/has been sworn.
7. The date and time the court-martial adjourned.

The following items must be transcribed verbatim:

1. Pleas
2. Findings

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

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 inch
Top: 1-1/2 inch
Bottom: 1 inch

Justification and line spacing. Use left justification, wrap text, and single space text, double spacing between SSEs.

3. **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. Pleas and findings.

4. **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.

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

6. **SSEs.** The SSEs contained in the verbatim transcript will also be used in the summarized report. 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.]** SSEs.

7. **General Nature of the Charges.** Use the boilerplate language below:

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].

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

8. **Article 39(a) sessions.** For all pre-trial Article 39(a) session note the date of the hearing, time of the hearing, name of the court reporter, who was present, who was absent, and a brief description of what occurred at the Article 39(a) hearing, e.g., "The court heard argument on

motions” or “The accused was arraigned on the following charge(s) and specification(s).” Note the date and time the session recessed.

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

10. **Pleas and findings**. Apply the rules for verbatim transcripts. Pleas and findings will be blocked and bolded. Use the boilerplate language below:

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.

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

**MILITARY JUDGE VERIFICATION OF
RECORD OF TRIAL AND ATTACHMENTS**

This record of trial and transcript were received by the _____ Judicial Circuit on _____ and verified on _____. I have reviewed the foregoing record of trial and accompanying transcript for completeness. I hereby verify that this record of trial contains all of the items required under R.C.M. 1112(f), and the pleas, findings, and sentence are accurately reflected in the transcript accompanying the record of trial.

(Military Judge)

(Date)

**COURT REPORTER
CERTIFICATION OF RECORD OF TRIAL**

I _____ certify that this record of trial contains all of the items required under R.C.M. 1112(f), and the pleas, findings, and sentence are accurately reflected in the transcript accompanying the record of trial.

(Court Reporter)

(Date)

COURT REPORTER/TRANSCRIPTIONIST
CERTIFICATION OF TRANSCRIPT

I _____ certify that this written transcript is a true, accurate, and complete copy of the audio or other electronic recording of the court-martial proceeding in the case of U.S. v. _____), which was held at _____ on _____.

(Court Reporter)(Transcriptionist)

(Date)