



DEPARTMENT OF THE NAVY
OFFICE OF THE JUDGE ADVOCATE GENERAL
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JAG/CNLSCINST 5814.1B
CODE 20

JAG/COMNAVLEGSVCCOM INSTRUCTION 5814.1B

Subj: POST-TRIAL PROCESSING

- Ref: (a) Manual for Courts-Martial (2016)
(b) Case Management System (CMS) Desktop Manual
(c) JAGINST 5800.7F
(d) DoDI 5505.11, Fingerprint Card and Final Disposition Report Submission Requirements
(e) DoD 7730.47M, Defense Incident-Based Reporting System (DIBRS)
(f) DoDI 5505.13, Deoxyribonucleic Acid (DNA) Collection Requirements for Criminal Investigations, Law Enforcement, Corrections, and Commanders
(g) DoDI 5525.20, Registered Sex Offender Management in DoD
(h) NAVADMIN 076/18, Gun Control Act of 1968 Criminal Justice Information Reporting Requirements

- Encl: (1) Level 1 Post-Trial Checklist
(2) Level 2 Post-Trial Checklist
(3) Staff Judge Advocate's/Legal Officer's Recommendation Checklist
(4) Convening Authority's Action Checklist
(5) Post-trial Process Handling and Reporting Requirements
(6) Victim Post-Trial Rights Statement
(7) Gun Control Act of 1968 Reporting Requirements

1. Purpose. To establish minimum requirements for post-trial processing of records of trial (ROT) and to update and reissue post-trial checklists for Region Legal Service Offices (RLSO), Staff Judge Advocates (SJA), trial judges, and legal officers (LO) to use during the court-martial review process to ensure expeditious and efficient handling of cases from sentencing through final action.

2. Cancellation. This instruction supersedes JAG/COMNAVLEGSVCCOMINST 5814.1A, which is hereby cancelled. This instruction is a major revision and should be reviewed in its entirety.

3. Scope. This instruction applies to all RLSOs, independent SJAs, trial judges, and LOs performing post-trial review functions for convening authorities within their respective areas of responsibility (AOR) and judge advocates, judges, and LOs responsible for, or involved with, the appellate review processing of cases.

4. Discussion

a. The government has the burden of ensuring timely post-trial processing of military justice cases. The government must, in cases where a punitive discharge and/or confinement of one year or more is awarded, ensure: (1) the Convening Authority (CA) takes action on the case within 120 days after sentencing; (2) the case is docketed at the Navy-Marine Corps Court of Criminal Appeals (NMCCA) within 30 days after the CA takes action; and (3) NMCCA issues an opinion within 18 months the case is docketed. See *U.S. v. Moreno*, 63 M.J. 129 (C.A.A.F. 2006). Failing to meet established timelines for processing creates a presumption that the delay was unreasonable. Unless that presumption is rebutted, the appellate court must assess the impact of delay on the due process rights of the appellant, and direct any needed relief, including dismissal of the case.

b. Per reference (a), the adjudged sentencing and the forum (General Court-Martial (GCM)/Special Court Martial (SPCM)/Summary Court Martial (SCM)) dictate the type of review:

(1) Article 66: Any punitive discharge OR confinement for one year or more is adjudged.

(2) Article 69: Any general court-martial that is not reviewed under Article 66.

(3) Article 64: Any court-martial in which there has been a finding of guilty that is not reviewed under Article 66 or Article 69.

c. Currently, electronic case tracking is a mix of the Case Management System (CMS) and, for historical data, Case Management Tracking Information System (CMTIS). CMS is the primary information technology/knowledge management tool to track and report cases throughout the post-trial process. Reference (b) contains rules and user guides for CMS. Post-trial processing units (PTPU), as established by the RLSO Commanding Officers (COs), will utilize installation and region SJAs and their staffs as necessary throughout the AOR to provide logistical assistance for the RLSO's post-trial processing divisions at headquarters. RLSOs will use checklists provided in enclosures (1) through (5), revising logistical requirements as necessary to accommodate local resourcing.

5. Action

a. Each RLSO post-trial processing division (PTPD), PTPU, independent SJA, or officer involved with post-trial processing of ROTs shall use enclosure (1) or (2), as appropriate, in the preparation of each ROT and shall attach it to the ROT prior to forwarding to the convening authority for review. A copy of enclosures (3) and (4) shall be attached to the ROT for use by the reviewing independent SJA/LO.

b. Judge advocates serving in billets designated as "staff judge advocates" or otherwise performing duties as required by reference (a), specifically Rule for Court-Martial (RCM) 1106, and non-judge advocate LOs, shall use enclosures (3) and (4) to assist in the preparation of the SJA/LO recommendation, convening authority action, and promulgation order.

c. Each RLSO PTPD, PTPU, trial judge, SJA, or LO involved with post-trial processing of ROTs is responsible for ensuring complete and timely post-trial processing of courts-martial. The RLSO responsible for prosecuting a case retains primary responsibility to proactively monitor the completion of required post-trial actions, document action taken and/or reasons for delay in every stage of the post-trial process, and forward completed ROTs to appellate authorities. Enclosure (5) provides specific ROT post-trial process handling and reporting requirements. Finally, for all cases where a punitive discharge or confinement for one year or more is awarded, each RLSO shall maintain a complete copy of the ROT, convening authority action, promulgating order and all post-trial actions and directives until a Notice of Completion of Appellate Review (NOCAR) is received.

d. RLSOs shall provide support for independent SJAs (e.g., Region SJAs) and LOs. As noted above, independent SJAs are subject to the provisions of this instruction. However, the nearest RLSO is required to provide support and resources in preparation of the ROT and other post-trial processing matters, to cover gaps in the independent SJA's available resources.

6. Responsibilities

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

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

(2) monitor NLSC cases received by NAMARA until the case is docketed by NMCCA;

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

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

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

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

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

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

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

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

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

(5) ensure NAMARA provides copies of the NOCAR to the convening authority and the RLSO which had initial post-trial responsibility to track and report the case;

(6) for Marine Corps cases, ensure NAMARA provides copies of the NOCAR to the convening authority and the legal command which was designated by the SJA to CMC, in appropriately issued guidance consistent with this instruction, with post-trial responsibility to track and report the case;

(7) conduct periodic policy review of the post-trial process, to include a written review of enclosures (1) through (6), every three years or sooner if necessitated by changes in applicable statutes, regulations, and case law.

(8) ensure timely processing of cases reviewed under Articles 69 and 73 and any other review which does not involve NMCCA. Provide additional guidance consistent with this instruction, as necessary, to ensure timely post-trial processing of such cases.

c. CJDON shall be responsible for establishing and maintaining timely and accountable post trial processes for the appellate review of Navy and Marine Corps cases, beginning when each case is docketed with NMCCA.

d. RLSO COs shall:

(1) ensure post-trial processing is completed in accordance with this instruction;

(2) issue a local instruction that:

(a) establishes a PTPD at headquarters responsible for overseeing all post-trial processing related matters throughout the AOR;

(b) identifies, as necessary, appropriately resourced and staffed RLSO-controlled installation or Region SJA offices throughout their AOR to serve as PTPUs to assist the PTPD; and

(c) establishes processing guidelines for PTPUs throughout their AOR;

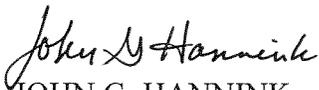
(3) Ensure members of the command assigned to perform post-trial processing duties receive sufficient training on the post-trial processing requirements set forth in this instruction and in references (a) through (g).

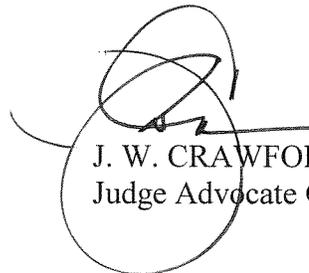
e. Independent SJAs shall coordinate post-trial processing with the RLSO with primary responsibility for post-trial processing of a case.

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

8. Records Management. Records created as a result of this instruction, regardless of media and format, must be managed per Secretary of the Navy (SECNAV) Manual 5210.1 of January 2012.

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


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Distribution:

Electronic only via the Judge Advocate General's Web site <http://www.jag.navy.mil>

POST-TRIAL CHECKLIST- 1

(For use in all General Courts-Martial cases,
and in Special Courts-Martial cases where the adjudged sentence includes a bad conduct
discharge or one year or more of confinement)

ICO _____

***RLSOs are responsible for the accurate and timely completion of this checklist.

___ Prepare Record of Trial (ROT) in accordance with guidance of Appendix 14, M.C.M.

___ Identify format of Record of Trial (ROT):

Summarized _____ Verbatim _____ Acquittal _____

- Verbatim is required for any adjudged sentence that includes:
 - A punitive discharge or dismissal
 - Confinement over 6 months
 - More than 2/3 forfeiture of pay per month
 - Forfeiture of pay for more than 6 months
- All others may be summarized.
- An acquittal transcript and summarized ROT is required for all GCM & SPCM acquittals. Only a GCM acquittal ROT will go to NAMARA.

___ Check administrative accuracy of all documents (Name, DODID, Command, dates).

___ When appropriate, prepare and provide to victim or Victims' Legal Counsel, a Victim's Rights Statement to document advising victim of rights in the post-trial and appellate process. (Enclosure 6)

___ Attach report of results of trial form to ROT. Report of results of trial must include which, if any, crime reporting requirements are triggered under references (d) through (h). Requirements may include, but are not limited to: a DNA sample, sex offender notification, reporting of background or criminal record information, and/or fingerprinting under the Gun Control Act of 1968. Report of results of trial must be compliant with DD Form 2707-1. Criminal justice information will be sent to NCIS by the responsible Navy organization (as delineated in reference (h)) via a spreadsheet with the following data fields: (1) Full name, (2) Sex, (3) Race, (4) Height, (5) Weight, (6) Eye color, (7) Hair color, (8) Place of birth, (9) Date of Birth, (10) Social security number; and (11) Incident number, (12) Submitter contact information, (13) Reason for service member entry into NICS. Spreadsheets must be submitted via by email to NCIS at nicssubmission@ncis.navy.mil per reference (h). See reference (h) and enclosure (7) for detailed information about crime reporting requirements under the Gun Control Act of 1968.

___ Attach the following items to the ROT in any case where an Art. 32 preceded referral of charges, whether charges were ultimately referred to a GCM or to a SPCM.

Enclosure (1)

- ___ Art. 32 appointing order
- ___ Report of Art. 32 Preliminary Hearing (DD Form 457)
- ___ SJA's Art. 34 pretrial advice letter
- ___ Waiver of Art. 32, if applicable

___ Insert convening order in ROT. (If it is a copy, ensure it is certified true).

___ Insert amending orders, if any. (If it is a copy, ensure it is certified true).

___ Insert charge sheet in ROT. (Confirm all supplemental pages are attached, front and back).

___ Defense Counsel (DC) examine ROT, when unreasonable delay will not result. RCM 1103(i)(1)(B).

___ Email/Deliver ROT transcript to DC – Date completed: _____

___ ROT transcript returned from DC – Date completed: _____

___ Trial Counsel (TC) examine ROT. RCM 1103(i)(1)(A).

___ Email/Deliver ROT transcript to TC – Date completed: _____

___ TC review completed – Date completed: _____

___ TC reviews corrections & signs – Date completed: _____

___ ROT authenticated by each military judge (MJ) participating in proceedings or substitute authentication. RCM 1104(a)(2). [Note: If TC authenticated ROT for MJ, include statement explaining need for substitute authentication. RCM 1103(b)(3)(E)].

___ Authentication occurs within 50 days (special court-martial) or 65 days (general court-martial) after completion of trial. Otherwise, authenticating/cognizant official has provided reasons for delay and appended to ROT.

___ ROT to MJ – Date completed: _____

___ Authenticated ROT rec'd from MJ – Date completed: _____

___ Original ROT and 4 hard copies and one digital copy prepared. RCM 1103(b)(2), (3), (g) (Original and an encrypted digital record of trial (DROT) to NAMARA; 1 to Naval Clemency Parole Board (NCPB); 1 to SJA/command; 1 to DC/accused; and 1 to TC)

___ Include in original ROT and each copy* all exhibits that were received into evidence; front and back pages:

___ Prosecution

___ Defense

___ Appellate

___ Pre-Trial Agreement – Parts I and II

___ Motions

___ MJ alone request, if any

___ Written continuance request with ruling

___ Written special findings by MJ

- ___ Enlisted members request
- ___ Members questionnaires
- ___ Voir dire questions submitted
- ___ Members questions
- ___ All findings and sentencing worksheets
- ___ Appellate rights statement (Long and Short form included)
- ___ Power of attorney, if any
- ___ Waiver of appellate review, if any
- ___ Sealed exhibits (e.g. Child pornography)
- ___ Other _____

* DROT must not include sealed exhibits or other sealed portions of the record.

- ___ Other matters to attach to ROT if not included as an exhibit (as applicable):
 - ___ If trial was a rehearing or new or other trial of the same case, the ROT of the previous case(s)
 - ___ Any written special findings made by MJ
 - ___ Any exhibits marked as appellate exhibits and exhibits referred to on the record which were not admitted into evidence. (No "Blunk" letters - *U.S. v. Williams*, 57 M.J. 581 (NMCCA 2002))
 - ___ Explanation for any failure to serve the ROT on the accused under RCM 1104(b)

- ___ Confirm all pages of transcript and all attached documents are included (Page check: ___ Number of pages, ___ Pages are sequential, ___ Front and back of all two-sided documents are included).

- ___ Validate ROT's index sheet.

- ___ Ensure all attachments are copied and inserted into the ROT copies.
 - ___ Confirm compliance with requirements for National Security and classified information. RCM 1104(b)(1)(D); SECNAVINST 5510.30 (series) and SECNAVINST 5510.36 (series); JAGMAN 0126.
 - ___ Date completed: _____
 - ___ RLSO serve copy of authenticated ROT on DC and/or accused (except sealed Exhibits) – Date completed: _____
 - ___ Get a signed receipt of service on DC and/or accused
 - ___ Attach receipt to ROT (or explanation in lieu of). RCM 1104(b)

- ___ RLSO deliver ROT to staff judge advocate/legal officer. (**NOTE: IF MAILED, SEND CERTIFIED MAIL, RETURN RECEIPT REQUESTED OR OTHER MOST EXPEDITIOUS, ACCOUNTABLE METHOD. MUST HAVE A TRACKING NUMBER AND TRACKING NUMBER MUST BE PROVIDED TO THE RECIPIENT**).
Date completed: _____

- ___ In cases involving an offense under Articles 120, 120b, 120c, 125, and any attempt to commit such an offense in violation of Article 80, RLSO deliver ROT to victim if victim has elected. Trial counsel should provide election form (Enclosure (6)) to PTPD.
Date completed: _____

____ Attach to the ROT: either the receipt of ROT, signed by the victim, or the victim's signed declination. RCM 1103(b)(3)(N), 1103(g)(3)(C).

Date completed: _____

____ Upload a copy of the victim's election form (Enclosure (6)) to CMS.

Date completed: _____

____ Ensure the ROT provided to the victim has the following information redacted, unless it relates to the victim receiving the record of trial:

- ____ Social Security numbers
- ____ Financial account numbers
- ____ Home addresses
- ____ Birth dates
- ____ Personal email addresses and phone numbers
- ____ The name of any victims or minors
- ____ Any unsealed medical records

(NOTE: IF MAILED, SEND CERTIFIED MAIL, RETURN RECEIPT REQUESTED OR OTHER MOST EXPEDITIOUS, ACCOUNTABLE METHOD MUST HAVE A TRACKING NUMBER)

____ Prepare staff judge advocate's/legal officer's recommendation (SJAR/LOR) and insert, with all enclosures in ROT and all copies. RCM 1106, JAGMAN 0151c.

____ Confirm that SJA/Legal Officer's Checklist (Enclosure 3) is complete.

____ Serve SJAR/LOR on DC and/or accused; attach receipt of SJAR/LOR (or explanation in lieu of) to ROT and all copies. RCM 1106(f). Record date to accused _____; DC _____.

____ Insert accused/and or DC response to SJAR/LOR in ROT, if provided. RCM 1106(f)(4).

____ SJA or Legal Officer comment to convening authority (CA) on all matters raised under RCM 1105 and any other clemency matters. [Only SJAs may respond to legal error].

____ In cases involving any victim serve copy of matters submitted by the accused to the Victim/ VLC. Allow Victim/VLC the opportunity to submit comments on clemency.

____ Forward all responses and recommendations (including supplementary responses, recommendations and addendums) to CA for review. RCM 1107.

____ Allegations of legal error raised by accused in response addressed in an addendum to the recommendation. RCM 1106(d)(4). [SJA only]. _____ All other RCM 1105, 1106, or other clemency matters addressed by SJA or CA. Clemency matters should be addressed within 10 days.

____ If any supplementary recommendations raise a new matter, those supplementary recommendations must be served on DC or accused and a receipt of that service must be added to the ROT. RCM 1106(f)(7).

- _____ Attach other matters submitted by accused or DC, and any action on same, to ROT and all copies. RCM 1105, RCM 1106(f)(4), RCM 1110; JAGMAN 0161 (Be careful not to attach “Blunk” matters – *U.S. v. Williams*, 57 M.J. 581 (NMCCA 2002)).
 - _____ Deferment requests
 - _____ All clemency requests/recommendations
 - _____ Other matters
 - _____ 10-day waiting period complied with or extension granted (in writing)
 - _____ Declination to submit matters

- _____ Prepare CA’s action and promulgating order using CA’s input. RCM 1107; JAGMAN 0153, 0155.
 - _____ CA’s action checklist (Enclosure 4) complied with.

- _____ Attach CA’s action/promulgating order or statement as to why CA cannot take action, include copy of letter of reprimand, if any. RCM 1107, JAGMAN 0152(b)(4).

- _____ Prepare appropriate copies of CA’s action/promulgating order for distribution. RCM 1114(c)(3), JAGMAN 0155.

- _____ Complete time sheet on the back of the cover of the ROT, document and explain post-trial processing delays.

- _____ Forward ROT and all post-trial documents (SJAR/SJAR Receipt, any time extensions, any matters relating to clemency, CA’s action or explanation of failure to act, receipt of service of CA’s action) and copies to RLSO for final review and forwarding to appropriate authority.

- _____ Forward ROT to appropriate authority. JAGMAN 0153, 0154; RCM 1111, RCM 1112 [Note: If remand case and assigned an NMCCA number, it must always be forwarded to NAMARA (Code 40.31)] **(IF MAILED, SEND CERTIFIED MAIL, RETURN RECEIPT REQUESTED OR OTHER MOST EXPEDITIOUS, ACCOUNTABLE METHOD. MUST HAVE A TRACKING NUMBER AND TRACKING NUMBER MUST BE PROVIDED TO THE RECIPIENT).**
 - _____ **ROT forwarded to NAMARA within 10 days of CA’s action. Otherwise, CA shall provide explanation, which shall be appended to ROT. (Forwarding within 10 days after CA action allows NMCCA sufficient time to ensure case is docketed within 30 days after CA action as required by *U.S. v. Moreno*).**

- _____ If there is a waiver of appellate review in writing:
 - _____ Forward ROT to a judge advocate for review. This may be the SJA for CA. RCM 1111; JAGMAN 0153, 0154. [Note: Appellate review may not be waived with sentence to death]. The waiver shall be attached to the ROT.
 - _____ Judge advocate’s review inserted in original ROT and all copies.
 - _____ Copy of review to accused
 - _____ Forward ROT and copies to the NAMARA (Code 40.31).

- _____ Forward one copy of the ROT to the President, NCPB, if sentence includes an unsuspended punitive discharge or confinement for one year or more. JAGMAN 0153(b)(2).

- _____ If no waiver of appellate review:
 - _____ Forward original ROT and two copies to the NAMARA (Code 40.31)
 - _____ Forward one copy of the ROT to the President, NCPB, if sentence includes an unsuspended punitive discharge or confinement for 12 months or more
 - _____ Forward one copy to accused/DC

- _____ Prepare appropriate service record entries (usually pages 4, 7, and 13).

- _____ Retain copy of ROT, CA's action, and promulgating order and all post-trial actions and directives. **(Note: All documents will be retained until Appellate Review is Complete and Notice of Completion of Appellate Review (NOCAR) is issued)**

- _____ Attach to ROT: copies of all post-trial actions and directives, to include SJAR/LOR, RCM 1105 matters, promulgating order, CA's action, to RLSO.

- _____ Include with ROT conditions on suspension, proof of service on probationer, and any records of procedures in connection with vacation of suspension. RCM 1108, RCM 1109.

- _____ Include with ROT appellate court directives (i.e., orders to conduct a rehearing, supplemental orders, etc.).

- _____ Include with ROT records of former trial of the same case if case was a rehearing or new or other trial of the same case. RCM 1103(b)(3)(A).

- _____ Confirm compliance with requirements for National Security and classified information. RCM 1104(b)(1)(D); SECNAVINST 5510.30 (series) and SECNAVINST 5510.36 (series); JAGMAN 0126.

LEVEL 2 POST-TRIAL CHECKLIST

(For use in all Special Courts-Martial where the adjudged sentence DOES NOT include a bad conduct discharge or one year confinement)

ICO _____

***RLSOs are ultimately responsible for the accurate and timely completion of this checklist.

PART I: Actions to be completed by RLSO PTPU

- _____ Check administrative accuracy of all documents.
- _____ Ensure preparation of ROT in accordance with guidance of App. 13 or 14, M.C.M.
- _____ Prepare report of results of trial form, if required, and attach to ROT. Note in results of trial whether any crime reporting requirements are triggered under references (d) through (h). Requirements may include, but are not limited to: a DNA sample, sex offender notification, reporting of background information or criminal record information, and/or fingerprinting under the Gun Control Act of 1968. Criminal justice information will be sent to NCIS by the responsible Navy organization (as delineated in reference (h)) via a spreadsheet with the following data fields: (1) Full name, (2) Sex, (3) Race, (4) Height, (5) Weight, (6) Eye color, (7) Hair color, (8) Place of birth, (9) Date of Birth, (10) Social security number; and (11) Incident number, (12) Submitter contact information, (13) Reason for service member entry into NICS. Spreadsheets must be submitted via email to NCIS at nicssubmission@ncis.navy.mil per reference (h). Report of results of trial must be compliant with DD Form 2707-1. See reference (h) and enclosure (7) for detailed information about crime reporting requirements under the Gun Control Act of 1968.
- _____ When appropriate, prepare and provide to victim or Victim’s Legal Counsel, a Victim’s Rights Statement to document advising victim of rights in the post-trial and appellate process. (Enclosure 6)
- _____ Insert convening order in ROT. RCM 1103(b)(2)(D). If it is a copy, ensure it is certified.
 - _____ Insert any amending orders (certified, if a copy).
- _____ Insert charge sheet in ROT. RCM 1103(b)(2)(D). [Ensure all supplemental pages are attached, front and back].
 - Dates completed:
 - _____ Material mailed for transcription / given to CR/LN
 - _____ Completed transcription received at RLSO
 - _____ ROT assembled
- _____ Have DC examine ROT, when unreasonable delay will not result. RCM 1103(i)(1)(B).
 - Dates completed:
 - _____ E-mail/Deliver ROT transcript to DC
 - _____ ROT transcript returned from DC

_____ Have TC examine ROT. RCM 1103(i)(1)(A).

Dates completed:

- _____ Email/Deliver ROT transcript to TC
- _____ TC review completed
- _____ TC reviews corrections & signs

_____ Have MJ (each MJ participating in the proceedings) authenticate ROT, or insert substitute authentication. RCM 1104(a)(2). [If TC authenticated ROT for MJ, include statement explaining need for substitute authentication. RCM 1103(b)(3)(E)]

Dates completed:

- _____ ROT to MJ
- _____ ROT rec'd from MJ

_____ Prepare original ROT and 4 copies. RCM 1103(b)(2), 1103(b)(3), 1103(g). (Original and 1 copy to SJA/command; 1 to DC/accused; 1 to RLSO; and, when appropriate, 1 to victim.) Note that verbatim ROT is required where the sentence adjudged exceeds 6 months confinement or 6 months forfeiture of pay. In all other cases, a summarized report may be prepared instead.

Date completed:

- _____ Copies made of ROT

_____ Include all exhibits in original ROT and each copy; front and back pages:

- _____ Prosecution exhibits
- _____ Defense exhibits
- _____ Appellate exhibits
 - _____ Pre-Trial Agreement - all pages
 - _____ Motions and responses
 - _____ MJ alone request, if any
 - _____ Written continuance request with ruling
 - _____ Written special findings by MJ
 - _____ Enlisted members request
 - _____ Members questionnaires
 - _____ Voir dire questions submitted
 - _____ Members' questions
 - _____ All findings and sentencing worksheets
 - _____ Appellate rights statement
 - _____ Power of attorney, if any
 - _____ Waiver of appellate review, if any
 - _____ Other _____

_____ Attach other matters to ROT if not included as an exhibit (as applicable):

- _____ Report/waiver of Article 32 investigation
- _____ SJA's Article 34 pretrial advice letter
- _____ If trial was a rehearing or new or other trial of the same case, the ROT of the previous case(s)
- _____ Any written special findings made by MJ

- _____ Any exhibits marked as appellate exhibits and exhibits referred to on the record which were not admitted into evidence. (No “Blunk” letters - *U.S. v. Williams*, 57 M.J. 581 (NMCCA 2002))
- _____ Explanation for any failure to serve the ROT on the accused under RCM 1104(b)

- _____ Confirm all pages are included: Page check: sequential; # of pages: _____.

- _____ Validate index sheet.

- _____ RLSO serve copy of authenticated ROT on accused [or on DC, taking care to comply with RCM 1104(b)(1)(C)]; attach all receipts in ROT (or explanation in lieu of). RCM 1104(b).
Date completed: _____
_____ Delivery of ROT to DC/ADC

- _____ RLSO deliver ROT and copies to staff judge advocate/legal officer. **[IF MAILED, SEND CERTIFIED MAIL, RETURN RECEIPT REQUESTED, MUST HAVE A TRACKING NUMBER AND TRACKING NUMBER MUST BE PROVIDED TO THE RECIPIENT].**
Date completed: _____

- _____ In cases involving an offense under Articles 120, 120b, 120c, 125 and any attempt to commit such offense in violation of Article 80, RLSO deliver ROT to victim if the victim has so elected in accordance with RCM 1103(g)(3). Trial counsel will provide election form (Enclosure (6)) to PTPD.
_____ Attach to the ROT: either the receipt of ROT, signed by the victim, or the victim’s signed declination. RCM 1103(b)(3)(N), 1103(g)(3)(C).
Date completed: _____
- _____ Upload a copy of the victim’s election form (Enclosure (6)) to CMS.
Date completed: _____

- _____ Ensure the ROT provided to the victim has the following information redacted, unless it relates to the victim receiving the record of trial,
 - _____ Social Security numbers
 - _____ Financial account numbers
 - _____ Home addresses
 - _____ Birth dates
 - _____ Personal email addresses and phone numbers
 - _____ The name of any victims or minors
 - _____ Any unsealed medical records

NOTE: IF MAILED, SEND CERTIFIED MAIL, RETURN RECEIPT REQUESTED OR OTHER MOST EXPEDITIOUS, ACCOUNTABLE METHOD, RECORD THE TRACKING NUMBER). Date completed: _____

PART II: Actions to be completed by Convening Authority's SJA/Legal Officer¹

____ Attach all responsive documents from the Accused to ROT, if provided. RCM 1105. Ensure all referenced enclosures in said matters are appended to ROT.
____ Deferment requests
____ All clemency requests
____ Other matters
Date completed: _____

____ Attach other matters submitted by victim. Ensure all referenced enclosures in said matters are appended to ROT. RCM 1105, 1105A.
Date completed: _____

____ Provide comment to CA on all matters raised under RCM 1105 and any other clemency matters. [Only SJAs may respond to legal error].

____ If new matter is raised or addressed in an addendum, serve a copy on accused/DC.
Date completed: _____
_____ Addendum to DC (if required)

____ Forward all responses and recommendations to CA for review under RCM 1107.

____ Prepare CA's action using CA's input. RCM 1107.
____ CA's action checklist complied with
Date completed: _____
_____ CA's Action
_____ CA's Action rec'd by accused and/or DC

____ Attach CA's action, or statement as to why CA cannot take action, to the ROT; include letter of reprimand, if any. RCM 1107.

____ Prepare promulgating order and appropriate copies for distribution. JAGMAN 0153, 0155; RCM 1114(c)(3).

____ Complete time sheet and the back of the cover of the ROT.

____ **Forward ROT to SJA of Officer Exercising GCM Authority (OEGCMA) for review. JAGMAN 0153; RCM 1112. [ROT may have to be forwarded to OEGCMA for action or to the Judge Advocate General for action in accordance with the provisions of RCM 1112 (detailing when cases must be forwarded to the OEGCMA for action) and/or RCM 1201 (detailing action by the Judge Advocate General)].**

Date completed: _____
____ Receipt of CA's action by JA for review
____ JA review completed

¹ See also "STAFF JUDGE ADVOCATE'S/LEGAL OFFICER'S RECOMMENDATION CHECKLIST" for additional guidance for SJAs and Legal Officers.

_____ Receipt of JA Review by OEGCMA
_____ OEGCMA action (if required)

- _____ Insert judge advocate's review in original ROT and all copies. (RCM 1112)
- _____ Deliver a copy of the review to the accused. Date to accused _____.
- _____ Prepare appropriate service record entries.
- _____ Maintain and distribute ROT in accordance with JAGMAN 0154c(2) and (3).
[Shore activities: maintain 2 years after final action, then retire to National Personnel Records Center (NPRC). Fleet activities: maintain 3 years after final action, then retire to NPRC. Prepare appropriate service record entries.]
 - _____ Include conditions on suspension, proof of service on probationer, and any records of procedures in connection with vacation of suspension. RCM 1108, RCM 1109.
 - _____ Include appellate court directives, i.e. orders to conduct a rehearing, supplemental orders, etc.
 - _____ Include records of former trial of the same case if case was a rehearing or new or other trial of the same case. RCM 1103(b)(3)(A).
- _____ Confirm compliance with requirements for National Security and classified information. JAGMAN 0126, RCM 1104(b)(1)(D), SECNAVINST 5510.30(series), SECNAVINST 5510.36 (series).
- _____ Provide copies of all post-trial actions and directives, to include SJAR/LOR, RCM 1105 matters, promulgating order, CA's action, to RLSO.

**STAFF JUDGE ADVOCATE'S/LEGAL OFFICER'S RECOMMENDATION
CHECKLIST**

**Executive Order 13468, RCM 1106, JAGMAN 0151c
(Not required if accused is acquitted)**

SJA's/LO's Recommendation ICO _____

- _____ Staff Judge Advocate (SJA)/Legal Officer (LO) is not disqualified under RCM 1106(b).
- _____ Confirm preparation of ROT in accordance with guidance of Appendix 13 or 14, M.C.M.
- _____ Determine whether ROT has been properly authenticated.
 - _____ Authentication occurs within 90 days after completion of trial. Otherwise, authenticating/cognizant official has provided reasons for delay and appended to ROT.
- _____ Offenses, pleas, findings, and adjudged sentence set out precisely. **Do not merely copy the results of trial without checking for accuracy, especially with in cases involving exceptions and substitutions.** RCM 1106.
- _____ Include clemency recommendation made in conjunction with the announced sentence by any member, MJ, or any other person.
- _____ Provide summary of accused's service record (optional)
 - _____ Length of service
 - _____ Character of service (average pros and cons, average evaluation traits for entire length of service, not only for current enlistment)
 - _____ All decorations/awards
 - _____ Records of prior nonjudicial punishment
 - _____ Previous convictions
 - _____ Other matters of significance
- _____ Explain nature and duration of any pretrial restraint.
 - _____ Note any judicially ordered credit to be applied to confinement
- _____ Note existence of pretrial agreement (or attach copy), if any.
 - _____ Include terms and actions CA is obligated to take or reasons why CA is not obligated to take specific action under the agreement
- _____ Attach as enclosures to the recommendation, all RCM 1105 matters and other clemency submitted, including victim's matters for consideration (or waiver) prior to recommendation.
- _____ Address all claims of legal errors and state whether corrective action on the findings or sentence is appropriate when an allegation of error is raised under RCM 1105 or when deemed appropriate by the SJA. [Note: For SJAs only, legal officers do not address legal errors.]

_____ Note all RCM 1105, 1105A or other clemency matters and include statement that they were taken into consideration.

_____ Recommend specific action to be taken by CA on adjudged sentence after considering any clemency matters, any claims of legal error, and any pretrial agreement. **Be aware of restraints on the CA's Article 60 authority.** Check the date of the offense; if the offense was committed on or after 24 June 2014, the CA's authorities under Article 60 differ. For cases involving offenses occurring before and after 24 June 2015, see Straddling Rule of FY15 NDAA Section 531.

_____ Include any optional matters.

_____ Notify accused and give opportunity to rebut adverse matters which are not part of the record and with knowledge of which the accused is not chargeable.

_____ SJA or commissioned officer serving as legal officer who is not disqualified under RCM 1106(b) signs recommendation.

_____ Serve SJAR/LOR on accused and/or counsel per RCM 1106(f). (Do not forward SJAR/LOR to convening authority until applicable time periods have run).

_____ Date to accused _____; counsel (civilian, detailed defense counsel) _____.

_____ Attach to the ROT a statement explaining why the accused was not personally served, if applicable.

_____ If RCM 1105 or RCM 1106 matters or other matters are raised after original recommendation, include addendum to recommendation noting these issues. [Note: Only SJA may respond to legal errors].

_____ If addendum raises new matter (as defined in RCM 1106(f)(7)), serve accused and counsel and give opportunity (at least 10 days) to respond prior to CA taking action.

_____ Date to accused _____; counsel _____.

_____ Attach to the ROT a statement explaining why the accused was not personally served, if applicable.

_____ Note in recommendation whether any, crime reporting requirements are triggered under references (d) through (g). Requirements may include, but are not limited to: a DNA sample, sex offender notification, reporting of background information or criminal record information, and/or fingerprinting. (Review results of trial or consult with trial counsel, and review reference (h) and enclosure (7) for a detailed overview of crime reporting requirements under the Gun Control Act of 1968.)

_____ If the accused has been sentenced to confinement, the confinement facility will notify the accused of the duty to register as a sex offender. If no confinement is awarded (or if the amount confinement awarded amounts to time served) the Convening Authority will be required to notify the accused of the accused's duty to register as a sex offender and where to register. (See DoD Inst 1325.07 and DODI 5525.1B)

CONVENING AUTHORITY'S ACTION CHECKLIST

RCM 1107, JAGMAN 0151a

ICO _____

- _____ Confirm preparation of ROT in accordance with guidance of Appendix 13 or 14, M.C.M.
- _____ Confirm ROT is prepared in accordance with RCM 1103(b)(2)(B)
 - _____ If a verbatim transcript is required by RCM 1103(b)(2)(B) or (c)(1) but cannot be prepared, ensure a that a ROT is prepared in accordance with b(2)(C)and note that the Convening Authority (CA) cannot approve a sentence in excess of that which may be adjudged at a special court-martial or one that includes a BCD, confinement for more than six months, forfeiture of pay exceeding two-thirds pay per month, or any forfeiture of pay more than six months. RCM 1103(f)(1).
- _____ If SPCM, ensure that the cumulative impact of the fine and forfeitures, whether adjudged or automatic by operation of Article 58(b), UCMJ does not exceed the jurisdictional maximum dollar amount of forfeitures that may be adjudged at a SPCM. Ensure forfeiture is in dollar amount.
- _____ If accused claims lack of mental capacity, comply with RCM 706 and order a post-trial inquiry if necessary.
- _____ If accused is found not guilty by lack of mental responsibility, CA must commit the accused to a suitable facility pending an RCM 1102A hearing.
- _____ Action shall not be taken earlier than 10 days after the latter of service of the ROT under RCM 1104(b), or receipt of SJAR/LOR (or of addendum to recommendation if it contains new matter). Action that is not completed within 120 days after the sentence is announced must be mentioned in the action and a letter must be prepared in accordance with JAGMAN Section 0151(a)(4) forwarded to Code 20.
 - _____ Waiver of right to submit matters, in writing by accused
 - _____ Time period extended (no more than 20 additional days)
- _____ Offenses, pleas, findings, and adjudged sentence properly promulgated and accurately reflect the charge sheet, the ROT, and findings/sentencing worksheets.
 - _____ Charges and specifications verbatim or accurate summary (*U.S. v. Glover*, 57 M.J. 696 (N.M.C.C.A. 2002))
- _____ Action states CA considered:
 - _____ Result of trial
 - _____ SJAR/LOR, if applicable
 - _____ Members' or military judge's clemency recommendation, if any
 - _____ Clemency matters submitted by anyone, if any

- Legal errors raised, if any
- Other matters raised under RCM 1105 and RCM 1106, if any. [Note: Indicate that no matters were received if that is the case, also indicate a failure of accused or counsel to respond to SJAR/LOR.)]

- Include any additional matters considered.
 - ROT
 - Personnel records of accused
 - Other matters deemed appropriate by CA
 - Notify accused and provide opportunity to rebut, if CA considers matters adverse to accused from outside record, with knowledge of which the accused is not chargeable

- When applicable, confirm that the victim has been provided and signed a Victim Rights Statement. (Enclosure 6)

- Address specific action with regard to findings, if applicable.
 - Rehearing on findings ordered
 - If rehearing or new trial ordered, reasons for disapproval
 - If no rehearing ordered on disapproved charges and specifications, statement of dismissal included
 - If "other" trial ordered, basis for declaring the proceedings invalid stated

- Address specific action with regard to sentence adjudged.
 - Sentence consistent with pretrial agreement, if any. (Note: CA must consider accused's EAOS and the impact on any term of the PTA)
 - CA approve, disapprove, or mitigate sentence
 - CA execute portions of sentence, except any punitive discharge, that are not suspended (at this stage, punitive discharge may be approved, but may not be executed)
 - Comply with equivalencies under RCM 1003 if sentence is mitigated
 - Sentence limited if ROT does not meet requirements of RCM 1103(b)(2)(B) or (c)(1)
 - Rehearing on sentence ordered

- If accused not reduced to E-1 as part of adjudged sentence, address automatic reduction (Article 58a, UCMJ).

- If portion of sentence is suspended, inform accused of conditions in writing.

- Note place of confinement, if confinement approved by CA.

- Note deferment date, if granted.
 - Deferment rescinded. Date: _____

- Give credit for illegal pretrial confinement as directed.

- _____ Give credit for other punishment (e.g., NJP for same offense at court-martial) as necessary.
- _____ Include copy of any reprimand ordered executed.
- _____ Note companion cases, if any. (JAGMAN 0151(a)(5))
- _____ Must be signed by CA with authority to sign as stated below. (No “by direction” authorized).
- _____ If substitute CA, action notes CA is acting pursuant to a specific request that is in compliance with RCM 1107(a) and JAGMAN 0151(b). (Attach documentation of reasons for substitute CA to ROT – *U.S. Brown*, 57 M.J. 623 N.M.C.C.A. (2002)).
- _____ If action on rehearing or new trial, comply with limitations of RCM 810(d).
- _____ If a Qualifying Military Offense (QMO), specify in promulgation order that DNA processing is required under 10 U.S.C. § 1565 and note whether sex offender registration is required.
 - _____ Determine whether any additional crime reporting requirements are triggered under references (d) through (h). Requirements may include, but are not limited to: a DNA sample, sex offender notification, reporting of background or criminal information, and/or fingerprinting in accordance with the Gun Control Act of 1968. Criminal justice information will be sent to NCIS by the responsible Navy organization (as delineated in reference (h)) via a spreadsheet with the following data fields: (1) Full name, (2) Sex, (3) Race, (4) Height, (5) Weight, (6) Eye color, (7) Hair color, (8) Place of birth, (9) Date of Birth, (10) Social security number; and (11) Incident number, (12) Submitter contact information, (13) Reason for service member entry into NICS. Spreadsheets must be submitted via email to NCIS at nicssubmission@ncis.navy.mil per reference (h). If the accused has been sentenced to confinement, the confinement facility will notify the accused of the duty to register as a sex offender. If no confinement is awarded (or if the amount of confinement awarded amounts to time served) the Convening Authority will be required to notify the accused of the accused’s duty to register and where to register as a sex offender. (See DoDI 1325.07 and DoDI 5525.1B). See enclosure (7) for detailed information about crime reporting requirements under the Gun Control Act of 1968.
- _____ Immediately serve a copy of CA’s action and promulgating order on accused.
- _____ Forward receipt of service on accused to cognizant RLSO for inclusion in the ROT.

**Post-Trial Processing
Handling and Reporting Requirements**

Navy Marine Corps Appellate Review Activity (NAMARA)

NAMARA shall track and report all military justice cases from docketing with NMCCA until NMCCA final action to include tracking and reporting cases that are remanded back to a convening authority for further action. NAMARA may request AJAG Code 02 to consult with COS-RLSO to approve deviation from established procedures or to resolve questions about which activity is responsible for tracking and reporting a particular case.

Independent SJAs

Independent SJAs shall familiarize themselves with, and apprise their convening authority on, the reporting and handling requirements of this instruction and be prepared to assist RLSOs and PTPUs as necessary to satisfy these requirements.

RLSOs

1. RLSOs shall track and report all post-trial processing of cases.
2. Case tracking and reporting responsibility.
 - a. The RLSO responsible for prosecuting a case shall track and report that case in CMS until no longer required to do so by this instruction, including circumstances where post-trial processing is conducted by independent SJAs. RLSO COs shall consult with COS-RLSO to request any deviance from this procedure or to resolve questions concerning which RLSO is responsible for tracking and reporting a particular case.
 - b. For cases requiring appellate review, RLSOs shall be responsible for tracking and reporting cases from trial completion until the case is successfully delivered to NAMARA.
 - c. For cases not requiring appellate review, RLSOs shall track and report cases from conclusion of trial until the case is final within the meaning of Article 76, UCMJ, and RCM 1209.

Reports

1. CMS is the primary tool for tracking and reporting post-trial processing status. To ensure that CMS reports are timely and accurate, RLSO COs will ensure that CMS data is entered in accordance with reference (b).
2. The RLSO CO is required to forward to Code 67 a memo with a summary of ROT timeline, identifying any issues and corrective action to be taken on any case that exceeds the 120 day Moreno I or 30 Day Moreno II processing timeline.

Processing Guidelines.

RLSOs shall adopt the following guidelines for post-trial processing of cases. In all cases, a complete copy of the authenticated ROT is forwarded to the CA the same day it is forwarded to the PTPU, if a PTPU will assist with post-trial processing. The ROT copy forwarded to the CA will include with a letter from the RLSO CO outlining post-trial processing procedures, requesting a copy of the Art. 64 review, and providing a RLSO point of contact for the CA to use throughout post-trial processing.

1. Acquittal. The designated PTPU will receive the original ROT, and coordinate with the CA or LO to assist the command with issuing a promulgating order publishing the findings of the court-martial within (10) days of receipt of the ROT. Pursuant to JAGMAN 0154c, ROTs for all GCMs shall be forwarded to OJAG (Code 40) at 1254 Charles Morris Street SE, Suite B01, Washington Navy Yard, DC 20374-5124 immediately after completion of final action.

2. Special courts-martial (SPCM) in which the sentence does not include a punitive discharge or 1 year confinement, or SPCM that includes a punitive discharge or 1 year of confinement where the accused has waived appellate review under R.C.M 1110. The appropriate PTPU will receive the ROT and coordinate with the CA/LO to meet the following guidelines:

a. The PTPU will immediately contact the CA to determine if assistance is required to prepare the draft CA's action and promulgating order. If an SJA is assigned to the CA and no assistance is required, the PTPU will promptly forward a copy of the ROT and monitor status. If no SJA is assigned to the CA or assistance is required, the SJA of the PTPU will prepare a proposed action and promulgating order for the CA and forward with a copy of the ROT within seven calendar days of receipt of the ROT.

b. Within two working days after the CA takes action, the PTPU will obtain the original post-trial documents and prepare them for distribution in accordance with JAGMAN Section 0155(e).

c. Within three working days of receipt of the post-trial documents, the PTPU will review the documents, insert them into the ROT and forward the original ROT to the SJA of the Officer exercising General Court-Martial jurisdiction over the CA for review under Article 64, UCMJ, for review themselves or to cause another judge advocate to perform such a review.

3. SPCM that involves an officer or where the sentence includes a punitive discharge or 1 year of confinement (no waiver of review). The appropriate PTPU will receive the ROT and coordinate with the CA/LO to meet the following guidelines:

a. The PTPU will immediately determine whether the CA has an SJA/LO qualified to prepare the SJAR/LOR. If there is no SJA/LO or if the incumbent is disqualified, the PTPU must advise the CA that the CA may submit a request for assignment of a SJA to the cognizant RLSO. If the designated SJA is an attorney other than the current SJA of the PTPU, the PTPU will promptly forward a copy of the ROT to that SJA and not only monitor the status, but also provide any necessary support to that SJA to meet post-trial processing timelines as outlined below.

- b. Within seven calendar days of receipt of the ROT, the SJA/LO should complete his/her recommendation and forward it to the defense counsel. Delays must be documented in the SJAR/LOR.
- c. Pursuant to RCM 1105, defense counsel has 10 calendar days to respond to the SJAR/LOR. If requested, for good cause, the CA may extend the 10 calendar day period for an additional 20 calendar days.
- d. Pursuant to RCM 1105A, the victim has 10 calendar days to submit a written statement to the CA, via the CA's SJA or LO. The 10 calendar days commences after the later of the date on which the victim receives an authenticated copy of the ROT or waives the right to receive such copy; or the date on which the recommendation of the SJA or LO is served on the victim. If requested, for good cause, the CA may extend the submission period for an additional 20 calendar days. Submission of a statement under RCM 1105A is deemed a waiver of the right to submit additional statements.
- e. Within three working days of receipt of defense comments, or if defense counsel fails to respond to the SJAR/LOR within 10 calendar days, the SJA/LO shall prepare a supplemental SJAR/LOR if required. Per RCM 1106(f)(7), if the supplemental SJAR/LOR addresses new information, defense counsel for the accused and the accused is afforded the same time periods to respond to the new information. If no supplemental SJAR/LOR is required, the CA should be provided with the SJAR/LOR and proposed action/promulgating order.
- f. Allow for approximately five calendar days to obtain signature from the CA. Within two working days after the CA takes action, the PTPU shall obtain the original post-trial documents with appropriate copies for distribution from the CA/LO (see JAGMAN Section 0155(e)). Post-trial documents should be forwarded to the PTPU via the fastest accountable method.
- g. Within three working days of receipt of the post-trial documents, the PTPU will review the documents and properly insert them into the records of trial. Copies of the CA's action/promulgating order will be distributed via regular mail by the PTPU. The original record of trial with the appropriate copies for NAMARA will be sent via the most expeditious means (e.g. express mail, FEDEX, or similar means) to 1254 Charles Morris Street SE, Suite B01, (ATTN: Code 40), Washington Navy Yard, DC 20374-5124. Funding for costs associated with forwarding the original record of trial will be supplied by the CA. If applicable, the copy to the President of the Navy Clemency and Parole Board will be mailed via regular mail. Not all cases will be forwarded to NAMARA for review. In those cases where the CA disapproves that part of the sentence that triggers NAMARA review (a punitive discharge or one year or more of confinement), the case will be forwarded to a judge advocate of the GCMCA for review.

4. General Courts-Martial (GCM) that are convened by the Region Commander (regardless of whether appellate review has been waived). Records will be forwarded directly to the RLSO staff assigned to the Region Commander for processing to meet the following guidelines:

- a. Within seven calendar days of receipt of the ROT, the SJA should complete his/her recommendation and forward it to the defense counsel. Delays must be documented in the SJAR.

b. Pursuant to RCM 1105, defense counsel has 10 calendar days to respond to the SJAR. If requested, for good cause, the CA may extend the 10 calendar day period for an additional 20 calendar days.

c. Pursuant to RCM 1105A, the victim has 10 calendar days to submit a written statement to the CA, via the CA's SJA or LO. The 10 calendar days commences after the later of the date on which the victim receives an authenticated copy of the ROT or waives the right to receive such copy; or the date on which the recommendation of the SJA or LO is served on the victim. If requested, for good cause, the CA may extend the submission period for an additional 20 calendar days. Submission of a statement under RCM 1105A is deemed a waiver of the right to submit additional statements.

d. Within 10 calendar days of either receipt of defense comments, or if defense counsel fails to respond to the SJAR, the SJA shall prepare a supplemental SJAR if required. Per RCM 1106(f)(7), if the supplemental SJAR addresses new information, DC/accused is afforded the same time periods to respond to the new information. If no supplemental SJAR is required, the CA should be provided with the SJAR and proposed action/ promulgating order.

e. Allow for approximately five calendar days to obtain signature from the CA. RLSOs shall ensure that within 3 working days of the CA signing the action, a ROT will be prepared for mailing. The original ROT with the appropriate copies for NAMARA will be sent via the most expeditious means (e.g. express mail, FEDEX, or similar means) to OJAG (Code 40) at 1254 Charles Morris Street SE, Suite B01, Washington Navy Yard, DC 20374-5124. If applicable, the copy to the President of the Navy Clemency and Parole Board will be mailed via regular mail.

5. General Courts-Martial that are convened by a Convening Authority other than the Region Commander (regardless of whether appellate review has been waived). The original ROT and appropriate copies will be forwarded to the SJA assigned to the GCMCA that convened the subject case. One copy of the record is forwarded to the PTPU to not only monitor the status but also provide any necessary support to that SJA to meet post-trial processing timelines as outlined in paragraph 8(d) above. In all cases, the PTPU will provide support to ensure proper assembly of the record of trial and mailing of the records via the most expeditious means (e.g. express mail, FEDEX, or similar means) to OJAG (Code 40) at 1254 Charles Morris Street SE, Suite B01, Washington Navy Yard, DC 20374-5124.

6. ROTs returned to RLSOs from NAMARA for supplemental action. Records shall be forwarded to the RLSO that tried the case. These cases will be tracked and reported in accordance with the guidelines provided in this instruction.

VICTIM POST-TRIAL RIGHTS STATEMENT

This document is provided to fully explain to you the following post-trial rights. If you have any questions, your victims' legal counsel (VLC) will explain these rights to you more fully. If you do not have a VLC, you have the right to request one to assist you with all or any portion of your rights pertaining to this court-martial. However, not all victims are eligible for a VLC. For those that are not eligible or for those who do not wish to receive services from a VLC, please direct your questions to a trial counsel.

Record of trial (ROT) for victim of sexual assault

A copy of the ROT will be prepared and given to you so long as you were named in a specification that resulted in findings (R.C.M. 1103(g)(3)) unless you waive this right. You may request that your copy of the ROT be delivered to your VLC. Certain information, including classified information, sealed portions of the record, and/or personally identifying information of others, will not be released to you. The ROT will be provided to you once it has been authenticated by the Military Judge.

Staff Judge Advocate or Legal Officer's Recommendation (SJAR)

If the accused received a punitive discharge or was sentenced by a general or special court-martial, the convening authority (CA)'s staff judge advocate or legal advisor will submit a SJAR to the CA. Before forwarding the SJAR and the ROT to the CA, this legal advisor will serve a copy of the SJAR upon you.

If it is impracticable to serve the SJAR on you for reasons including, but not limited to, your transfer to a distant place, your unauthorized absence, or military exigency, your copy will be forwarded to your VLC, if you have one. You may also request in writing that your copy be sent to your VLC instead of yourself.

Submission of Matters to the Convening Authority

A crime victim of an offense tried by a court-martial of which the accused was found guilty and on which the CA is taking action has the right to submit matters to the CA before that officer takes action on your case. These matters must be submitted within 10 days after a copy of the authenticated ROT is received if applicable, or after the SJAR is served on you or on your VLC whichever is later. The CA may extend these periods for good cause, but not for more than an additional 20 days. Failure to submit matters within the time prescribed waives the right to submit matters later.

Any matters you submit to the CA must be in writing and be signed by you. You may include photographs, but may not include any video, audio or other media. A copy of matters you submit to the CA will be provided to the accused.

Action by the Convening Authority

The CA will take action on the sentence adjudged and may, in his or her discretion subject to the limitations below, take action on findings of guilty. The action to be taken on the findings and

sentence is within the sole discretion of the CA and is a matter of command prerogative. If you are eligible to receive a copy of the record of trial, you will receive a copy of the CA's action included with the record.

In taking action on the sentence, the CA may never increase the severity of the sentence. The CA is not empowered to reverse a finding of not guilty.

In taking action on the sentence, the CA may approve, disapprove, commute, or suspend the sentence in whole or in part. The CA may change a finding of guilty to a charge or specification to a finding of a lesser included offense included within that charge or specification, may disapprove a finding of guilty and order a rehearing, or may set aside and dismiss any charge or specification.

For offenses committed on or after 24 June 2014, the CA may modify any findings of guilt for an offense where the maximum sentence of confinement is not more than two years and the sentence adjudged does not include dismissal, a dishonorable or bad-conduct discharge, or confinement for more than six months. For these offenses, the CA may change a finding of guilty to a charge or specification to a finding of guilty to a lesser included offense, may disapprove a finding of guilty and order a rehearing, or may set aside and dismiss any charge or specification. The CA may never take such actions on offenses under Article 120 (a) or (b), Article 120b, or Article 125.

For offenses committed on or after 24 June 2014, a CA may modify a sentence that includes confinement for six months or less and does not include a punitive discharge. A CA may not, however, disapprove, commute, or suspend a sentence that includes confinement for more than six months or a punitive discharge, except to effectuate a pre-trial agreement, or based on the trial counsel's written recommendation.

Notification of Appellate Review

If the Convening Authority approves a sentence including a punitive discharge or confinement in excess of 12 months, the case will automatically be reviewed on appeal for legal error. Even if the approved sentence is less than this threshold, the accused may still request that the case be reviewed by the Office of the Judge Advocate General of the Department of the Navy. Depending on a variety of factors, including case complexity, the appellate process can sometimes take years before a final disposition is reached. You may choose to be notified by the appellate VWAP representative at the Navy-Marine Corps Appellate Review Activity (NAMARA) of the following:

- a) Scheduling of each public appellate court proceeding, including changes and delays;
- b) The final decision of the appellate court; and
- c) If the case is being reviewed by the Office of the Judge Advocate General, pursuant to Article 69 and Article 73, the outcome of that review.

You are not entitled to a mileage allowance or transportation to observe any appellate proceeding. When contacted by an appellate VWAP representative concerning the status of your case, you may be referred to a VLC located in the region where your case took place to determine if you are entitled to victims' legal counsel services. Additional information may be found at:

--Navy Victim Legal Counsel Organization information and phone numbers:

http://www.jag.navy.mil/legal_services/vlc.htm

--Marine Corps Victims' Legal Counsel Organization information and phone numbers:

<http://www.hqmc.marines.mil/sja/Branches/Victim-Legal-Counsel-Organization-VLCO/>

--Navy Victim Witness Assistance Program information and phone numbers:

<http://www.public.navy.mil/bupers-npc/support-vwap/Pages/default.aspx>

--Marine Corps Victim Witness Assistance Program information and regional VWAP contact links: <http://www.hqmc.marines.mil/sja/Brances/Victim-Witness-Assistance-Program/>

Waiver of Receipt of the Record of Trial, SJAR, Right to Submit a Statement, and/or Notification of Appellate Review

You may waive your rights to:

- a) receipt of the record of trial, SJAR or CA's action;
- b) right to submit a statement; and/or
- c) the right to be notified of appellate review.

You may give up the foregoing rights, or you may waive any or all of these rights at a later time.

However, once you file a waiver of your right to submit a statement, your decision is final.

Additional post-trial rights are further explained in DD Form 2703, Post-Trial Information for Victims and Witnesses of Crime

Acknowledgement

I acknowledge (1) that prior to adjournment of the court-martial concerning the offenses committed against me, I was provided with the above written advice; (2) that I have read and I understand my post-trial rights; (3) that I discussed my rights with my VLC, if any, or trial counsel prior to signing this form.

I specifically request that my copy of the ROT be delivered to (please initial):

_____ me _____ my counsel, _____

I specifically request that my copy of the SJAR be delivered to:

_____ me _____ my counsel, _____

I specifically request that my copy of the CA's Action be delivered to:

_____ me _____ my counsel, _____

I specifically request notifications of appellate proceedings:

Note: The appellate VWAP representative will notify you directly of any appellate proceedings.

-OR-

I desire to waive the following:

- _____ Receipt of the ROT
- _____ Receipt of the SJAR
- _____ Receipt of the CA's Action
- _____ Right to Submit a Statement to the CA
- _____ Notification of Appellate Proceedings

If applicable, civilian victim legal counsel's name, address, and telephone number are:

Telephone (____) _____

I understand that in order to receive any documents I elected to personally receive, I must keep the post-trial processing division the convening authority, and the appellate VWAP office informed of my current mailing address. In this regard, I may be contacted at the following permanent address, email address and phone number:

Email:

Telephone () _____

Forward this election and any change of address or phone number to:

Post-Trial Processing Division

Physical Address

Email address

(Or)

Regional Review Office

Legal Services Support Section

Physical Address

Email Address

Appellate VWAP Office, NAMARA,

Physical Address

Email address: Appellate_notification.fct@navy.mil

Date

Print/Signature of Victim

Gun Control Act of 1968 Reporting Requirements

| Prohibition | Actions by Trial Counsel |
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| Method of notification NAVADMIN 076/18 | <ul style="list-style-type: none"> – In addition to the reporting requirements listed below, criminal justice information must be sent to NCIS by the responsible Navy organization via a spreadsheet with the following data: Service member (1) Full name, (2) Sex, (3) Race, (4) Height, (5) Weight, (6) Eye color, (7) Hair color, (8) Place of birth, (9) Date of Birth, (10) Social security number; and (11) Incident number, (12) Submitter contact information, (13) Reason for service member entry into NICS. Spreadsheets will be submitted via email to NCIS at nicssubmission@ncis.navy.mil. – Trial Counsel will notify NCIS, as further detailed below, for all service members who have: been referred to GCM for a crime punishable by more than one year of confinement; convicted at a GCM for any offense punishable by more than one year confinement (regardless of actual confinement awarded); been found incompetent to stand trial or found not guilty by reason of lack of mental responsibility pursuant to Articles 50a and 76b of the UCMJ; or been convicted by a SPCM or GCM of a crime of domestic violence. – Note that OPNAV N17, NPC, and COs have separate criminal justice reporting requirements, as delineated in NAVADMIN 076/18. |
| Under Indictment (GCM only) 18 USC 922(d)(1) 18 USC 922(n) | <ul style="list-style-type: none"> – On referral of any charge punishable by more than one year of confinement for trial by general court-martial, forward a copy of the referred charges to NCIS, the Criminal Investigation Division (CID), and CNIC law enforcement personnel. – Inform the convening authority that the accused is prohibited to receive, transport, or ship firearms or ammunition for personal purposes. – Notify detailed defense counsel in writing that receipt, transport, and shipment of firearms |
| Conviction of offense punishable by more than one year of confinement (GCM only) 18 USC 922(d)(1) 18 USC 922(g)(1) | <ul style="list-style-type: none"> – Make the following entry in the Special Notifications section of the Report of Results of Trial: “The accused was convicted of an offense punishable by more than one year of confinement and is prohibited to receive, possess, ship, or transport firearms or ammunition pursuant to 18 USC 922(g)(1) and 922(n).” – Notify detailed defense counsel in writing that receipt, possession, transport, and shipment of firearms by the accused for personal purposes is unlawful. – Inform the convening authority that the accused is prohibited to receive, possess, ship, or transport firearms or ammunition for personal purposes. – Forward a copy of the RROT to NCIS, CID, CNIC law enforcement, and the SJA. |
| Fugitive from justice (GCM/SPCM) 18 USC 922(d)(2) | <ul style="list-style-type: none"> – Notify NCIS and CID in cases where the accused has left the state in which an investigation had been commenced or charges had been preferred against an accused, and the accused left that state in order to avoid prosecution. – Ensure command legal personnel forward a copy of the DD Form 553, Deserter/Absentee Wanted by the Armed Forces, to NCIS, CID, CNIC law enforcement, and the SJA. |

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| <p>Unlawful user of a controlled substance (GCM/SPCM) 18 USC 922(d)(1) 18 USC 922(g)(1) 18 USC 922(g)(3)</p> | <ul style="list-style-type: none"> - In cases tried by special and general courts-martial where a conviction is obtained, notify NCIS, CID, CNIC law enforcement, and the SJA by forwarding a copy of the signed RROT. - For Special Courts-Martial, inform the convening authority that the accused is prohibited to receive, possess, transport, or ship firearms or ammunition for personal purposes for a period of 12 months following the conviction. - For General Courts-Martial, inform the convening authority that the accused is permanently prohibited to receive, possess, transport, or ship firearms or ammunition for personal purposes. - For General Courts-Martial, make an entry in the Special Notifications section of the Report of Results of Trial as directed for cases involving conviction for an offense punishable by more than one year of confinement. - For Special Courts-Martial, make the following entry in the Special Notifications section of the Report of Results of Trial: "The accused was convicted of an offense punishable by more than one year of confinement and is prohibited to receive, possess, ship, or transport firearms or ammunition pursuant to 18 USC 922(g)(3) and 922(n) for a period of 12 months following this conviction." - Notify detailed defense counsel in writing that receipt and possession of firearms by the accused for personal purposes is unlawful. |
| <p>Mental incompetence (GCM/SPCM) 18 USC 922(g)(4)</p> | <ul style="list-style-type: none"> - Where an accused is found incompetent to stand trial or not guilty by reason of lack of mental responsibility, notify NCIS, CID, CNIC law enforcement, and the SJA by forwarding a copy of any written findings of the military judge or, in acquittals, a signed copy of the RROT. - Inform the convening authority that the accused is prohibited to receive, possess, transport, or ship firearms or ammunition for personal purposes until such time as the disability under 18 USC 922(g)(4) is removed. |
| <p>Dishonorable discharge 18 USC 922(g)(6)</p> | <ul style="list-style-type: none"> - In cases tried by general courts-martial where a dishonorable discharge is awarded, notify NCIS, CID, and CNIC law enforcement by forwarding a copy of the signed RROT. - Inform the convening authority that the accused is permanently prohibited to receive, possess, transport, or ship firearms or ammunition for personal purposes. - Make an entry in the Special Notifications section of the Report of Results of Trial as directed for cases involving conviction for an offense punishable by more than one year of confinement. |
| <p>Restraining order (GCM/SPCM) 18 USC 922(g)(8)</p> | <ul style="list-style-type: none"> - Where trial counsel learns that a service member is the subject of a civilian restraining order which meets the requirements of section 922(g)(8), obtain a copy of the restraining order and forward the order to NCIS, CID, and CNIC law enforcement. - Forward a copy of the order to the commanding officer of the service member restrained and the Staff Judge Advocate advising that commander, with notice that the person restrained is prohibited to receive, possess, or transport firearms or ammunition. - If defense counsel has been detailed in the case, notify defense counsel in writing that receipt and possession of firearms by the accused for personal purposes is unlawful. |

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| <p>Domestic violence (GCM/SPCM) 18 USC 922(d)(9) 18 USC 922(g)(9)</p> | <ul style="list-style-type: none"> - Where an accused is found guilty at special court-martial of any offense of domestic violence, make the following written entry in the remarks section of the Report of Results of Trial: "The accused was convicted of a misdemeanor crime of domestic violence and is prohibited to receive, possess, ship, or transport firearms or ammunition pursuant to 18 USC 922(g)(9)." Include the relationship of the accused to the victim in the Special Notifications section. - In cases tried by General Court-Martial where the accused is found guilty of any offense of domestic violence, determine the maximum punishment for the offense of which the accused was found guilty. If punishable by less than one year of confinement, notify as with domestic violence cases tried by special courts-martial. In cases where the domestic violence offense of which the accused is found guilty is punishable by more than one year of confinement, notify as with other cases punishable by more than one year of confinement. Make the following written entry in the remarks section of the Report of Results of Trial: "The accused was convicted of a crime of domestic violence punishable by more than one year of confinement and is prohibited to possess firearms or ammunition pursuant to 18 USC 922(g)(1)." Include the relationship of the accused to the victim in the Special Notifications section. - Forward a signed copy of the RROT to NCIS, CID, CNIC law enforcement, and the SJA. - Inform the convening authority that the accused is permanently prohibited to receive, possess, transport, or ship firearms or ammunition for any purpose. - Notify detailed defense counsel in writing that receipt, possession, shipment, and transport of firearms by the accused for <u>any</u> purpose is unlawful. |
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