Military Justice Case Management, Data Collection, and Accessibility Standards

I. Case Management System

A. Each Military Service will maintain and operate a military justice case processing and management system. Each system will track every military justice case within that Military Service until completion through the final disposition within the military justice system. Each military justice case processing and management system will maintain all data collected in accordance with National Archives and Records Administration-approved records management schedules to ensure complete and accurate reporting. Each Military Service must ensure the data entered into and maintained by the system throughout the military justice process is complete and accurate.

B. Two or more Military Services may operate a military justice case processing and management system in conjunction with each other.

II. Collection and Analysis of Data Concerning Substantive Offenses and Procedural Matters

A. Each military justice case processing and management system will be capable of collecting information in accordance with the Data Points and Uniform Definitions set out in Appendix A.

B. Each Military Service is responsible for implementing standards to ensure the data entry is complete and accurate. To ensure the collection of uniform data across the Services, each case processing and management system will identify criminal offenses by the appropriate National Incident-Based Reporting System (NIBRS) Codes. To ensure the collection of uniform data concerning race and ethnicity, the definitions of race and ethnicity as established by the Office of Management and Budget Statistical Policy Directive No. 15 (OMB 15), Race and Ethnic Standards for Federal Statistics and Administrative Reporting, will be applied by each military justice case processing and management system. A Military Service may elect to have its military justice case processing and management system capture expanded ethnic or racial categories; however, for reporting purposes, expanded categories will aggregate to those established by OMB 15.

III. Distribution of Recordings of Open Court-Martial Sessions, Evidence, and Records of Trial Within the Military Justice System

A. In accordance with Rule for Courts-Martial (RCM) 1106, a request by the accused for a copy of the recording of all open sessions of the court-martial and copies of or access to the evidence admitted at the court-martial will be submitted to the trial counsel. All copies of the those recordings and/or exhibits that are eligible for review by the accused will be made available to the accused or defense counsel as soon as practicable after a valid request is received and in compliance with the Privacy Act.

B. In accordance with RCM 1106A, a request by a victim for a copy of the recording of all open sessions of the court-martial and copies of or access to the evidence admitted at the court-

martial will be submitted to the trial counsel. All copies of the recordings and/or exhibits that are eligible for review by the victim will be made available to the victim or the victim's counsel as soon as practicable after a valid request is received and in compliance with the Privacy Act.

C. The accused and any victim as defined in RCM 1112(e) will be notified of the opportunity to obtain a copy of the certified record of trial within 10 days of the certification. Each Military Service will implement procedures to ensure adequate notification is provided. Each Military Service will implement procedures to ensure that copies of certified records released to accused or victims do not contain any sealed exhibits, classified information, or information from closed court sessions.

IV. Public Access to Military Justice Docket Information, Filings, Trial-Level Court Documents, and Appellate Documents

A. Public access to military justice docket information, filings, trial-level court documents, and appellate documents should follow the best practices of Federal and State courts, to the extent practicable.

B. The Privacy Act is relevant to the manner in which information and documents from the military justice system are to be made accessible to the public. Additionally, Article 140a, Uniform Code of Military Justice (UCMJ), requires restricting access to certain personally identifiable information of minors and victims of crimes.

C. For the purposes of Part IV of these Military Justice Case Management, Data Collection, and Accessibility Standards, across all Military Services, the following definitions are provided:

1. "Docket" includes information concerning each case docketed with the trial or appellate courts of each Military Service.

a. The trial court docket includes the name of the case, the location of the hearing, the type of hearing, the military judge presiding over the hearing, and the counsel assigned to the case. While the name of the case, the location of the hearing, and the type of case will be updated on an ongoing basis, the military judge presiding over the hearing and the counsel assigned to the case may be updated and made accessible to the public at a reasonable time following the hearing. The docket may be limited to hearings conducted after the case has been referred to a court-martial; Article 32 preliminary hearings are not required to be published in this docket.

b. The appellate court docket includes the name of the case, the panel to which the case is assigned, and the date and location of any scheduled oral argument.

2. "Filings" consist of all pleadings, notices, petitions, and requests submitted to a trial court, military judge, or a military magistrate designated under Article 19 or Article 30a. "Filings" do not include any evidence or matters submitted in support of any pleading, notice, petition, or request.

3. "Trial-level court documents" consist of the charge sheet, convening order(s), court rulings, statement of trial results, action by the convening authority pursuant to RCM 1109 or RCM 1110, and entry of judgment. For purposes of Part IV of these Military Justice Case Management, Data Collection, and Accessibility Standards, the term "trial-level court documents" does not include the Article 32 preliminary hearing report, a recording of any court session, exhibits (unless otherwise publicly accessible), or any transcript of the proceedings.

4. "Appellate documents" consist of pleadings, notices, petitions, and requests submitted to a Court of Criminal Appeals and orders and opinions of a Court of Criminal Appeals.

5. "Secretary concerned" is defined by 10 U.S.C. § 101(9).

D. Procedures, Standards, and Training.

1. With respect to the creation, maintenance, use, and dissemination of covered records at any stage of the proceedings, the Military Services must comply with the Privacy Act and other applicable laws and regulations related to the protection of personal, governmental, and classified information or otherwise sealed materials.

2. The Secretaries concerned will implement standards and procedures to ensure all publicly accessible dockets, filings, trial-level court documents, and appellate documents are redacted to conform with the requirements of paragraph IV.D.1 of these Military Justice Case Management, Data Collection, and Accessibility Standards.

3. The Secretaries concerned will prescribe standards for training the individuals responsible for making redactions to ensure compliance with paragraph IV.D.1 of these Military Justice Case Management, Data Collection, and Accessibility Standards.

4. The Secretaries concerned will prescribe standards to administer and maintain dockets, filings, trial-level court documents, and appellate documents on a publicly accessible website for their respective judiciaries.

5. Each Court of Criminal Appeals will maintain its docket and appellate documents on a publicly accessible website.

6. Filings, trial-level court documents, and appellate documents will be made publicly accessible pursuant to paragraphs IV.E and IV.F. The Secretaries concerned will prescribe standards for reconsideration of initial denials of requests to make any docket, filing, trial-level court document, or appellate document publicly accessible.

7. These Military Justice Case Management, Data Collection, and Accessibility Standards do not impose any requirement on the United States Court of Appeals for the Armed Forces. E. Minimum standards for public access to dockets, filings, trial-level court documents, and appellate documents.

1. Each Secretary concerned will provide for the publication of dockets, filings, triallevel court documents, and appellate documents prepared for public release in accordance with paragraph IV.D.1 of these Military Justice Case Management, Data Collection, and Accessibility Standards on a publicly accessible website.

2. Absent extraordinary circumstances, filings, trial-level court documents, and appellate documents will be publicly accessible no later than 45 calendar days after the certification of the record of trial (at the trial court level) or after the Court of Criminal Appeals decision (at the appellate level). This standard does not preclude a Military Service from making filings, trial-level court documents, or appellate documents publicly accessible earlier than the 45-day deadline.

F. Additional public access in specific cases.

1. In accordance with regulations prescribed by the Secretary concerned, the Services may, upon receipt of a request or on their own initiative, make publicly accessible:

a. Filings, trial-level court documents, or appellate documents prior to the date required by paragraph IV.E.2.

b. Filings and trial-level court documents from courts-martial in which there were no findings of guilty.

c. Items not made publicly accessible under paragraph IV.E (*e.g.*, an appellate exhibit list).

2. The items to be made publicly accessible pursuant to this paragraph must comply with the requirements of paragraph IV.D.1 of these Military Justice Case Management, Data Collection, and Accessibility Standards. When deciding whether to provide public access to an item or set of items addressed by paragraph IV.F, and in furtherance of the fair administration of justice, the Services must balance the public interest in disclosure of the item(s) requested against the privacy interests of the accused, minors, and victims of crimes after appropriate redactions are made.

3. When evaluating the public interest in disclosure, non-exhaustive factors to consider include:

a. Offenses involving property damage or loss greater than \$2 million;

b. Offenses punishable by death with at least one aggravating factor as defined in RCM 1004;

c. Offenses resulting in death;

d. Grave breaches or serious crimes under the Law of Armed Conflict;

e. A proceeding involving an accused who is:

i. A general or flag officer; or

ii. Serving in a command billet in the grade of E-9 or O-5 or above; or

f. Other cases of potential high public interest, as determined under procedures established by the Secretary concerned.

4. The determination whether to make items publicly accessible under paragraph IV.F should be made in an expeditious manner. If items are to be made publicly accessible, that should be accomplished as expeditiously as practicable, absent extraordinary circumstances.

5. The Secretary concerned shall designate the authority responsible for making the determination regarding the public accessibility of those items addressed in paragraph IV.F of these Military Justice Case Management, Data Collection, and Accessibility Standards.

6. Public access under Article 140a, UCMJ, is distinct from the right to request Federal records, including court-martial records, under the Freedom of Information Act, 5 U.S.C. § 552.

V. Preservation of Court-Martial Records of Trial

General and special court-martial records of trial will be preserved, without regard to the outcome of the proceeding concerned, for at least 15 years. Regulations prescribed by the Secretary concerned will establish the duration of the availability of information and documents pursuant to Article 140a, UCMJ.

VI. No Cause of Action

Nothing in these Military Justice Case Management, Data Collection, and Accessibility Standards is intended to, and these standards do not, provide a cause of action at law or in equity, or serve as a basis for a liability claim or complaint against the Federal Government, its officers, employees or agents, or any other individual or entity.