

NEW JAG INSTRUCTION - PUBLIC ACCESS TO COURT-MARTIAL DOCKETS, FILINGS, AND RECORDS PURSUANT TO ARTICLE 140a, UCMJ

In accordance with Article 140a, Uniform Code of Military Justice (UCMJ), and Section 534 of the National Defense Authorization Act (NDAA) for Fiscal Year 2020, docket information, filings, and certain records must be publically accessible to the greatest extent practicable. In furtherance of this new requirement, the Judge Advocate General (JAG) issued JAGINST 5813.2, “Public Access to Court-Martial Dockets, Filings, and Records Pursuant to Article 140a, UCMJ” on 16 December 2020.

JAGINST 5813.2 applies to all records of trial certified or authenticated **on or after 23 December 2020**. To ensure compliance with JAGINST 5813.2, the instruction should be reviewed in its entirety by all personnel involved in the courts-martial process.

Here are some highlights of the instruction:

- The instruction establishes the Military Justice Information Division (Code 41), which is responsible for managing the public release of records in this instruction.
- Region Legal Service Offices and Legal Services Support Sections must ensure that digital copies of certified records of trial for **all** courts-martial are delivered to OJAG Code 40 via the SharePoint Drop Box located at:

<https://portal.secnav.navy.mil/orgs/JAG/40/SitePages/Home.aspx>.

JAGINST 5813.2 requires that trial court filings and records be made available to the public within 45 days of certification of the record of trial.

- Trial counsel, defense counsel, and victims’ legal counsel must minimize the use of Personally Identifiable Information (PII) and other information exempted from release by JAGINST 5813.2, enclosure (2), to the maximum extent possible in all filings and court records. Additionally, counsel will omit enclosures or attachments to filings. Any documentary evidence offered by the parties for consideration on a filing must be introduced as a separate appellate exhibit and referenced as such in the filing, notice, request, or motion. This supporting evidence will not be released under Article 140a, UCMJ.

- All appellate counsel shall omit enclosures or attachments from motions (other than motions to attach) and pleadings, including briefs, answers, replies, and petitions. Any document from outside the record, including affidavits and declarations, that counsel desires to reference in any pleading, may be submitted to the court only pursuant to a motion to attach.
- JAGINST 5813.2 details the process for releasing trial and appellate court dockets.

JAGINST 5813.2 is available at: <https://www.jag.navy.mil/library/instructions.htm>. This Sidebar has been posted to Code 20's page on the JAG Portal at: <https://portal.secnav.navy.mil/orgs/JAG/20/SitePages/Home.aspx>

Please direct any questions to LT Shannon Welch, shannon.a.welch1@navy.mil for USN inquiries and LtCol Adam King, adam.m.king@usmc.mil for USMC inquiries.