

Office of the Presiding Officer  
Military Commission

November 22, 2004

**SUBJECT: POM 13 - Records of Trial and Session Transcripts**

1. Reference: Military Commission Order # 1, paragraph 6H(1).

2. Definitions:

a. *Authenticated record of trial under the provisions of MCO #1, paragraph 6H(1).* A complete record of all proceedings in a case that has been authenticated by the Presiding Officer when the case has been completed whether by verdict (in the case of acquittal of all charges), sentence (in the case of a finding of guilty,) or other final action terminating the proceedings.

b. *Authenticated record of a post-trial proceeding under the provisions of MCO #1, paragraph 6H(1).* A complete record of all proceedings, that have been authenticated by the Presiding Officer, of any Commission proceedings in the case that occurs after the Presiding Officer has authenticated the record of trial under the provisions of MCO #1, paragraph 6H(1).

c. *Session transcripts.* The transcript of a portion of an unauthenticated record that reflects the proceedings of a session or sessions of the Commission. There are two types of session transcripts:

(1) *Draft session transcript.* A session transcript that has been reviewed by the Presiding Officer and offered to counsel for comment or correction in accordance with this POM.

(2) *Final session transcript.* A draft session transcript that has been reviewed by counsel within the time frames, and under the conditions, established by this POM, and the Presiding Officer has resolved errata submitted by counsel.

d. *Commission translator.* A translator charged with the responsibility to translate into English what is said in another language for the benefit of Commission participants, or to translate for a non-English speaking Commission participant what is spoken in a language the defendant, witness, or other participant does not speak.

e. *Significant translation error.* An error made by a Commission Translator reflected in a session transcript that may affect the:

(1) Correctness of a ruling on a motion or other request for relief;

(2) Rights of any party to the proceeding;

(3) Correctness of the verdict or sentence; or,

(4) Provision of a full and fair trial.

3. The Assistant will provide draft session transcripts to the Presiding Officer, Commission members, the prosecution, and the defense counsel. Final session transcripts will be provided to the same persons as drafts were provided and also to the Appointing Authority. Counsel and members will use these transcripts solely as an internal reference and to reflect errata and significant translation errors in accordance with this POM. Counsel and members shall not loan, share, transmit, copy, or otherwise disclose or show to any other person or entity any portion of any draft or final session transcript for any other purpose.

4. Review of unclassified, draft session transcripts by counsel.

a. Within ten days of service of a draft session transcript where a Commission Translator was not used, the lead counsel for both sides (or a counsel designated by the lead counsel) shall provide an errata sheet in electronic form to the Presiding Officer and the Assistant indicating by page and line number any significant errors in the draft session transcript. Failure to provide an errata sheet, or obtain an extension of time to submit the same from the Presiding Officer, shall indicate that the counsel has no errata to offer.

b. Within 20 days of service of a draft session transcript where a Commission Translator was used, the lead counsel for both sides (or a counsel designated by the lead counsel) shall provide an errata sheet in electronic form to the Presiding Officer and the Assistant indicating by page and line number:

(1) Any significant errors in the draft session transcript.

(2) Any significant translation errors, the correct translation, how and why the counsel believes the translation was in error, and the necessary relief or correction required.

Failure to provide an errata sheet, or obtain an extension of time to submit the same from the Presiding Officer, shall indicate that the counsel has no errata to offer and that there are no significant translation errors.

5. Review of classified, draft session transcripts by counsel. Review of classified, draft sessions transcripts shall be done in the same fashion as unclassified draft session transcripts except the session transcript shall be served upon counsel in writing, and the errata or significant translation errors, if any, shall be provided to the Assistant and Presiding Officer in written form according to the instructions provided when the draft session transcript is served on counsel.

6. Electronic format for records and session transcripts.

a. The court reporters for Commission sessions may change from one session to another for the same case. When reporters for different Services are used, the software used to create the record may be different or incompatible, and the software may be unavailable to the parties. Once the record or session transcript is prepared, counsel and others may wish access in electronic form.

b. Records and session transcripts shall be in Microsoft Word™ to maximize the ability to use them.

c. The pagination on draft session transcripts, final session transcripts, and the authenticated records may differ when transcripts are collated. When referring to a page or line number in a draft or final session transcript, counsel should be careful to indicate whether the transcript was a draft or final session transcript.

Original signed by:

Peter E. Brownback III  
COL, JA, USA  
Presiding Officer

2 Enclosures

1. Errata sheet – other than significant translation errors.
2. Format to submit significant translation errors.

**ERRATA SHEET BY THE (PROSECUTION) (DEFENSE)**  
*Other than Significant Translation Errors*

US v. \_\_\_\_\_, Session Transcript of \_\_\_\_\_, Page \_\_\_\_ of \_\_\_\_ Pages

Counsel preparing this errata sheet: \_\_\_\_\_

Page	Line(s)	Change from	Change to	Action by the PO	
				Approved	Not approved

**ERRATA SHEET BY THE (PROSECUTION) (DEFENSE)**  
*Other than Significant Translation Errors*

US v. \_\_\_\_\_, Session Transcript of \_\_\_\_\_, Page \_\_\_\_ of \_\_\_\_ Pages

Counsel preparing this errata sheet: \_\_\_\_\_

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<b>How does counsel know the translation was incorrect?</b> (If the same source throughout this errata sheet, the source need only be stated once.)					
<b>Relief requested other than to change the translation as shown above.</b>					
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