

Army Regulation 195–5

Criminal Investigation

Evidence Procedures

**Headquarters
Department of the Army
Washington, DC
25 August 2019**

UNCLASSIFIED

SUMMARY of CHANGE

AR 195-5
Evidence Procedures

This major revision, dated 25 August 2019 —

- o Adds information concerning consolidated and long-term evidence facilities (paras 1-1, 2-13f, and 4-1).
- o Adds group operations officers to the responsibilities (para 1-4d).
- o Clarifies how many primary and alternate evidence custodians are appointed at one time (paras 1-4d(1), 1-4e(1), and 1-4g(1)).
- o Clarifies the appointment of an alternate evidence custodian in the absence of the alternate evidence custodian (para 1-4i).
- o Adds investigative analyst (General Sschedule-1805) as a civilian evidence custodian (para 1-7a(2)(a)).
- o Replaces FM 3-19.13 with ATP 3-39.12 (paras 2-2a and 2-7e(2)).
- o Clarifies individual items of evidence will be sealed in separate containers (para 2-2f).
- o Clarifies the utilization of the continuation page for the DA Form 4137 (Evidence/Property Custody Document) (para 2-3h).
- o Updates the mailing address and the uniform resource locator for the Armed Forces Medical Examiner System (para 2-7c(2)).
- o Clarifies the authorization for disposal of computer and network hardware (para 2-8d).
- o Clarifies the continuation page for the authorization for disposal (para 2-8e(5)).
- o Adds the authorization to provide victims with the logical cell phone extraction data (para 2-9f(2)).
- o Clarifies the release of personal firearms and ammunition (paras 2-9n(3) and 2-9n(3)(b)).
- o Clarifies the guidance concerning the disposal of contingency limitation .0015 funds (para 2-9s).
- o Updates unrestricted sexual assault evidence collection and disposition (paras 2-15a through h).
- o Updates restricted sexual assault evidence collection and disposition (paras 2-16a through 2-16e).
- o Adds group command sergeant major to the inspections, inventories, and inquiries process (paras 3-1a and 3-1b, and 3-2b(1)).
- o Adds group operations officer to the inventories conducted for the change of custodian (para 3-2d).
- o Replaces the military police report with the law enforcement report (throughout).

Criminal Investigation Evidence Procedures

By Order of the Secretary of the Army:

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General, United States Army
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Official:



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to the Secretary of the Army

History. This publication is a major revision.

Summary. This regulation establishes policies and procedures on criminal and counterintelligence investigation evidence procedures, including the collection, accounting, preservation, and disposition of evidence. It also specifies responsibilities of Military Police, United States Army Criminal Investigation Command, and Army counterintelligence organizations, as they apply to evidence procedures.

Applicability. This regulation applies to the Regular Army, the Army National Guard/Army National Guard of the United States, and the United States Army Reserve, unless otherwise stated. Specifically,

it applies to Army Reserve Soldiers while on active duty or inactive duty training status. It applies to the Army National Guard when in active Federal service, as prescribed in Title 10, United States Code. It does not apply to Army National Guard Soldiers serving on annual training or full-time National Guard duty under Title 32, United States Code. During mobilization, the proponent of this regulation may modify policies in this regulation. This regulation also applies to DA Civilians and contractors working in the covered positions.

Proponent and exception authority. The proponent of this regulation is the Provost Marshal General. The proponent has the authority to approve exceptions or waivers to this regulation that are consistent with controlling law and regulations. The proponent may delegate this approval authority, in writing, to a division chief within the proponent agency or its direct reporting unit or field operating agency, in the grade of colonel or the civilian equivalent. Activities may request a waiver to this regulation by providing justification that includes a full analysis of the expected benefits and must include formal review by the activity's senior legal officer. All waiver requests will be endorsed by the commander or senior leader of the requesting activity

and forwarded through their higher headquarters to the policy proponent. Refer to AR 25–30 for specific guidance.

Army internal control process. This regulation contains internal control provisions in accordance with AR 11–2 and identifies key internal controls that must be evaluated (see appendix B).

Supplementation. Supplementation of this regulation and establishment of command and local forms are prohibited without prior approval from the Provost Marshal General (DAPM–MPD–LE), 2800 Army Pentagon, Washington, DC 20310–2800.

Suggested improvements. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) directly to the Provost Marshal General (DAPM–MPD–PS), 2800 Army Pentagon, Washington, DC 20310–2800.

Distribution. This regulation is available in electronic media only and is intended for the Regular Army, the Army National Guard/Army National Guard of the United States, and the United States Army Reserve.

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Glossary

Chapter 1 General

1–1. Purpose

This regulation provides standards for receiving, processing, safeguarding, and disposing of physical evidence acquired by special agents (SA), investigative assistants, and evidence custodians of the United States Army Criminal Investigation Command (USACIDC); Military Police (MP); and Department of the Army (DA) employees and contractor personnel who are assigned to civilian police or security guard positions involving the enforcement of law and security duties on Army installations or activities. The standards set by this regulation also apply to Army counterintelligence (CI) agents collecting and processing evidence by authority of AR 381–20. Evidence handling with the United States Army Criminal Investigation Laboratory (USACIL) facility is exempt from AR 195–5 requirements. The authority to establish and approve policies and procedures for evidence handling, processing, and accountability within the USACIL is delegated to the Director, USACIL. This regulation is for the internal management, control, and disposition of evidence of criminal misconduct, including unrestricted reporting cases of sexual assault. It also applies to the management, control, and disposition of evidence kits and any other property released to Provost Marshal (PM) activities in sexual assault cases involving restricted reporting. It does not confer rights upon criminal defendants in judicial, non-judicial, or administrative proceedings. Failure to follow any provision of this regulation will not affect the admissibility of evidence at a court-martial unless the Military Rules of Evidence independently result in a ruling that the evidence is not admissible. This regulation is also for the internal management, control, and disposition of evidence collected during CI investigations. All policies and procedures in this regulation will be applied to consolidated and long-term evidence rooms and/or facilities.

1–2. References

See appendix A.

1–3. Explanation of abbreviations and terms

See glossary.

1–4. Responsibilities

a. Deputy Chief of Staff, G–2. The DCS, G–2 will ensure that Army CI organizations collecting and processing evidence by authority of AR 381–20 do so in accordance with the standards prescribed within this regulation.

b. Provost Marshal General. The PMG will prescribe policies and procedures for processing and securing evidence.

c. Commanding General, United States Army Criminal Investigation Command. The CG, USACIDC will prescribe methods to secure and account for evidence at subordinate elements.

d. Commanders/special agents-in-charge/resident agents-in-charge/group operations officer of United States Army Criminal Investigation Command units. The commanders/ SACs/ RACs/group operations officer of USACIDC units (the most senior leading agent in the unit), as appropriate, will—

(1) Appoint, in writing, one primary and one alternate evidence custodian.

(2) Supervise the evidence custodian.

(3) Ensure proper handling and processing of evidence and inspection of the evidence room monthly. The monthly inspection will be conducted by the commander/SAC/RAC, or assistant SAC/RAC when assuming the duties of the SAC/RAC. The battalion/group operations officer, battalion/group command sergeant major, battalion first sergeant, or battalion/group operations noncommissioned officer (NCO), can also conduct monthly inspections provided they are not performing duties as the primary or alternate evidence custodian.

e. Provost marshals or directors of emergency services. PMs or DES, as appropriate, will—

(1) Appoint, in writing, one primary and one alternate evidence custodian.

(2) Supervise the evidence custodian.

(3) Ensure proper handling and processing of evidence and inspect the evidence room monthly. The Deputy PM, Deputy DES, or operations officer may conduct the monthly inspection in lieu of the PM or DES.

f. Director, United States Army Criminal Investigation Laboratory. The Director, USACIL will—

(1) Ensure policies and procedures for the handling, processing, and accountability of forensic evidence are documented in accordance with laboratory accreditation standards. NOTE: This regulation does not apply to USACIL's internal processes.

(2) Ensure accountability and protect evidence from loss, deterioration, contamination, needless damage, and unnecessary consumption.

g. Commanders. The commanders of units with a CI investigative mission and the need to collect and process evidence will—

- (1) Appoint, in writing, one primary and one alternate evidence custodian.
- (2) Supervise the evidence custodian.
- (3) Ensure proper handling and processing of evidence and inspect the evidence room or security container used to store evidence monthly. The inspection will be conducted by the CI unit commander or the acting commander when the commander is unavailable (that is, illness, surgery, family emergency, and so forth).

h. Primary evidence custodian. The primary evidence custodian will—

- (1) Account for, preserve, safeguard, and dispose of, when authorized, all evidence received in the evidence room or depository in a timely manner.
- (2) Maintain all evidence records and files per this regulation.
- (3) Protect evidence from loss, deterioration, contamination, or needless damage.
- (4) Seek guidance from supervisors or appropriate trial counsel, when unusual circumstances or situations arise about the evidence processing, handling, or final disposition that are not addressed within this regulation. The situation or circumstance and responding guidance will be documented in a memorandum for record (MFR) or in electronic mail correspondence that will be attached to the original copy of the evidence document and/or with the appropriate investigation case file records.

(5) Ensure the appropriate information is recorded in the Final Disposal Action and Final Disposal Authority areas of the DA Form 4137 (Evidence/Property Custody Document), before it is signed by the approval authority.

i. Alternate evidence custodian. The alternate evidence custodian will assume the duties and responsibilities of the primary evidence custodian during his or her temporary absence. A temporary absence is more than 1 working day and not more than 30 consecutive days. During the temporary absence of the primary evidence custodian, the alternate evidence custodian's primary duties and responsibilities are as the evidence custodian. If the alternate evidence custodian has a temporary absence due to an emergency situation (that is, illness, surgery, family emergency, and so forth.) the commanders/SACs/RACs may appoint, in writing, another alternate evidence custodian. The appointment orders will supersede the previous alternate evidence custodian's orders to meet the requirement in paragraph 1-4d(1).

1-5. Records management (recordkeeping) requirements

The records management requirement for all record numbers, associated forms, and reports required by this regulation are addressed in the Records Retention Schedule—Army (RRS-A). Detailed information for all related record numbers, forms, and reports are located in the Army Records Information Management System (ARIMS)/RRS-A at <https://www.arims.army.mil>. If any record numbers, forms, and reports are not current, addressed, and/or published correctly in ARIMS/RRS-A, see DA Pam 25-403 for guidance.

1-6. Request for waiver or exception

a. United States Army Criminal Investigation Command activities. Requests for waiver or exception to this regulation will be sent thru the Commander, United States Army Criminal Investigation Command (CIOP-COP), 27130 Telegraph Road, Quantico, VA 22134, to the Office of the Provost Marshal General (DAPM-MPD-LE), 2800 Army Pentagon, Washington, DC 20310-2800, for approval.

b. Military Police activities. Requests for waiver or exception to this regulation will be sent to the Office of the Provost Marshal General (DAPM-MPD-LE), 2800 Army Pentagon, Washington, DC 20310-2800, for approval.

c. Counterintelligence units. Requests for waiver or exception to this regulation will be sent through the Office of the Deputy Chief of Staff, G-2, 1000 Army Pentagon, Washington, DC 20310-1000, to the Office of the Provost Marshal General (DAPM-MPD-LE), 2800 Army Pentagon, Washington, DC 20310-2800, for approval.

d. Documentation required.

(1) Request for waiver or exception will—

- (a) Describe deficiencies.
 - (b) Explain why corrective action cannot be taken.
 - (c) Describe any compensatory measures.
 - (d) State if the deficiency is permanent or temporary.
- (2) If the request involves structural deficiencies or the issue of a supply item, enclose—
- (a) DA Form 4283 (Facilities Engineering Work Request) for facilities engineering.
 - (b) A copy of the document requesting the required items from supply channels.
 - (c) Contractor proposal or other documents in support of renovations.

e. Approved waivers or exceptions. If the waiver or exception is approved, the requesting agency will keep a copy of the approved request until the deficiency is corrected or the waiver or exception expires. Waivers will normally not be effective for more than 1 year. Exceptions may be granted for no more than 3 years and may be limited by the approver.

1-7. Primary and alternate evidence custodians

a. Qualifications.

(1) Military evidence custodians.

(a) United States Army Criminal Investigation Command activities. Except as authorized below, the USACIDC evidence custodian (primary and alternate) must be an accredited SA. Approval to appoint an apprentice SA in this capacity is delegated to the USACIDC group commander.

(b) Military Police activities. Except as authorized in this regulation, the evidence custodian must be a commissioned MP Officer or an NCO in military occupational specialty (MOS) 31B or 31E in the rank of sergeant or above.

(c) Counterintelligence units. Except as authorized in this regulation, the CI evidence custodian (primary and alternate) must be a credentialed CI agent. CI Agents in a probationary program will not be appointed as Primary or Alternate Custodian.

(2) Civilian evidence custodians.

(a) United States Army Criminal Investigation Command activities. Civilians may be appointed as the primary or alternate evidence custodian depending on the needs and requirements of the unit and at the discretion of the commander/SAC/RAC. Civilians appointed as the primary or alternate evidence custodian must be an evidence control specialist (job series General Schedule (GS)-0301 or equivalent), an investigator, investigative analyst, or investigative operations assistant (job series GS-1801, GS-1802, GS-1805, or equivalent). A civilian must have a favorable background investigation to be appointed or retained as an evidence custodian. Contractor personnel are ineligible to serve as evidence custodians.

(b) Military police activities. Civilians may be appointed as the primary or alternate evidence custodian, depending on the needs and requirements of the unit and at the discretion of the PM or DES. Civilians appointed as the primary or alternate evidence custodian must be in job series GS-0301, GS-0083, GS-0086, GS-1010, GS-1801, GS-1802, GS-1811, GS-1812, or equivalent. A civilian must have a favorable background investigation for appointment or retention as an evidence custodian.

(c) Counterintelligence units. Civilians may be appointed as the primary or alternate evidence custodian, depending on the needs and requirements of the unit and at the discretion of the commander.

b. Appointment. A copy of the primary and alternate evidence custodian appointment documents will be kept in the evidence room files per AR 25-400-2. The appointment documents will be maintained as long as the primary and alternate custodians retain the position. Cite this regulation as authority to appoint the primary and alternate evidence custodians.

c. Temporary custodianship.

(1) On assuming temporary duties of the primary evidence custodian, the alternate will enter and sign the following statement in the evidence ledger (or approved automatic equivalent, see para 2-5c) immediately below the last entry: I (Name), on (Date), assume all duties of the primary evidence custodian during the temporary absence of the regularly appointed custodian. I accept responsibility and accountability for all evidence in the evidence room. (Signature of alternate evidence custodian).

(2) On return from temporary absence, the primary evidence custodian will ensure that all entries on records from evidence taken in, released, or disposed of by the alternate evidence custodian are correct and accurate. If the absence is 30 calendar days or less, there is no requirement to conduct a 100 percent inventory. After ensuring that the records are correct and the evidence is accounted for and properly documented, the primary evidence custodian will enter and sign the following statement in the evidence ledger (or approved automatic equivalent, see para 2-5c), immediately below the last entry: I (Name), on (Date), resume my position as primary evidence custodian and accept responsibility and accountability for all evidence in the evidence room (Signature of primary evidence custodian).

(3) If the primary or alternate evidence custodian finds that the primary or alternate has made an incorrect entry, they will immediately inform the responsible USACIDC commander/SAC/RAC, PM, or CI supervisor. The evidence custodian that identified the deficiency will also prepare a MFR outlining the error and corrective action taken. The original will be filed with the proper DA Form 4137 or in a file folder if the error was not on a DA Form 4137. A copy of the MFR will be placed in the proper law enforcement case file.

Chapter 2 Recording and Accountability of Evidence

2-1. Identification

a. The first DA law enforcement officer (DALEO) or Army CI agent assuming custody of evidence will mark the evidence itself for future identification. The marking will consist of time and date of acquisition and the initials of the person who assumes custody of the evidence. Caution must be taken in order to prevent cross-contamination of evidence at all levels of evidence processing. If marking the evidence it is not possible or practical, the evidence will be put in a container that is sealed and marked, in accordance with this regulation. Further guidance is in ATP 3-39.12.

b. A self-adhesive DA Form 4002 (Evidence/Property Tag) will be attached to each item of evidence or evidence container at the earliest opportunity to identify and control it. When items are grouped together (for example, a box containing tools) and listed as one item on the DA Form 4137, only one DA Form 4002 will be used. The DA Form 4002 will be attached directly to the item of evidence, the evidence container or affixed to a blank shoe tag, which is attached to the item. Merely attaching a completed DA Form 4002 to an item of evidence does not meet the requirements of this regulation. Each item of evidence or sealed evidence container must also be marked itself for future identification.

c. Consider carefully how and where identification marks are placed upon items. Unnecessary damage or destruction of items of personal property that may ultimately be returned to the owner is prohibited (for example, etching time, date, and initials on the barrel, frame, and cylinder of a new .357 magnum pistol seized solely for safekeeping or minor offenses such as failure to register the weapon on post; or, scratching the required marking on an antique wooden music box recovered during apprehension of the suspect of a housebreaking/larceny). Consideration should also be given when marking items which may require future laboratory examination for latent prints. To avoid defacing or damaging such items, identification markings should be as inconspicuous as possible; or the item should be placed in a container that is sealed and the container marked for identification.

2-2. Sealing

a. If marking the evidence itself is not possible, either because the item is fungible, or it is not practical, due to reasons such as value, size, or quantity, the evidence can be put in an evidence container that is sealed and marked for identification. The marking will consist of time and date of acquisition and the initials of the person who assumed custody of the evidence. All openings, joined surfaces, and edges of the evidence container will be sealed with paper packaging tape or with tape specifically designed for sealing evidence which will show signs of tampering if a seal is broken. A self-adhering DA Form 4002 will be affixed to the evidence container. The individual who sealed the evidence container will write their initials or signature on the seals in several different locations. The writing will be visible on both the tape and the evidence container. An evidence container designed by the manufacturer to seal evidence, with built-in features to readily identify any signs of tampering, may also be used. Further guidance is in ATP 3-39.12. When a sealed container is breached, it will be resealed, when appropriate. The individual resealing the container will write his or her initials or signature and time and date of resealing across the new seals. All evidence is permitted to be placed into containers that are sealed and marked for identification if so desired by the first DALEO or Army CI agent receiving the evidence and/or the evidence custodian. However, before evidence is sealed for reasons other than to protect it from cross contamination or to preserve fungible evidence, the evidence will be jointly inventoried between the DALEO or Army CI agent and the evidence custodian to ensure accuracy.

b. Large quantities of non-fungible evidence (such as 250 ration control cards, \$1,345 in various denominations or 250 military identification cards), should be packaged and sealed in accordance with this regulation. Contingency limitation .0015 funds for criminal investigative activities (.0015 funds) used to conduct an illicit drug purchase will not normally be sealed, regardless of the quantity.

c. Instructions for sealing evidence containers and submitting evidence to the USACIL are detailed in chapter 5 of this regulation. Special instructions applicable to federal grand jury materials held as evidence are detailed in paragraph 2-10 of this regulation. ATP 3-39.12 contains further guidance on packaging evidence.

d. When heat-sealed bags are used as evidence containers, a DA Form 4002 will be affixed to the outside of each bag, away from the heat-sealed strip(s). When the items of evidence contained within the bag cannot be properly marked, marking the DA Form 4002 on the exterior of the bag is appropriate. See paragraph 5-2 for detailed instructions on use of heat-sealed bags.

e. Investigative personnel are authorized to use technological advancements in evidence containers which may be developed after the publication of this regulation. The prevailing concern for any choice of evidence container is that it protects and preserves the article of evidence in its original state and prevents cross contamination.

f. When sealing evidence, each item will be sealed in its own separate container and marked in accordance with this regulation. Items which are listed under a separate number on the DA Form 4137 will not be sealed together with other items for convenience or storage purposes. See paragraph 2-13 for long-term retention of evidence.

2–3. Preparation of DA Form 4137

a. Regardless of how evidence is obtained, all physical evidence will be inventoried and accounted for on DA Form 4137. The use of a computer generated DA Form 4137 is authorized; however, it must be prepared as a two sided document with a vertical flip whenever reasonably possible.

b. The DALEO or Army CI agent who first acquired the evidence must prepare the DA Form 4137. When evidence is received from a person for the first time, or during the execution of a search warrant, a copy of the signed DA Form 4137 will be provided as a receipt to the person releasing the evidence or left at the search scene in compliance with instructions for completing the search warrant. When evidence is not obtained from a person or seized pursuant to executing a search warrant but seized during processing of a crime scene, the DA Form 4137 will be turned over to the evidence custodian for processing and distribution in accordance with paragraph 2–4 of this regulation. The first DALEO or Army CI agent who seizes evidence will ensure that the law enforcement report number, or Army CI case control number, is recorded on the DA Form 4137 and DA Form 4002. When evidence is collected as a result of a request for assistance (RFA) from another USACIDC unit, PM activity, or Army CI unit, both the seizing and requesting offices law enforcement report number will be recorded on the DA Form 4137 and DA Form 4002. Special instructions applicable to federal grand jury materials held as evidence are detailed in paragraph 2–10 of this regulation.

c. When evidence is sealed in an evidence container, the Description of Articles section of the DA Form 4137 should be annotated to reflect the sealing (for example, sealed in a paper sack which was marked for identification).

d. The Description of Articles block will describe the item of evidence accurately to individualize the item to the exclusion of any other item. Descriptions will include only descriptive information and not include phrases based on supposition or suspicions (for example, “suspected to be marijuana” or “believed to have been used to gain entry into the room”). Descriptions should be limited to permanent characteristics. Also, large numbers or weight should be given in approximations (for example, approximately 100 tablets). When funds are seized as evidence or kept for safekeeping, the exact amount, by denomination, will be recorded on the DA Form 4137. If serial numbers are available for an item of evidence, they will be recorded on the DA Form 4137. The words LAST ITEM will be placed in capital letters after the last listed item on the next line below that item. The words will be centered, and lines or slashes will be drawn or typed from the words to the left and right margins.

e. Evidence custodians will not normally breach or inventory the contents of a sealed evidence container, unless they deem it necessary to ensure the integrity or to conduct additional examinations of the evidence. Normally, the evidence custodian will annotate the Purpose of Change of Custody on the DA Form 4137 with the acronym SCRCNI (sealed container received; contents not inventoried). Any breach of a sealed evidence container by the evidence custodian will be annotated on the DA Form 4137. When necessary to open an evidence container, the evidence container will be opened by cutting it without damaging the seals, if possible. After the examination of the evidence, or when access to the evidence is no longer required, the evidence, with all prior containers or their sealed parts, can be resealed in a new evidence container in the manner prescribed in this regulation. Additionally, the DALEO, Army CI agent, or the evidence custodian will prepare a MFR describing the purpose of the breach. The MFR will then be affixed to the original DA Form 4137 as a permanent attachment.

f. Any change in custody of evidence or safeguarded items, after the first DALEO or Army CI agent acquires it, will be recorded in the Change of Custody section of the DA Form 4137. Personnel handling or processing evidence must preserve the integrity of it, while under their control. Personnel must also maintain the chain of custody entries on the original DA Form 4137 and copies, as appropriate. When custody of sealed evidence is changed, the Purpose of Change of Custody column will be noted with SCRCNI.

g. Evidence custodians will review the DA Form 4137 submitted with evidence and have the submitting DALEO or Army CI agent correct and initial all errors. When evidence is received from a non-Army agency, the first DALEO or Army CI agent who receives it will inventory and mark the evidence for identification, if the other agency has not already done so, and will prepare a DA Form 4137. Any receipts or chain of custody documents from the other agency will be attached to the DA Form 4137. This requirement does not apply to the USACIL, when receiving evidence from other agencies for examination. Special instructions applicable to federal grand jury materials held as evidence are detailed in this regulation.

h. When extra pages to the DA Form 4137 are necessary for listing additional items of evidence, continuation pages will be used. When continuing pages are required, bond paper may be used. The appropriate law enforcement report number or Army CI case control number, and the sentence “Continuation of Description of Articles” will be listed on the top of the continuation, receiving activity, location, and person from whom received will be entered as shown on the original DA Form 4137. The listing of items will continue until all items seized have been recorded. The term LAST ITEM will be entered on the continuation pages immediately following the last piece of evidence recorded. The chain of custody will begin and continue on the evidence custody document.

i. When extra pages are necessary for continuing the chain of custody, a new DA Form 4137 will be used. The law enforcement report number or Army CI case control number, receiving activity, location, and person from whom received will be entered as shown on the original DA Form 4137. The following entry will be placed in the middle of the Description of Articles Section Continuation of Chain of Custody, dated (enter last date shown on chain of custody where preceding chain of custody page ended). The chain of custody will then continue until evidence is disposed.

j. When a portion of an item listed on a DA Form 4137 is extracted by the USACIL personnel for examination by a laboratory other than the USACIL, that laboratory's chain of custody document will be used. Annotation will be made on the original DA Form 4137 in the "Chain of Custody" section, describing what was extracted and from which item it was derived. The document number of the original DA Form 4137 will be included on the derived chain of custody document as will the item number from which the evidence was extracted and the corresponding USACIL exhibit number. A copy of the derived chain of custody document will be attached to the original DA Form 4137. If the examining laboratory does not generate its own chain of custody document, a derived DA Form 4137 will be generated by the USACIL.

k. There is no requirement to generate an additional DA Form 4137 for evidentiary material, standards, or controls (for example, hairs, fibers, debris, pieces of questioned fabric with stains, fabric standards, soil, paint, glass fragments, and so forth) recovered or removed from submitted items of evidence during forensic examination at the USACIL. Such evidence will be properly packaged, preserved, marked for identification, and returned with the submitted evidence. When possible, the extracted material, standards, or controls will be physically attached to the item or placed in the item's evidence container from which it was removed or recovered.

l. When items containing suspected blood-stained evidence or evidence containing suspected or known bodily fluids or parts are collected as evidence, the DA Form 4137, Description of Articles section, will reflect POSSIBLE BIOHAZARD in all capital letters after each item containing suspected blood or bodily fluids.

m. Hazardous chemicals and explosives (less small arms ammunition) will not be handled or transported by DALEO or Army CI personnel and will not be stored in an evidence room or depository. The DALEO or Army CI agent will contact hazardous material personnel or the explosive ordnance detachment, before approaching or evaluating suspected hazardous chemical or explosive evidence. Personnel working with hazardous material or explosives must be trained and understand the hazards, standards, procedures, and precautions that apply. Coordination between the appropriate DALEO or Army CI agent, supervisors, hazardous material personnel, the explosive ordnance detachment, and trial counsel will be made to determine if the hazardous material or explosive type evidence must be retained and, if so, where and how it should be examined, handled, and stored until no longer needed.

n. When .0015 funds are received as evidence, a copy of the DD Form 281 (Voucher for Emergency or Extraordinary Expense Expenditures) that provided the .0015 funds for the investigative activity will be maintained with the original DA Form 4137. If a DD Form 281 is not produced for the issuance of .0015 funds, the appropriate USACIDC resource management office will be contacted for the purpose of obtaining the proper accounting classification for those specific .0015 funds. That accounting classification will be documented on an MFR that is attached to the original DA Form 4137. An accurate accounting classification will be needed, when final disposition of the funds are made. All .0015 funds received as evidence will be processed into the evidence room and assigned a document number, before the funds are ever temporarily released to a non-DA law enforcement agency.

o. In some instances, .0015 funds held as evidence can be reproduced for trial and the funds returned to finance.

(1) Copies of United States currency will be made only when all of the following are accomplished:

(a) The trial counsel agrees to the substitution of evidence (copies in lieu of originals) and is informed that the actual bills will no longer be held as evidence.

(b) The defense counsel agrees with the trial counsel to the substitution of evidence, and the defense counsel is informed that the actual bills need no longer be held as evidence.

(2) Copies of United States currency will not be made if the trial counsel, defense counsel, or the judge express reservations about the substitution of evidence. In this case, the actual currency must be maintained in accordance with this regulation.

(3) Copies will not be accounted for as evidence.

(4) All copies of United States currency will—

(a) Be black and white and will be produced with either a photocopier or photograph. Color reproductions are not authorized.

(b) Conform to the size limitations imposed by Title 18, United States Code, 504 (18 USC 504). Specifically, the size must be less than 3/4 or more than 1 1/2 times actual size in linear dimension of each part of the item illustrated.

(c) Be created and maintained only to the extent they are essential to prosecution of alleged criminal actions.

(d) Have the time and date and number of copies created entered into the case file.

(e) Be destroyed as soon as possible following completed judicial action.

(f) Not be attached as an exhibit to the law enforcement report. The case file will reflect the specifics of the reproduction and ultimate disposition of the copies.

2-4. Processing of DA Form 4137 by the evidence custodian

a. Except in unusual circumstances, physical evidence will be released to the evidence custodian no later than the first working day after it is acquired. Evidence acquired during non-duty hours will be secured in a temporary storage container, in accordance with this regulation. The evidence will be controlled by the person securing it until released to the custodian. Activities served by an evidence custodian in a separate location will release the evidence either physically, by registered mail, or by a recognized major United States commercial shipping service with an accountable tracking system (for example, Federal Express, Dalsey, Hillblom and Lynn ("DHL"), United Parcel Service, Airborne Express) to the servicing evidence custodian normally within two working days after the evidence is acquired. Transmittal procedures outlined in this regulation will be followed. Special instructions applicable to federal grand jury materials held as evidence are detailed in this regulation.

b. In those instances where large quantities of documents (for example, 250 or more) are obtained, it is permissible for the DALEO or Army CI agent to evaluate the items to determine the evidentiary value prior to processing them into the evidence room. The documents will be accounted for on a DA Form 4137 and the phrase "Evaluation as Evidence" will be recorded in the "Purpose of Change of Custody" column. The DALEO or Army CI agent will, in a reasonable amount of time, make a determination as to which documents are usable evidence. Once the determination is complete, a new DA Form 4137 will be prepared and the identified documents will be processed into the evidence room. During the evaluation process, the DALEO or Army CI agent will ensure that the documents are stored in accordance with paragraph 4-3 of this regulation. A copy of the original DA Form 4137 will be attached to the new DA Form 4137 so the complete chain of custody will be documented.

c. Upon receipt of the evidence and DA Form 4137, the evidence custodian will assign a document number. This document number will consist of two groups of digits, separated by a hyphen. The first group is the number of the document beginning with the number 001 for the first DA Form 4137 received for the calendar year; the second group will represent the current calendar year (for example, 001-18). The number is assigned by order of precedence from the evidence ledger (or approved automatic equivalent, see para 2-5c) in accordance with this regulation. The number will be entered on all copies of the DA Form 4137 and each DA Form 4002.

d. The evidence custodian will distribute copies of the DA Form 4137 after the chain of custody is complete and the form is assigned a document number. The custodian will keep the original of the DA Form 4137. A copy will be given to the DALEO or Army CI agent who will place it in the proper case file or with the MP report. When evidence is permanently forwarded to another office, the original DA Form 4137 will be provided to the gaining unit. The sending evidence custodian will make copies of the DA Form 4137, all associated documents, and will retain them in the appropriate inactive DA Form 4137 file.

e. The location of the evidence in the evidence room will be recorded in pencil on the location block of the DA Form 4137. Location changes in the evidence room will be kept current by erasing the previous entry and noting the new location.

f. Active DA Form 4137 files kept by the evidence custodian will contain the original of the form that pertains to evidence for which the custodian must account. All active DA Form 4137 files will be maintained in the evidence room.

(1) Active DA Form 4137 files will be put in numerical sequence in a file folder or binder containing no more than 50 vouchers with attached documents per folder/binder. The number and year of the documents in the folder/binder will be shown on the outside (for example, 001-18 through 050-18). The vouchers will be filed in numerical sequence with the highest numbers on top.

(2) When evidence is temporarily released from the evidence room for any reason (for example, sent to the USACIL for examination or provided for an Article 32, Uniform Code of Military Justice (UCMJ) (UCMJ, Art. 32), hearing or court-martial), the original DA Form 4137 will accompany the evidence. A copy of the DA Form 4137 will be made and retained in a suspense folder, until the evidence is returned to the evidence room.

(3) At least three suspense folders will be kept as follows:

(a) One labeled USACIL for evidence sent to the laboratory.

(b) One labeled ADJUDICATION for evidence on temporary release to UCMJ, Art. 32 investigating officers, courts, trial counsel, civilian prosecutor, or other persons for legal proceedings.

(c) One labeled PENDING DISPOSITION APPROVAL when the original DA Form 4137 is sent to the trial counsel or civilian prosecutor for approval of disposition.

g. A copy of the DA Form 4137 will be used as the suspense copy and will be placed in the inactive DA Form 4137 file (noting the disposition of the original form), if one of the following conditions exist:

(1) The original DA Form 4137 is entered as a permanent part in the record of trial.

(2) The document accompanies evidence released to an external agency.

(3) The document is not available for other reasons.

h. After all items of evidence listed on a DA Form 4137 have been properly disposed, the original DA Form 4137 and related documents, will be placed in a separate DA Form 4137 file labeled inactive in accordance with AR 25–400–2. This inactive file will be labeled by month and year of the disposition date. These files will be maintained in the evidence room. The inactive DA Forms 4137 will be disposed of 3 years after the date they become inactive. Once the original DA Form 4137 has been placed in the separate inactive DA Form 4137 file, duplicate copies may be destroyed with the exception of any duplicates which document transfers of the evidence not annotated on the original. Those that differ will remain with the original custody document.

i. When the DA Form 4137 pertains to a law enforcement report, the most complete copy of the DA Form 4137 at the time the law enforcement report is finalized will be forwarded to the United States Army Crime Records Center (USACRC) as an attached exhibit to the final report. If the evidence was collected after the final report was submitted, a copy of the DA Form 4137 will be forwarded as an exhibit to the supplemental report. A copy of the DA Form 4137 will also be attached to the office file copy of the report.

2–5. Evidence ledger

a. Accountability. The evidence ledger shows accountability through cross-reference with the DA Form 4137. It accounts for document numbers assigned to DA Forms 4137 in accordance with this regulation. The evidence ledgers must be bound books (or approved automatic equivalent, see para 2-5c). The evidence ledgers may be disposed of 3 years after the date the last item of evidence listed within it is disposed, or it may be held indefinitely as deemed appropriate.

b. Preparation and maintenance of the evidence ledger. The evidence ledger is prepared with six columns (Document Number/Date Received; law enforcement report number, or Army CI Case Control Number (as appropriate); Description of Evidence; Date of Final Disposition; Final Disposition); and Remarks that span two facing pages when the book is opened. Each page need not show the column headings. At a minimum, the first page of the ledger and the first page beginning a new calendar year will show headings. Both vertical and horizontal lines are used to separate entries. Blue or black ink will be used to make the entries. The lines separating entries may be in a different color(s).

(1) The columns provide a history of evidence custody (see this regulation for special instructions applicable to Federal grand jury materials held as evidence). The columns should be completed as follows:

(a) Document number and date received. This column contains the document number assigned to the DA Form 4137 by the evidence custodian. The date the DA Form 4137 is received in the evidence room is entered below this number. When all items of evidence pertaining to a document number have been disposed, a diagonal line in red ink may be drawn across this box to make it readily identified as a closed document.

(b) Law enforcement report number, or counterintelligence case control number. The number assigned to the investigation to which the evidence pertains is entered in this column.

(c) Description of evidence. A brief description of the evidence is entered in this column. The item number from the DA Form 4137 will be included in this entry. Fungible or other evidence sealed in an evidence container will be briefly described from data on the DA Form 4137. This entry does not imply that the evidence custodian has inventoried the items. For restricted reporting cases of sexual assault, the evidence custodian will annotate Restricted Sexual Assault for the description.

(d) Date of final disposition. The date the evidence is disposed of, as shown in the Chain of Custody section of the DA Form 4137, is entered in this column. When a DA Form 4137 contains several items that are not disposed of on the same date, the date of disposition for each item will be shown opposite the items description. When all the items in an entry are disposed of on the same date, only one date is entered, followed by the words All Items (for example, 25 JAN 18 All Items).

(e) Final disposition. A brief note on the means of final disposition is entered in this column opposite the items description. When all items in the entry have been disposed of in the same manner, the means of disposal will be listed once, preceded, or followed by the words All Items (such as, all items destroyed by burning). When final disposition is made by forwarding the evidence to a controlling unit, that unit will be identified (for example, Forwarded to controlling unit-Aberdeen USACIDC).

(f) Remarks. This column is used to record any information the evidence custodian deems necessary. This may include cross-references to other DA Forms 4137 with evidence from the same investigation; names of owners, subjects, or DALEO or Army CI agent; notations to show presence of .0015 funds; or results of laboratory examinations. When fungible or other evidence is received in a sealed evidence container and is not inventoried, the notation SCRCNI may also be made.

(2) Whenever entries require signatures in the evidence ledger (for example, temporary absence of custodian, change of custodian, or recording inspections and inventories), the entry will be handwritten and will extend across both pages of

the ledger. This will be done by making a straight line across both pages below the last DA Form 4137 recorded and again across both pages below the signed entry.

(3) A ledger book will normally be filled before starting a new one. If, in larger offices, the number of entries nearly fills a ledger, the remaining pages need not be used for the next year. A new ledger may be opened. Conversely, a small office may use only a few pages per year, so the same ledger should be used for several years.

(4) After the last entry in the ledger for a calendar year, this concluding statement will be entered in the ledger: This ledger pertains to DA Forms 4137 from 001 through (enter number) for calendar year (enter year). The first entry for the next calendar year begins on the next page.

(5) There will be no blank pages or lines left between ledger entries. If spaces are left between entries, they will be lined through and the term VOID annotated in the space with the initials of the custodian. Erroneous entries will be voided with one line drawn through the entry (so it may still be read) and initialed by the custodian. No liquid correction type products, correction tape, stick-on labels, or erasures are authorized to correct erroneous entries.

(6) The cover of the ledger book will identify the organization or activity responsible for the evidence room and the dates spanned by the entries. A notation will be made on the ledger cover annotating the last voucher number disposed of from that ledger and the date of the final disposition.

c. Stand-alone automated evidence ledger/accountability systems. Stand-alone automated evidence ledger/accountability systems must be approved by the Commander, USACIDC (CIOP-COP-PO), for USACIDC units; the Office of the Provost Marshal General (DAPM-MPD-LE) for DALEO activities; or Army G-2X for CI organizations prior to use. There is no need for approval of automated systems used in conjunction with or to enhance the requirements of this regulation.

2-6. Maintenance of evidence

a. A person possessing item(s) identified as evidence will handle and store such items so that the integrity and physical characteristics are maintained and cross-contamination is prevented. Special instructions applicable to Federal grand jury materials held as evidence are detailed in paragraph 2-10.

b. A person with evidence, such as weapons, will maintain it in the general condition in which it was received, and routine maintenance must not be performed if it would reduce the item(s) value as evidence (for example, a weapon should not be cleaned, if latent prints may exist on the item).

c. The evidence custodian with audio and visual tape evidence that is entered into the evidence room will only release such evidence if it is needed for examination, court presentation, or to be copied. Once such evidence is entered into the evidence room, the tapes or other media will not be altered by editing or adding additional recordings. All copies created for any reason will be documented and controlled with the proper case file.

d. The evidence custodian will normally not accept the receipt of fingerprint cards as evidence. The DALEO will instead maintain the fingerprint cards in the proper case file. When fingerprint cards are sent to the USACIL for comparison with other evidence from the evidence room, the cards need not be listed on a DA Form 4137. The description on the DD Form 2922 (Forensic Laboratory Examination Request) is sufficient to connect the card with the evidence. No matter the circumstances, fingerprint cards will be forwarded to the USACIL by registered mail or other authorized accountable mail. The USACIL will maintain all fingerprint cards submitted. The submitting units must ensure that sufficient additional fingerprint cards exist for other investigation and distribution requirements. The USACIL is not responsible for submission of fingerprint cards to the USACRC or the Federal Bureau of Investigation. Postmortem fingerprints may be collected as evidence, if deemed appropriate; however, sufficient quantities should be obtained from the deceased, so that at least two non-evidence copies are available for the case file or the USACRC.

e. The DALEO or Army CI agent with documents that may clarify a point in question in an investigation will collect the documents as evidence. This might include insufficient fund checks, forged, or altered documents, and other questioned documents, along with related standards or exemplars. Unless submitted to the USACIL for examination, documents such as statements, records, and other documents routinely associated with an investigation will not be kept as evidence.

f. When an evidence custodian needs to retain large items such as vehicles, the items may be kept in an impoundment lot, warehouse, or other reasonably secure place.

g. Information stored on digital media requires special considerations to preserve the integrity of the evidence. Digital media includes computer hard drives, magnetic media (for example, floppy diskettes and tapes), optical media (for example, compact discs and digital versatile discs), flash media (for example, thumb drives, camera memory cards, and video game media), pagers, cellular telephones, digital planners, personal digital assistants, music players, data watches, tape recorders, and so forth.

(1) The evidence custodian should store digital media evidence in a dust-free, temperature-controlled and humidity-controlled environment, whenever possible.

(2) A person with digital media evidence will not store it near batteries, generators, electro-magnets, magnets, induction coils, unshielded microwave sources, or any material that generates static. NOTE: Vacuum cleaner motors generate small electromagnetic fields that may alter, erase, and/or destroy digital media such as tapes.

(3) A person with digital media evidence should not store such evidence in the same container with electronic devices. Some electronic devices contain batteries with sufficient strength to erase digital data over extended periods.

(4) The evidence custodian should make periodic checks of digital media evidence in the evidence room to determine battery life of the item(s). There is a very high risk that all evidence contained in digital storage in these devices will be lost, if the battery is allowed to fully discharge. The evidence custodian should store such evidence connected to appropriate chargers which will ensure uninterrupted power or as directed by the digital forensic examiner.

(5) Where possible, the evidence custodian should store digital media evidence in a fire safe designed to safeguard items in heat in excess of 120 degrees Fahrenheit.

(6) Where possible, the evidence custodian should not store digital media or devices in areas with sprinkler fire protection systems. If this is not possible, the evidence custodian should cover the media with waterproof material. The media should not be completely wrapped in waterproof material, because condensation can build and destroy the evidence.

(7) The evidence custodian should not store digital media and devices in the same confined area with caustic chemicals (for example, acids, solvents, industrial strength cleaners, flammables). Exposure to fumes from such materials may cause surface erosion of media and loss of data.

h. A person with items of evidence that are classified or that contain classified information or material will store such evidence in accordance with AR 380–5.

2–7. Temporary release or transfer of evidence

a. Evidence will only be removed from the evidence room for permanent disposal or for temporary release for specific reasons. When evidence is temporarily released, the evidence custodian will maintain reasonable and adequate contact with the person or agency which temporarily receipted for the evidence. This will ensure accountability of the evidence is maintained and that it is returned as soon as it is no longer needed by the person or agency. Some of the most common reasons for temporary release are:

(1) Transmittal to a crime laboratory for forensic examination.

(2) Presentation at a criminal trial, grand jury proceeding or a hearing pursuant to UCMJ, Art. 32.

b. The person to whom evidence is either temporarily or permanently released will physically inventory the evidence and sign for it in the “Received By” column of the Chain of Custody section on the original and first copy of the DA Form 4137. The evidence custodian, DALEO, or Army CI agent temporarily releasing evidence will clearly inform the person receiving temporary custody of the evidence that they must ensure the evidence is safeguarded and that the chain of custody must be maintained until the evidence is returned to the evidence custodian. They will also be informed that the evidence must be returned as soon as it is no longer needed. The evidence custodian or transferring DALEO or Army CI agent will release the original DA Form 4137 to the person who assumes temporary custody, to registered mail, or other transmittal channels, along with the evidence. The evidence custodian will put the first copy of the DA Form 4137 in the proper evidence room suspense folder. The evidence custodian and supervisors of the evidence custodian will ensure the evidence is not released for an excessive period. When the evidence is returned, the original DA Form 4137, properly annotated by the custodian and the person returning the evidence, will be put in the appropriate active DA Form 4137 file. The first (suspense) copy, with the chain of custody properly annotated, will be filed with the original DA Form 4137. When items on the same DA Form 4137 must be temporarily released to more than one agency or person at the same time, copies will be used and processed as above. A note will be made on the original and first copy that copies have been made. The chain of custody for all evidence will be recorded on the first copy of the DA Form 4137. A person receiving evidence, either on a temporary or on a permanent basis, will present appropriate identification.

c. Evidence that may contribute to the resolution of an investigation but which requires technical examination or analysis, will be processed promptly for submission to the USACIL. Evidence not required to complete an investigation will not be submitted for examination.

(1) With the limited exception as indicated below, evidence will be sent only to the USACIL for examination. Evidence can be sent to other agencies for examination only after prior coordination with the USACIL. Evidence previously submitted to another laboratory may be submitted to the USACIL, only after prior coordination with the USACIL.

(2) Physiological specimens (blood, urine, and so forth) to be analyzed for evidence of controlled substance use should be forwarded directly to the Armed Forces Medical Examiner System (Division of Forensic Toxicology), 115 Purple Heart Drive, Dover Air Force Base, DE 19902–5051. The evidence custodian should coordinate with the Division of Forensic Toxicology (DFT) prior to shipment of any evidence to determine the shipping and documentation requirements. Updated contact information for the DFT is available at <http://www.health.mil/afmes>. A copy of the DA Form 4137 will be sent to the DFT, instead of the original. If hair testing or testing for substances not screened at the DFT is necessary, contact the

USACIL for assistance. In most instances, evidence submitted to the DFT for analysis will not be returned to the requesting office, due to DFT internal laboratory protocols. In those instances, coordination should be made with the DFT to confirm if the evidence will or will not be returned. A MFR will be prepared explaining the circumstances and attached to the DA Form 4137. Any final disposition action should be coordinated with the appropriate trial counsel or civilian prosecutor. The Final Disposal Action portion of the DA Form 4137 can be completed by the evidence custodian after approval from the appropriate trial counsel, civilian prosecutor, MP supervisor, or SAC/RAC. If all evidence will be consumed in the processing of the evidence, the case investigator should follow the procedures outlined in this regulation. The Garries notification must be made, if all evidence is being consumed during examination. NOTE: The Garries notification is derived from *United States v Garries*, a case decided by the United States Court of Military Appeals in 1986. The court ruled in that case that the defense is entitled to equal access of all the evidence and that if all of an evidence sample is to be consumed in evaluation, it is desirable that the defense be so notified and provided an opportunity to be present at the time of evaluation (22 MJ 288 (CMA 1986)).

(3) The DALEO or Army CI agent will release physical evidence to the evidence custodian for accountability purposes, before submission to a laboratory for analysis. At locations with no evidence room, the DALEO may send evidence directly to the USACIL after an evidence custody document number is obtained from the senders supporting evidence custodian and annotated on the DA Form 4137. A DALEO in receipt of evidence seized as a result of a RFA may also submit evidence directly to the USACIL, after an evidence custody document number is obtained from the controlling offices evidence custodian and annotated on the DA Form 4137. In these cases, the DD Form 2922 will give instructions to the laboratory for transfer of evidence to the proper evidence room. The DALEO will mail, fax, or electronically scan and mail a copy of the DA Form 4137 and DD Form 2922 to the evidence custodian who issues the document number. The evidence custodian will record the evidence information in the evidence ledger and will write in pencil not inventoried, evidence at lab in the remarks block and will put the copy of the DA Form 4137 and DD Form 2922 in the evidence room's USACIL suspense file.

(4) Field elements that do not have an evidence room and seize evidence in response to a RFA are authorized to forward the evidence directly to the requesting office. The requesting unit should specify where the evidence is to be mailed. The procedures for packaging and mailing will be in accordance with this regulation.

d. When controlled substance evidence is returned to the evidence custodian after a temporary release, other than for laboratory examination, any apparent changes in the substance will be annotated in the Purpose of Change of Custody column on the DA Form 4137. A MFR explaining the apparent changes will also be prepared and attached to the DA Form 4137 by the evidence custodian. The "Purpose of Change of Custody" section will be completed in accordance with this regulation.

e. When evidence is mailed to the USACIL, it will be sent by registered or another form of accountable mail in accordance with this regulation. The evidence custodian will only enter the registered or other accountable mail number in the Received by block of the chain of custody section of the DA Form 4137. Upon receiving the evidence, the USACIL will record the registered or other accountable mail number in the Released by block of the chain of custody section of the DA Form 4137.

(1) If evidence is sent by registered mail to the USACIL, a PS Form 3811 (Domestic Return Receipt) is not required to be used. A PS Form 3811 may be used at the discretion of the evidence custodian when deemed necessary, based on the sensitivity or value of the evidence forwarded. The registered mail number will be recorded in the Received by block on the first copy of the DA Form 4137 and the form placed in the laboratory suspense folder. Individual heat-sealed bags, envelopes, paper bags and other receptacles that contain items of evidence will be placed inside a container appropriate for shipping (for example, a box or envelope). The shipping container will be sealed by wrapping it in paper or by taping all openings and seams with paper tape or tape designed specifically for sealing evidence. The sending custodian's initials will be written across all seals, so that they are visible on both the tape and container. The original chain of custody document(s) and laboratory request will be placed in a separate envelope and attached to the outer surface of the shipping container. The shipping container will then be wrapped again, or in the case of an envelope, placed in another envelope, for shipment to the USACIL. An original chain of custody document reflecting the items within the container will be affixed to each container. The recipient will note the "Item Number," "Received By" and Released By blocks with the item numbers, date, and registered mail number, and annotate the Received By block with SCRCNI. Evidence custodians will obtain a block of registered mail numbers and a registered mail log, designated as a firm mailer, from their installation post office. The evidence custodian will annotate the registered mail number in the Received By and Released By blocks of the chain of custody section on the original DA Form 4137, before packaging the original document. The recipients at the USACIL will complete the item number and date columns and stamp appropriate acknowledgements in the Received By block of the chain of custody. All item numbers listed within the Description of Exhibits block on the Laboratory Examination Request must correctly match the corresponding item numbers on the DA Form 4137(s). The USACIL will send an acknowledgement of receipt to the DALEO responsible for the investigation for all shipping containers received

at the laboratory. If the DALEO responsible for the investigation does not receive an acknowledgement within a reasonable number of days after submission, they should contact the USACIL.

(2) Technical guidance for packing and shipping evidence is in ATP 3–39.12. The individual responsible for shipping the evidence will ensure that specimens are properly preserved and transported for examination.

(3) To maintain proper chain of custody, the individual responsible for shipping the evidence will package evidence from only one investigation in each shipping container. Subsequent submissions of case materials will be accompanied by a supplemental laboratory request indicating the corresponding laboratory reference number or case number to ensure the submission is cross-referenced to the proper case.

(4) The evidence custodian will take precautions to ensure trace evidence or other evidence susceptible to possible accidental or cross contamination is not compromised. This can be accomplished by placing the evidence in a separate container to be packaged and mailed separately.

(5) The USACIL examiners will not normally make final disposition of any item submitted for examination. With the limited exception as indicated below, a laboratory report will be prepared and returned to the requester along with the evidence, unless the request is canceled by the contributor. In those instances where the laboratory director, the contributor, and the advising trial counsel agree that final disposition by the USACIL is in the government's best interest, the USACIL will make final disposition in accordance with this regulation.

(6) When fungible evidence is returned from the USACIL, the container will not be opened except for official purposes or disposal. When necessary to open a sealed fungible evidence container, other than to dispose of the evidence, the person who opens the container will sign the DA Form 4137. It will be noted in the Purpose of Change of Custody column that the seals were intact and the reason for opening given. The container will be opened by cutting it without damaging the seals, if possible. When access to the evidence is no longer required, the evidence, with all prior containers or their sealed parts, will be resealed in a new container. The person resealing the container will mark their initials and the time and date of the resealing across the new seals.

(7) Shipments of evidence having hazardous properties (for example, flammable materials, explosives, hazardous chemicals, and so forth) will be coordinated with the USACIL to determine the acceptability of the materials, the quantity required for laboratory examination, and the proper shipping method.

(8) In instances where items from one evidence voucher cannot be shipped in a single container, each container will be prepared in accordance with this regulation. The "Chain of Custody" section of the evidence voucher will be annotated in the appropriate manner. Each container will be given a separate line in the "Chain of Custody" section and will identify what items are in it and the registered mail number. The "Purpose of Change of Custody" section will reflect which box the items are in (for example, Forward to USACIL/Box 1). The original DA Form 4137 will be completed and attached to Box 1. Duplicates of the DA Form 4137 will be attached to each additional box, in accordance with this paragraph. If during the course of the laboratory examination, the duplicates of the DA Form 4137 are utilized as original documents by laboratory personnel, they will be retained as original documents.

f. When commercial accountable shipping services are used, the mode of transportation method must be able to ensure a chain of custody is maintained. The security and tracking of the evidence in transit must be consistent with those safeguards associated with registered mail, as well as costs associated with the transfer. It may be hand carried by a courier approved by the USACIDC commander/SAC/RAC or PM, or shipped by the installation transportation officer using a government bill of lading (GBL). When this method of shipment is used to submit evidence to the USACIL, the original DA Form 4137 will be placed inside the shipping container provided by the installation transportation office. A copy of the shipping document will be attached to the suspense copy of the DA Form 4137 until notice is received from the addressee of receipt of the evidence or the evidence is returned to the evidence room. Signature service will be requested, if using a GBL.

g. When evidence is permanently transferred from one evidence room to another, the original and duplicate DA Form 4137, properly annotated, will go with the evidence. The custodian who receives this evidence will enter the next document number of the receiving evidence room on both copies. The prior document number will be lined through in such a way that it remains legible. The evidence will be properly logged in the evidence ledger in accordance with this regulation. The sending evidence custodian will place a copy of the DA Form 4137 showing disposition in the inactive DA Form 4137 file.

h. When evidence must be mailed or shipped for judicial proceedings, it will not be sent directly to the requesting trial counsel or civilian prosecutor. The evidence will instead be sent to the USACIDC/Provost Marshal Office (PMO)/CI evidence custodian either nearest to the trial location or nearest to the trial counsel/civilian prosecutor's location, whichever is deemed more appropriate. The unit sending the evidence will document this action as final disposition. The receiving USACIDC/ PMO/CI unit will log in the evidence and will maintain accountability of the evidence, until the final disposition of the evidence. The evidence will not be returned to the sending unit unless special circumstances exist that require

the return. Prior notification and coordination will be completed before the evidence is returned. The sending unit will provide the receiving unit with as much information as possible about the owner(s) of personal property evidence.

i. Property of the United States Government and .0015 fund type evidence may be temporarily released to a non-DA law enforcement agency, only after it has been processed into the evidence room and with approval of the appropriate USACIDC commander/SAC/RAC, PM, or the PM's designated representative. The other agency will assume full investigative authority and responsibility or jurisdiction and responsibility for that portion of the investigation to which the evidence pertains. The evidence must be returned to the controlling evidence custodian when it is no longer required for the other agency's investigation or prosecution. The evidence custodian will maintain the first copy of the DA Form 4137 in a suspense file until the evidence is returned. The United States Government property and .0015 fund evidence will not be permanently released or otherwise disposed of unless it is specifically authorized by law and done in accordance with this regulation.

j. The evidence custodian or DALEO will not release printed or digital photographs or digital storage devices or video images of child exploitation or suspected child exploitation that are acquired as evidence during an investigation to a suspect's defense counsel without an order from a judge. With the approval of the trial counsel, the defense counsel is permitted to view such evidence in the presence of the DALEO on a standalone computer (not connected to the local area network or Internet) at the office of the DALEO.

k. Items of evidence that are classified or that contain classified information or material will be released in accordance with AR 380-5.

2-8. Authorization for final disposal of evidence

Property seized or held as evidence, other than contraband or other property which cannot legally be returned, will be returned to its rightful owner when it is determined that the property has no evidentiary value or when criminal proceedings have concluded and the time to initiate appeals has passed. All final disposition of evidence actions will be documented in appropriate hard copy investigation case files and online database case records in addition to on the DA Form 4137. Coordination with the servicing SJA office must occur prior to disposition of evidence.

a. Authorization for disposal prior to processing into the evidence room.

(1) Items of potential evidence, except found controlled substances/contraband, that are determined to have no evidentiary value by the DALEO may be disposed of before they are released to the evidence custodian. The USACIDC commander/SAC/RAC, PM, PM's designated representative, or CI supervisor, as appropriate, will review the DA Form 4137 and approve the release by completing the final disposal authority section. The DA Form 4137 will be filed with the investigative case file and forwarded as an exhibit in the final report of investigation when appropriate.

(2) When it is not practical or desirable to keep items of evidence (for example, automobiles, serial numbered items, items required for use by the owner, items misappropriated from postal channels, large amounts of money, explosives, perishable or unstable items), disposal action may be taken immediately. If such items can be immediately disposed, it will not be necessary to process them into the evidence room. Disposal and photographing the evidence prior to release will be coordinated with the trial counsel. If it is not possible to get written approval of the trial counsel before disposal of the evidence, oral permission will be obtained, followed by written approval in the form of signature as the final disposal authority on the DA Form 4137, which will be maintained in the case file.

(3) With exception of United States Government property and .0015 funds, evidence seized by DALEOs at a crime scene or during the investigation may be released to a non-DA law enforcement agency without trial counsel approval, when the other agency assumes full investigative authority and responsibility or jurisdiction and responsibility for that portion of the investigation to which the evidence pertains. This release must be done prior to the close of business on the first working day after the evidence is acquired, or the evidence must be processed into the evidence room. The evidence must be properly documented on a DA Form 4137, and the chain of custody must be completed. The appropriate USACIDC commander/SAC/RAC, PM, or the PM's designated representative will review and approve the release by completing the final disposal authority section of the DA Form 4137. Since the final disposal approving authority may not be reasonably available to give prior authorization for the release, this approval may be given after the fact, with the final disposal authority annotated on the file copy of the DA Form 4137. A copy of the DA Form 4137 will be maintained in the case file and release of evidence will be documented in the report of investigation. Consideration should be given to photographing the evidence prior to its release. These photographs will be retained in the case file.

b. Authorization for disposal of items with no evidentiary value and found controlled substances.

(1) Items which have been determined by laboratory analysis to be of no evidentiary value may be disposed of after obtaining disposal authority on the DA Form 4137 from the trial counsel or civilian prosecutor in known subject cases or from the appropriate USACIDC commander/SAC/RAC, PM, or the PM's designated representative, or CI commander/SAC in unknown subject cases. The evidence custodian may delay disposal of these items to make disposition of

all evidence in the case at one time, if the items have no intrinsic value, are contraband, or will be disposed of by destroying them.

(2) Controlled substances (for example, found contraband) received by the evidence custodian that are not related to an investigation and cannot be linked to a suspect may be immediately disposed of after the USACIDC commander/SAC/RAC, PM, or the PM's designated representative reviews and approves the disposition by completing the final disposal authority section of the DA Form 4137. A copy of the DA Form 4137 will be filed with the appropriate investigation report.

c. Authorization for disposal in unfounded, unsolved, transferred cases.

(1) Evidence in a closed unfounded investigation may be disposed of immediately after the appropriate USACIDC commander/SAC/RAC, PM, or the PM's designated representative, or CI commander/SAC reviews and approves the release by completing the final disposal authority section of the DA Form 4137.

(2) Evidence in an unsolved investigation, with the exceptions noted below, may be disposed of after the trial counsel reviews and approves the release by completing the final disposal authority section of the DA Form 4137. The appropriate USACIDC commander/SAC/RAC, PM, or the PM's designated representative, or CI commander/SAC may review and approve the release by completing the final disposal authority section of the DA Form 4137 without trial counsel approval 3 months after completion of the investigation. Consideration should be given to photographing evidence in appropriate cases prior to disposal of such evidence.

(a) Evidence involving unsolved homicide, rape, sexual assault, undetermined death, and missing person cases and any other offense with no statute of limitations, will be retained indefinitely.

(b) The trial counsel or civilian prosecutor and the USACIDC commander/SAC/RAC, PM, or the PM's designated representative, or CI commander/SAC must exercise caution with cases involving other serious crimes when there is a chance that a subject may be identified later. Evidence should be retained for a reasonable amount of time in instances of repetitive unknown cases that may have been committed by the same person (for example, multiple burglaries).

(c) Evidence involving other serious unsolved cases may be retained indefinitely, as deemed appropriate. The USACIDC commander/SAC/RAC, PM, or the PM's designated representative, or CI commander/SAC will prepare a memorandum explaining the reason for retaining the evidence. The memorandum will be maintained in the case file.

(3) When evidence is permanently released to a non-DA law enforcement or intelligence agency, the final disposal authority portion of the DA Form 4137 will be completed by the appropriate USACIDC commander/SAC/RAC, PM, or the PM's designated representative, or CI commander/SAC.

d. Authorization for disposal of computer and network hardware. This paragraph pertains to the USACIDC trained digital media collector and/or digital forensic examiner (DFE) only. Computer and network hardware taken as evidence may be immediately released for final disposal after a forensically sound image of the digital data has been successfully obtained as evidence. The immediate final disposal authority may be granted by the supporting trial counsel, the civilian prosecutor, or the director or operations officer. The director or operations officer is responsible to ensure that all pertinent digital data has been collected from the computer and network hardware prior to its release and that the release is consistent with applicable laws and industry best practices. Final disposal may be accomplished before or after the original evidence has been processed into the evidence room. The requirement to process such items through the evidence room does not apply to situations where images are obtained in the field or at remote offices that do not maintain an evidence room, and physical seizure/transport of the items are not authorized or not practical. See paragraph 2-15g of this regulation for additional guidance concerning sexual assault evidence.

e. Authorization for disposal of evidence following final action by appropriate authorities.

(1) The evidence custodian should be aware that required judicial and appellate procedures may significantly extend the time that evidence must be maintained. In the military justice system, for example, the following procedures generally apply:

(a) Following a court-martial, the record of trial must be assembled after any verbatim transcript of the proceedings has been reduced to writing, reviewed by the trial counsel and defense counsel and authenticated by the military judge. The trial counsel must prepare a post-trial recommendation for the convening authority, and the defense has a period of time to submit matters to the convening authority. Once the convening authority takes initial action on the court-martial results, a promulgating order setting out the results of the trial and the convening authority's action are issued. A copy of the order is provided to the local investigating office of USACIDC or the Provost Marshal, as appropriate. The USACIDC commander/SAC/RAC, PM, or the PM's designated representative will ensure that a copy of the original promulgating order and any supplemental orders are provided to the evidence custodian.

(b) If the promulgating order shows that the proceedings resulted in acquittal of all charges and specifications or in a finding of not guilty only by reason of lack of mental responsibility of all charges and specifications, or if the proceedings were terminated by withdrawal, mistrial, or dismissal before findings, the evidence custodian should contact the trial

counsel to determine whether the evidence in the case can be disposed of and will document the conversation in a MFR which will be attached to the DA Form 4137.

(c) Any sentence which includes the death penalty, dismissal, a dishonorable or bad-conduct discharge or confinement for 1 year or longer is required to be reviewed by a military appellate court, if the accused has not waived appellate review. For reviews to be done by the Army Court of Criminal Appeals (ACCA), the case is assigned to appellate counsel in the Defense Appellate Division of the United States Army Legal Services Agency. The original trial counsel normally has no further connection with the case but does maintain a copy of the record of trial and will be responsible for ensuring the issuance of any supplemental orders following appellate decisions.

(d) In addition, the record of trial of every general court-martial where there is a finding of guilty and a sentence must be reviewed by the Office of The Judge Advocate General (OTJAG), unless the accused waives appellate review. Reviews by OTJAG are done by counsel in the Criminal Law Division. After considering the results of the review, the convening authority will issue a supplemental order setting out any changes and ordering the sentence to be executed, again with a copy provided to either the local USACIDC or PMO, as appropriate. Upon receipt of this order, the evidence custodian should contact the trial counsel to determine whether the evidence in the case can be disposed of and will document the conversation in a MFR which will be attached to the DA Form 4137.

(e) Appeals to ACCA can take from 6 months to several years. Following the ACCA appeal, the defendant may appeal to the Court of Appeals for the Armed Forces, the highest court in the military justice system, which can take a similar amount of time. Finally, the defendant may, under certain conditions, appeal to the Supreme Court of the United States, which can add an additional period of time. Any changes to the findings or sentencing resulting from appellate review as well as any order to execute the sentence will be made by a supplemental order and a copy should be provided to USACIDC or the PMO, as described above. Upon receipt of this order, the evidence custodian should contact the trial counsel to determine whether the evidence in the case can be disposed of and should document the conversation in a MFR which will be attached to the DA Form 4137. It should be noted that the accused may be serving a sentence of confinement or be on excess leave, either of which may put the accused under the jurisdiction of a different general court-martial convening authority who will issue the supplemental orders. In any case, the Clerk of the Court for ACCA is always notified of changes in the accused's address and can provide that information, if the evidence custodian cannot find the accused for return of personal property. When a defendant's case has been reviewed by ACCA, the results are available at <https://www.jagcnet.army.mil/8525749f007224e4/>.

(2) Similar appeals are possible in the civilian judicial system, but often the accused waives appeal as part of a plea agreement. Evidence custodians should contact the appropriate civilian prosecutor soon after the trial to determine whether there has been such a waiver or to find out what the time frame for appeal is, so that they can schedule periodic contact on the case. The evidence custodian will document the conversation in a MFR which will be attached to the DA Form 4137.

(3) When prosecution is handled by a foreign government, USACIDC may provide copies of evidence leaving the original evidence to be disposed. In these cases, the case agent will maintain contact with the foreign law enforcement officials involved in the prosecution and provide the evidence custodian with the results of trial and contact information for the prosecutor, to include an e-mail address. At that time, the prosecutor can provide a written statement or an email that the original evidence held by USACIDC may be disposed. If the case agent cannot obtain disposal authority from the prosecutor, the evidence custodian may request disposal authority by means of email from the prosecutor and may accept disposal authority by means of email. This email may be used to dispose of the evidence. A copy of the mail message will be attached to the DA Form 4137, and a copy will be maintained in the case file. Both the case agent and the evidence custodian will document efforts to obtain disposal authorization in a MFR which will be attached to the DA Form 4137. When information concerning a foreign prosecution is not readily available or cannot be obtained without a costly and lengthy treaty request process, the director or operations officer at the USACIDC Computer Crime Investigative Unit or MPFU may authorize final disposition of evidence held by that unit.

(4) Evidence released to trial counsel, civilian prosecutor, or their designated representative for judicial proceedings will be returned as soon as possible to the custodian for final disposition. When evidence is released to trial counsel, the evidence custodian or releasing DALEO or Army CI agent will ensure the trial counsel or prosecutor is familiar with the requirements of this regulation. The trial counsel or prosecutor will be made aware the evidence must be returned to the controlling evidence custodian as soon as the evidence is no longer required at the conclusion of the court proceeding, unless the evidence is entered as a permanent part in the record of trial. The trial counsel or appropriate prosecutor will maintain sufficient custody of the evidence to ensure its integrity and to prevent its loss or damage. If an item of evidence is made part of the trial record, the trial counsel will immediately notify the evidence custodian, so the DA Form 4137 can be properly annotated. This will be considered final disposition.

(5) When final action has been taken in known subject cases (see paras 2-8a-d), the original DA Form 4137 will be sent to the appropriate trial counsel or civilian prosecutor who will review and approve disposal of the evidence by completing the final disposal authority section of the DA Form 4137. In unusual cases, where there is a high risk of losing the original

DA Form 4137 (for example, isolated units that must mail the DA Form 4137 to the servicing trial counsel or civilian prosecutor for disposal approval), a letter or memorandum or email may be used to obtain disposal approval. In these cases, a copy of the DA Form 4137 will be attached so that the counsel has enough information on which to base a decision. Correspondence from the trial counsel or civilian prosecutor approving disposal will be attached to the DA Form 4137. In certain situations, there may be more than one trial counsel or civilian attorney who will authorize the final disposition of evidence on a single DA Form 4137. In those situations, the evidence custodian will utilize a continuation sheet containing the verbiage recorded in the "Final Disposal Authority" section of the DA Form 4137. The continuation sheet will be attached to the DA Form 4137.

(6) When a civilian prosecutor opines there is probable cause to believe the civilian subject(s) committed the offense(s), but declines to prosecute, the evidence custodian can obtain evidence disposition approval from the appropriate installation Special Assistant United States Attorney (SAUSA). If a SAUSA is unavailable, the evidence custodian may then present the case to an installation trial counsel, other judge advocate, or attorney. If a SAUSA, trial counsel, other judge advocate, or attorney is not available or does not provide an opinion, then the group judge advocate for USACIDC and CI elements will be consulted for evidence disposition approval. The installation SAUSA, trial counsel, other judge advocate, attorney, or group judge advocate will coordinate with all appropriate jurisdictions to verify the prosecution declination before authorizing final disposition of the evidence. The installation SAUSA, trial counsel, other judge advocate, attorney or group judge advocate will complete the Final Disposition Authority on the reverse side of the DA Form 4137 or will provide a letter or memorandum or email concerning the disposal approval which will be attached to the appropriate DA Form 4137. All coordination will be documented in the appropriate case file.

2–9. Procedures for final disposal of evidence

Evidence will be expeditiously disposed of after it has served its purpose or has no further evidentiary value. Disposition of evidence is reflected in this regulation. When witnessing the destruction of evidence, the witness will physically view the item(s) designated for destruction prior to the destruction and not just the container that the item(s) are contained. When a legal issue concerning methods of disposal arises, the trial counsel will provide legal advice. When evidence is disposed of via registered mail to another organization or owner, a PS Form 3811 will be used. The PS Form 3811 will be attached to the DA Form 4137 once it is returned to the sender for accountability of the evidence and to show final disposition. If other accountable mail methods (for example, Federal Express) are used, similar receipt verification, such as Internet confirmation notifications, will be used instead of the PS Form 3811. All final disposition of evidence actions will be documented in appropriate hard copy investigation case files and online database case records, in addition to on the DA Form 4137.

a. Contaminated United States currency. Currency of the United States that has been contaminated by a hazardous substance (for example, blood) or a controlled substance will be disposed of by sealing the currency in a suitable container, if not already done, and labeling the sealed container with an appropriate comment (for example, BIOHAZARD, tainted with cocaine, and so forth). The labeled and sealed container will then be sent by accountable mail to: Department of the Treasury, Bureau of Engraving and Printing/Office of Compliance (OCS/BEPA Room 344), P.O. Box 37048, Washington, DC, 20013–7048, along with a copy of the corresponding DA Form 4137 and a cover memorandum that explains to the Department of Treasury (DOT) why the currency was submitted and what it is suspected to be contaminated. The memorandum will further inform the DOT who it should issue reimbursement to (for example, Defense Finance and Accounting Service (DFAS)). The DOT will produce a treasury check made out to the entity listed in the memorandum and will send it to the evidence custodian. The evidence custodian will forward the treasury check to the rightful owner. The original DA Form 4137 will remain in an open status and will be retained in a suspense file, until all actions to dispose of the currency by returning it to the rightful owner are complete. An MFR will be prepared by the evidence custodian to document all disposal actions, unless the actions are documented in the chain of custody area of the DA Form 4137. The MFR will be retained with the DA Form 4137.

b. Contaminated foreign currency. Currency of foreign countries that has been contaminated by a hazardous substance (for example, blood) or a controlled substance will be disposed of in accordance with the appropriate foreign government guidance.

c. Controlled substances. Controlled substances will be destroyed in the presence of a witness who is a USACIDC SA, an NCO in the rank of staff sergeant (E–6) or above, or a civilian in the grade of GS–07 or above, or equivalent. The witness must not be in the chain of custody. Destruction will be by burning or by a method that will make the substance permanently useless. See this regulation for instructions for final disposal of controlled substances used for training. An alternate evidence custodian, although not listed in the chain of custody on a DA Form 4137, is considered to be in the chain of custody and not eligible to be a witness, if that person ever took control of the evidence room when the evidence was in the evidence room.

d. Counterfeit currency and counterfeiting equipment. Counterfeit currency and counterfeiting equipment will be released to the nearest office of the United States Secret Service (USSS), unless the USSS directs otherwise.

e. Document standards. Known document standards will normally be released to the agency, or person from whom received, or the rightful owner, as appropriate.

f. Digital media. Digital media defined in this regulation will be returned in accordance with normal procedures. Three categories of information which may be found on digital media, must be processed for disposition with special procedures, as noted below.

(1) *Child pornography.* A sexually explicit image of a minor, commonly called child pornography, is contraband in that it is illegal to possess. It is also illegal to mail or transport it using an express company or common carrier or to receive it through those means. If digital media contains sexually explicit depictions of minors, those images cannot be returned to the owner of the media. The practical limitations of prosecution in child pornography cases make it necessary to focus on proving the pornographic nature of a limited number of images, leaving usually hundreds of other possibly pornographic images without a legal determination as to their status. Neither the trial counsel or other prosecutor nor the evidence custodian can make an official determination of the pornographic nature of the remaining images. Finally, the volume of images and the ease of disguising images on a hard drive make selective removal of the images extremely time-consuming and lacking in certainty that all the images have been discovered and removed. For these reasons, there are two options for the disposition of hard drives containing these images. In the absence of a civilian court order that orders other disposition actions, the evidence custodian will contact the owner of the hard drive in writing by registered mail or other authorized accountable mail, to advise them of the information set out above and obtain the owner's choice of options. Standard memorandum format will be used when making notification to a Soldier. The two choices are:

(a) The owner may consent, in writing, to have the entire contents of the hard drive wiped and have the hard drive returned by mail. The owner may request copies of any personal files they can identify as being on the drive to be copied and returned with the drive. If the owner chooses to have the hard drive wiped and returned, the evidence custodian will coordinate with a USACIDC DFE to copy any requested files and wipe the hard drive.

(b) The owner may consent, in writing, to the destruction of the hard drive. If the owner chooses to have the hard drive destroyed, the evidence custodian will destroy the hard drive by having the DFE or installation Director of Information Management degauss the hard drive or by other similar means.

(2) *Authorization for the extraction of information.* The DALEOs are authorized to provide a copy of the logical cell phone data disc/SD (secure digital) card (that is, personal contacts, non-contraband photographs, and so forth) obtained during the initial data extraction for all mobile devices which will be retained as evidence to victim(s), subject(s), and/or witness(es). Before releasing extracted data to the subject/suspect, coordination will be made with the local trial counsel. If not available at the time of the extraction, contingency .0015 funds may be used for the purchase of discs/SD cards but .0015 funds will not compensate for the lack of managing or planning for anticipated requirements. The unit's United States Government credit card should be used for the purchase of investigative supplies such as discs/SD cards.

(3) *Obscenity.* Obscene, lewd, lascivious, or indecent, material involving adults is not illegal to merely possess. It is, however, in accordance with 18 USC 1461, illegal to mail or to knowingly use an express company or common carrier for carriage of such material in interstate or foreign commerce or to receive the material from such an express company or common carrier. The same technical issues described in this regulation apply to the removal of this information from hard drives. For these reasons, there are three options for disposition of hard drives containing these images. In the absence of a civilian court order that orders other disposition actions, the evidence custodian will contact the owner of the hard drive, by registered mail or other authorized accountable mail, to advise them of the information set out above and obtain the owners choice. The first two options are identical to the options set out in this regulation for child pornography. The third option is that the owner may personally pick up the hard drive from the evidence custodian, if they will not need to transport it across state lines to get it home. Standard memorandum format will be used when making notification to a Soldier.

(4) *Stolen property.* A hard drive containing stolen credit card numbers, stolen passwords, or other stolen material will be returned to the lawful owner, after all such information is removed from the media by a USACIDC DFE or under the supervision of a USACIDC DFE.

(5) *Media other than hard drives.* The same rules apply to information in these three categories stored on media other than a hard drive.

(a) *Magnetic media.* Information on magnetic media cannot be selectively removed and will be destroyed by shredding (remove inner disk from the floppy and shred it; discard the hard cover).

(b) *Optical media.* Because of the different features of various burning software and user errors while using the software, it is often not technically possible to selectively remove information on optical media. In addition, selective removal may not be trustworthy. For these reasons, if there is information that cannot be returned to the owner, the media will be destroyed after determining that the owner has not requested the return of specific information on the media.

g. Electronic surveillance evidence. Evidence obtained from electronic surveillance operations will be disposed of in accordance with AR 190–53. Once final disposition of the evidence has been properly authorized, it will be forwarded to the United States Army Crime Records Center, 27130 Telegraph Road, Quantico, VA 22134, for 10 years retention. A memorandum concerning the intercept and a copy of the original DA Form 4137 will be forwarded with the evidence to USACRC. The memorandum of consensual and nonconsensual interceptions will be prepared and maintained to provide for centralized readily accessible records or indices that include the following:

(1) Name, citizenship, and other available identifying data for each reasonably identifiable person intercepted (intentionally or otherwise), whether a case subject or not. If available, the place of birth, and date of birth of the individuals intercepted and identified.

(2) The telephone numbers or radio telephone call signs involved in the interception.

(3) The case number or other identifier for the interception or the investigation concerned.

(4) The address of the location of the interception.

(5) The inclusive dates of the interception.

h. Exemplars. Exemplars and other documents of no value to the person or agency from whom received may be placed in the appropriate case file for final disposal or destruction.

i. Firearms seized from enemy forces in a hostile or combat fire area. Firearms seized from enemy forces in a hostile or combat fire area may be destroyed in the local theater if not required for the USACIL Firearm Reference File and if appropriate facilities are available. Where United States forces do not have the capability to demilitarize such items, demilitarization may be performed by approved contractors who are licensed or controlled by the government of the country in which the contractor operates. The major components of the firearms will be melted or cut in multiple pieces to make it impossible for them to be reassembled or used to make any other type of firearm. The firearms will be destroyed in the presence of a witness who is a USACIDC SA, an NCO in the grade of E–6 or above, or a civilian in the grade of GS–07 or above, or equivalent. The witness must not be in the chain of custody. If local destruction facilities are not available, the firearms will be processed through the Defense Reutilization Marketing Service (DRMS) as specified in this regulation. To determine if the firearm is needed for the USACIL Firearm Reference File, the controlling office will follow the procedures specified in this regulation.

j. Items belonging to deceased or missing personnel. Items of personal property that no longer have evidentiary value and that belong to deceased or missing Army personnel will be released to the summary courts-martial officer (SCMO), designee appointed to dispose of the decedent's effects, or directly to the primary next of kin. This will happen after coordination with the SCMO or designee, as appropriate per AR 638–2, or in a manner legally directed during a contingency operation (for example, to the Joint Personnel Effects Depot). In all death cases, the SCMO or designee will coordinate with the evidence custodian regarding any personnel effects held as evidence. The SCMO or designee will be provided with a listing of items of personal property being held as evidence. Close coordination will be maintained with the SCMO or designee to ensure personal items that have no value as evidence, or which are determined to no longer be of evidentiary value, are released. If during the passage of time, the deceased or missing Army personnel's unit redeployed, deactivated, demobilized, or the contingency operation ceased and no SCMO can be identified, the property may be released directly to the next of kin. When no SCMO or designee can be identified, the condition of items that may cause embarrassment or added sorrow for the next of kin will be sensitively discussed with the next of kin, before such items are sent to them. This includes, but is not limited to, items which are mutilated, burned, bloodstained, damaged beyond repair, obnoxious, obscene, or unsanitary. Items of evidentiary value will be released, in accordance with established policies and directives. Note also that other federal agencies, especially the Drug Enforcement Administration and the Internal Revenue Service (IRS), may have an interest in personal property seized as evidence (for example, derivative contraband in the form of money and vehicles).

k. Items with blood and other body fluids. Items of evidence collected involving blood and other body fluids should be handled as outlined in this regulation. Potentially infectious materials (for example, clothing and bedding from a sexual assault investigation) will be placed in a properly marked biohazard container and returned to the owner. Prior to the evidence being returned to the owner, the owner will be contacted and apprised of the possible hazard. If the owner declines to accept the possibly contaminated property, the property will be destroyed and disposed of in an appropriate and safe manner. Hazardous contaminated evidence is normally considered to have no monetary value, except contaminated currency (see para 2-9a).

l. Money orders and other negotiable instruments.

(1) Money orders obtained from an Army Post Office (APO) money order facility will be returned to the APO from which seized.

(2) Other types of negotiable instruments (for example, money orders, travelers checks, and checks) owned by a business firm will be released to the respective firm.

(3) The United States Postal Service (USPS) money orders and other USPS documents received from the USPS will be returned by registered mail, return receipt requested, as follows:

(a) In the United States and Guam: To the Postal inspector in charge of the Postal Division that originally provided the documents.

(b) Outside the United States: Directly to St. Louis Accounting Service, Money Order Branch, 1720 Market Street, Room 3131, St. Louis, MO 63180-9450.

(4) United States Treasury checks originally obtained from the United States Secret Service will be returned by registered mail, return receipt requested, directly to: Manager, Check Request and Files Branch, Room 328, Liberty Loan Building, 401 14th Street NW, Washington, DC 20227-0001. The exterior of the envelope will be marked Do Not Open in Mail Room. When United States Treasury checks are seized as evidence prior to being processed by the United States Treasury, they will be returned when no longer needed to the finance office that issued the check [identified by the disbursing station symbol number on the face of the check].

(5) Checks issued by other departments of the Federal government will be returned to the issuing agency at the address printed on the face of the check. All checks will be returned by registered mail, return receipt requested, unless the checks are hand carried to the activity. The DA Form 4137 will be annotated with the method of return. A letter of transmittal will accompany all returned checks.

m. Other illegal weapons. Other weapons (such as switchblades, stilettos, and brass knuckles) which local regulations or state law make illegal to possess will be destroyed by the evidence custodian in a manner to render the items useless and harmless. The weapons will be destroyed in the presence of a witness who is a USACIDC SA, an NCO in the rank of staff sergeant (E-6) or above, or a civilian in the grade of GS-07 or above, or equivalent. The witness must not be in the chain of custody.

n. Personal firearms, ammunition, and explosives.

(1) 18 USC 922(g) establishes nine categories of individuals who may not possess firearms or ammunition. Title 18 USC 922(d) makes it unlawful for any person to give any firearm or ammunition to any person if they know or has reasonable cause to believe the person is in one of the nine categories. The categories are any person who-

(a) Has been convicted in any court of a crime punishable by imprisonment for a term exceeding 1 year.

(b) Is a fugitive from justice.

(c) Is an unlawful user of or addicted to any controlled substance.

(d) Has been adjudicated as a mental defective or has been committed to a mental institution.

(e) Is an alien illegally or unlawfully in the United States or an alien admitted to the United States under a nonimmigrant visa.

(f) Has been discharged from the Armed Forces under dishonorable conditions.

(g) Having been a citizen of the United States, has renounced his or her citizenship.

(h) Is subject to a court order that restrains the person from harassing, stalking, or threatening an intimate partner or child of such intimate partner.

(i) Has been convicted of a misdemeanor crime of domestic violence.

(2) Various statutes make possession of certain firearms or ammunitions unlawful. Those most relevant are-

(a) A stolen firearm or ammunition (see 18 USC 922(j)).

(b) A firearm that is not detectable by metal detectors or x-ray machines (see 18 USC 922(p)).

(c) A firearm not registered to the person in the National Firearms Registration and Transfer Record which is required to be pursuant to the National Firearms Act, as amended (see 26 USC 5861(d)).

(d) A firearm with the serial number obliterated, removed, changed, or altered (see 18 USC 922(k)).

(e) A firearm without a serial number (see 26 USC 5861(i)).

(3) Personal firearms and ammunition must be returned to the rightful owner, if desired by the owner. However, the owner must not fall within one of the nine categories of individuals who cannot legally possess a firearm or ammunition, and the firearm and ammunition must not fall within one of the five categories that are illegal to possess. All DALEO will coordinate with the United States Army Crime Records Center, 27130 Telegraph Road, Quantico, VA 22134-2253, which will conduct a check of the National Instant Criminal Background Check System (NICS) to determine if the owner is prohibited from receiving firearms under federal or state law and to ensure the weapon was not reported stolen. During a NICS check, a search of the following three national databases is conducted: the Interstate Identification Index, the National Crime Information Center and the NICS Index. For final disposition purposes, a privately owned firearm in the custody/possession of USACIDC will not be released to any individual absent a response from the Crime Records Center. If there is any question about the return of firearms and ammunition, the evidence custodian must consult with the supporting trial counsel or the appropriate prosecutor. In effect, the United States Government effectively confiscates the items. Consequently, firearms in these categories will be disposed of by either sending them to the USACIL for addition to the USACIL Firearm Reference File or by sending them to DRMS for destruction. Notice will be sent to the person

from whom they were seized to advise the person of the reasons for the disposal. The notice will be approved by the trial counsel or other counsel prior to being dispatched, and the trial counsel will approve the disposition by completing the final disposal authority section of the DA Form 4137.

(a) To determine if the firearm is needed for the USACIL Firearm Reference File, the controlling office will forward a memorandum to USACIL (Firearms Branch), 4930 N. 31st Street, Forest Park, GA 30297–5205. The memorandum, as a minimum, should identify the make, model, caliber, and any other markings or writings appearing on the firearm. The Firearms Branch will determine if the firearm is required for the Firearm Reference File and will notify the submitter in writing if it is accepted for final disposition. If accepted, the firearm with magazines will be sent by registered mail to the USACIL accompanied by the original and two copies of the DA Form 4137. The original DA Form 4137 will be signed by the Firearms Branch personnel and returned to the submitting office. Release of the firearm to the USACIL by the submitting office will be considered as final disposition. A firearm not accepted by the Firearms Branch will be turned in through the Centralized Demilitarization Center, Anniston Army Depot; 7 Frankford Avenue, Building 282; Anniston Army Depot, Anniston, AL 36201–4199.

(b) The weapon will be packaged per this regulation and forwarded via registered mail along with the original DA Form 4137, the completed appointment MFR for ammunition, explosives, and dangerous articles inspection certifier and verifier and unit certificate. The DRMS will maintain accountability of the weapon until it is demilitarized or destroyed. The destruction of the weapon will be verified by two individuals and documented in accordance with DRMS requirements pertaining to the destruction of the weapon. The DA Form 4137 (with any required DRMS documentation), will be forwarded to the controlling office and will serve as documentation of final disposition of the weapon(s). The final disposition of the weapon will not be considered complete until both the DA Form 4137 and required DRMS documentation is received by the controlling office. A copy of the DA Form 4137 will be maintained in a suspense file, and a notation of “Pending Final Disposition” will be reflected in the evidence ledger to accurately reflect the status of the weapon during this time frame.

(4) Non- United States Government ammunition (live or inert) which has no rightful owner or which was declined by the owner will be reported for turn-in to the supporting ammunition supply point.

(5) All non- United States Government explosive devices (live or inert) will be turned over to the appropriate Explosive Ordnance Disposal unit for destruction.

o. Personal property other than firearms, ammunition, or explosives. Personal property that is not contraband, as determined by the trial counsel, will be released to the rightful owner. Coordination will be made with victims of violent or traumatic crimes immediately prior to returning certain property (such as the clothing items worn during a sexual assault), to determine whether the owner wants the property returned or wants the property destroyed. If the victim declines acceptance of the property and asks that it be destroyed, the declination should be in writing, or detailed on a MFR by the DALEO or evidence custodian obtaining the declination. The MFR will be attached to the DA Form 4137. If the victim declines acceptance of the property, the property will be destroyed and disposed of as if the owner is unknown or cannot be located, taking appropriate precautions described in this regulation with regard to biohazards.

p. Property with no known owner. When evidence to be disposed of has no known owner, the owner cannot be located, or the owner declines acceptance, it will be disposed of as follows:

(1) When the evidence is of obvious value, it will be turned in to the supporting DRMS in accordance with Department of Defense Manual (DODM) 4160.21. A copy of the DD Form 1348–1A (Issue Release/Receipt Document) will be attached to the original DA Form 4137.

(2) When evidence found at a crime scene has no value (for example, match books, beer cans, bottles, glass fragments, wooden sticks, hazardous contaminated clothing/bedding), such evidence will be destroyed or disposed of by crushing, burning, or by any other means necessary to render the items useless and harmless. Disposal of the residue of such items may be accomplished by depositing the residue in a dumpster or trash receptacle, if this can be safely done in accordance with applicable environmental laws and policy. There is no requirement to witness the destruction of these items. Items such as fingerprint lifters bearing identifiable impressions that have been previously indexed into the Automated Fingerprint Identification System may be disposed of by placing them in the appropriate case file.

(3) When the owner of money is not known or cannot be located after reasonable attempts, the money will be turned into DFAS. For further guidance concerning the turning in of money to DFAS, contact the supporting finance center or USACIDC Group Budget Manager. A DD Form 1131 (Cash Collection Voucher) will be completed, and a copy of the form will be attached to the original DA Form 4137. The accounting classification to be used is 21R1099. 0000. NOTE: This does not apply to .0015 funds.

(4) Post exchange items, commissary items, and items illegally brought into a host country and that are connected with black market or customs and postal investigations will be disposed of in accordance with local regulations, status of forces agreements, or laws or customs of the host country.

(5) Some types of evidence may be of value to the USACIL in the standard collections, such as firearms. When evidence of this type has been approved for disposition under a method which does not require returning it to an owner or to an accountable government agency, then disposition of these items may be made by forwarding them to the appropriate USACIL forensic branch, provided that the USACIL branch concerned has requested it in advance.

q. United States Government property, firearms, ammunition, and explosives. Any United States Government property, firearms, ammunition, and/or explosives seized as evidence will be returned to the proper military unit. If the unit cannot be identified, the property will be released to the installation accountable officer in accordance with AR 710–2.

r. Classified items, information, or material. Items of evidence that are classified or contain classified information or material will be disposed of in accordance with AR 380–5.

s. Contingency limitation .0015 funds. For guidance concerning the disposition of .0015 funds, the fund custodians should contact the USACIDC budget manager. At no time will .0015 funds be released outside USACIDC for final disposition, such as to civilian law enforcement activities that have assumed investigative and/or prosecutorial jurisdiction over an investigation.

t. Impounded money. When money that is impounded during a criminal investigation is kept as evidence and there is possible IRS interest, notify the chief of criminal investigation at the nearest IRS office, if in the continental United States. If outside the continental United States, notify the Assistant Commissioner (Criminal Investigation), Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224–0002. If there is a tax liability, a notice of levy will be sent by the IRS to the custodian holding the funds. Funds in the amount of the levy will be released to the IRS. The remaining funds will be released, as appropriate. The trial counsel or civilian prosecutor will provide legal advice.

u. Property of a deserter. Final disposition of evidence pertaining to personnel in deserter status may be made with trial counsel approval. If final disposition is disapproved, the evidence will be retained in accordance with this regulation. Thereafter, coordination will be made with trial counsel yearly to determine if final disposition can be made.

2–10. Special processing procedures for certain Federal Grand Jury materials and subpoena related evidence

a. The following special procedures apply to Grand Jury materials obtained during the conduct of any investigation that falls under Federal Rules of Criminal Procedure 6(e) (FED. R. CRIM. P. 6(e)) access guidelines.

(1) If there is no specific objection or direction by the court or the Assistant United States Attorney (AUSA), 6(e) materials will be safeguarded by the DALEO on the FED. R. CRIM. P. 6(e) access list.

(2) The FED R. CRIM. P. 6(e) material determined to be of evidentiary value will be processed in accordance with the following guidelines:

(a) The DALEO exercising control of the evidence will coordinate with the appropriate court or AUSA to have the primary and alternate evidence custodians placed on the FED. R. CRIM. P. 6(e) access list.

(b) If evidence is received as SCRCNI, then the Description of Articles section of the DA Form 4137 will be annotated as 6(e) materials.

(c) The DALEO will then record the evidence on a DA Form 4137 and release it to the evidence custodian within the specified time established by this regulation.

(d) The receiving evidence custodian will annotate in the remarks section of the evidence ledger that evidence is 6(e) material.

(3) Items of FED. R. CRIM. P. 6(e) evidence, which by virtue of size or quantity are too large to store in the evidence room, will be secured in a suitable facility in accordance with this regulation.

(4) If the court or the AUSA specifically directs that the evidence not be processed through or stored in the evidence room, the following procedures will apply:

(a) All FED R. CRIM. P. 6(e) evidence will be separated from non-evidentiary FED R. CRIM. P. 6(e) materials.

(b) Evidence will be properly documented and accounted for on a DA Form 4137. The DALEO having custody will maintain the chain of custody on the DA Form 4137, in accordance with this regulation throughout the life of the document and until proper final disposition is accomplished.

(c) The investigating DALEO, or DALEO having custody of the evidence, will request the AUSA provide a written request for special handling. If the AUSA does not provide a written request, the DALEO will prepare a MFR documenting the details of the AUSA special handling request.

(d) The DALEO having custody of the evidence will coordinate with the serving evidence custodian and will provide the custodian a copy of the AUSA request or MFR, the case number, and the number of DA Form 4137s on which the evidence is recorded. To preclude compromise of FED. R. CRIM. P. 6(e) access restrictions, presentation of the actual DA Form 4137 is not required, and the evidence custodian will not be reflected in the chain of custody. The custodial DALEO will provide the evidence custodian with the location where the evidence is secured. The evidence custodian will coordinate monthly with the custodial DALEO to verify that the FED. R. CRIM. P. 6(e) evidence is properly secured and accounted.

(e) The evidence custodian will log the DA Form 4137s into the evidence ledger by document number, case number, and date received. The custodian will prepare a dummy DA Form 4137, when the original is not presented with the evidence, showing the case number, receiving activity, and location. All supporting documents will be affixed to the dummy DA Form 4137.

(5) Additional documenting and handling of evidence, once released to the evidence custodian, will be accomplished in accordance with this regulation and/or directions of the AUSA.

b. Any items of evidence on the DA Form 4137, which are annotated in the evidence ledger as being FED. R. CRIM. P. 6(e) evidence, are not subject to inspection or inventory as required by this regulation. Proper documentation as specified above for FED R. CRIM. P. 6(e) evidence is sufficient for accountability purposes by the evidence custodian.

2-11. Use of controlled substances for training

a. Marijuana may be used for training only USACIDC and MP personnel in techniques of identification and field testing. Marijuana approved for final disposal may be burned to familiarize USACIDC and MP personnel with the odor of marijuana. The following rules will govern use of marijuana for such training:

(1) Authenticity of the marijuana must be verified by the USACIL.

(2) Familiarization burning of marijuana will be done by the evidence custodian in the manner prescribed for final disposal.

(3) Unused marijuana from training events, including residue, will be retained by the evidence custodian for proper final disposal.

(4) Burning marijuana for training other groups of people is not authorized.

b. The USACIL controlled substances custodians are authorized to contact USACIDC field elements to obtain drugs and paraphernalia, which have been previously examined by the laboratory and no longer have any evidentiary value in accordance with this regulation. These items will be maintained and used as aids for examinations research and training.

(1) Items will be transferred from USACIDC field elements to the requesting laboratory with a letter of transmittal. Accountability by the USACIL will be reflected on DA Form 3862 (Controlled Substances Stock Record).

(2) Drugs and paraphernalia obtained from USACIDC field elements under this paragraph will not be returned to the releaser. The evidence custodian who releases the items will annotate the DA Form 4137 to reflect that the items have been transferred to USACIL for Final Disposition. The authenticated request from the USACIL will also be attached to the DA Form 4137.

(3) Accountability and final disposition of these items become the responsibility of the USACIL.

2-12. Field testing of controlled substances

a. Field testing of controlled substances by DALEOs is authorized.

b. Results of field tests will be furnished to the commander concerned as soon as possible.

c. Measurable amounts of evidence consumed through field testing (for example, .25 gram, 2 milliliters, one unit) will be deducted from the DA Form 4137 and the Purpose of Change of Custody column will be marked to show disposal of the amount consumed. If the amount consumed in field testing is not measurable (for example, a minute quantity of marijuana from bulk quantities), the remark minute quantity consumed in field test or small immeasurable quantity consumed in the field test will be entered.

d. When an appropriate commander indicates that a person will not be court-martialed for an offense of use or possession of non-narcotic controlled substances, the evidence will not routinely be sent to the USACIL for forensic analysis.

e. The USACIDC commander/SAC/RAC, PM, trial counsel, and civilian prosecutor concerned must closely coordinate to determine the action commander's intent and to ensure proper USACIL support when needed. The trial counsel, civilian prosecutor, or designated representative will promptly notify the proper USACIDC or MP element when the status of a case changes, and there is no longer a need for laboratory analysis.

2-13. Long-term retention of evidence

In certain instances (such as an unsolved death investigation), evidence will be retained after the final law enforcement report has been completed. In such cases, these procedures will be followed:

a. The items of evidence will be packed in boxes or crates by the evidence custodian in the presence of a witness who is not in the chain of custody.

b. A certificate/memorandum will be prepared listing DA Form 4137 numbers included in the box. The certificate will reflect that the contents of the box, identified by specific document number and by citing the absence of specific item numbers, were inventoried and sealed on the date indicated by the evidence custodian and witnessed by a disinterested witness (an individual not within the chain of custody). The certificate will be signed by the evidence custodian and the

disinterested witness. A copy of the certificate will be attached to each DA Form 4137 identified thereon with the original copy attached to the first DA Form 4137 identified on the certificate. A copy of the certificate will also be affixed to the outside of the box or crate, and the box or crate will be sealed as described in this regulation. The DA Form 4137 concerned will continue to be maintained in the active DA Form 4137 file.

c. Firearms will not be stored or sealed in the consolidated evidence box. Firearms will be stored in accordance with this regulation.

d. The box or crate will be sealed with paper tape or tamper proof tape specifically designed for securing evidence. The box or crate will be taped, so that the tape will be damaged if the box or crate is opened. The signatures of the evidence custodian and the witness will be written in permanent ink or marker across the tape seal on the bottom and top of the box or any other large opening. The box or crate will not be opened to conduct inventories, unless tampering is evident or a competent authority so directs.

e. When evidence is no longer required, it will be disposed of in accordance with this regulation.

f. Evidence may be sent to a designated consolidated evidence or long-term evidence room and/or facility as established by the appropriate SAC/RAC or commander.

2–14. Special handling and safety precautions

DALEOs and crime scene processors are likely to encounter crimes having evidence involving blood and other body fluids of persons with infectious diseases. They may also encounter hazardous chemicals, explosives, and even radioactive materials. All such materials must be handled with appropriate precautions and procedures to minimize risks and reduce potential for exposure and contamination. This regulation contains some basic guidelines to follow in handling such materials and additional guidance is found in AR 385–10. The DALEOs will coordinate with appropriate hazardous material teams and comply with their guidance when confronted with evidence of extreme or significant hazards.

a. *Protective clothing.* Special precautions are required to protect personnel against the transmission of human immunodeficiency virus, hepatitis, tuberculosis, or other blood borne pathogens, while handling evidential material. When dealing with crime scenes and evidence contaminated with blood, body fluids, or other potentially infectious materials, DALEOs and those processing evidence should wear appropriate protective clothing to minimize their potential exposure.

(1) *Wear disposable protective gloves.* This is especially important for any person with a cut, abrasion, or any other break in the skin on the hands, when handling blood or other body fluids.

(2) *Protective shoe covering.* Walking through a blood/body fluid contaminated crime scene transfers the contamination to the shoes which are then worn in automobiles, MP stations/USACIDC offices, or homes and have the potential of contaminating each location by such exposure. Protective shoe coverings made of disposable plastic or paper should be used.

(3) *Surgical masks/protective eyewear.* When dried bloodstains are scraped, personnel processing the evidence are exposed to potential contamination by blood particles being dispersed into the air. Use of mask or glasses or both may prevent dried blood from entering the mouth, nose, or eyes.

b. *Sharp objects.* Special care must be exercised while handling and packaging sharp items in order to minimize the risk that they may puncture or cut the skin. If the handler is cut or scratched, or the skin punctured by an item during crime scene processing, the handler must immediately seek medical assistance. If an antiseptic, such as rubbing alcohol, is available, the handler should cleanse the wound with the antiseptic, then wash well with soap and water, before seeking medical assistance.

c. *Disposal and decontamination.* All disposable biohazards should be placed in an appropriate biohazard container (red or orange marked with the international biohazard symbol) and disposed of through an established biohazard waste disposal source. Normally, this is done through the local medical treatment facility. Non-disposable items should be decontaminated thoroughly while wearing appropriate protective clothing and using an appropriate disinfectant such as a 10 percent solution of sodium hypochlorite (common household liquid bleach) and water.

d. *Special biohazard markings.* After collection of such potentially infectious items of evidence, the items should be so identified to prevent contamination to person(s) unaware of the potential danger. Normally this is accomplished by the use of labels with the international biohazard symbol which are placed on the individual evidence containers and which may be required to be placed on the outside of the shipping container. The name of the infectious disease agent known or thought to be present should be noted on the evidence container label but should not be placed on the outside of any shipping containers. Potentially infectious evidence, which is shipped to the USACIL, is subject to several federal regulations which may specify differing types of packaging and marking, depending upon the exact nature of the material. All shippers must meet the requirements for appropriate packaging, which may be found in Part 49, Title 172, Code of Federal Regulations, 29 CFR 1910.1030, or Postal Publication 52, as applicable. If the infectious material being shipped is liquid or has gross contamination that allows dried infectious material to readily flake off, the exterior shipping container should be marked with the international biohazard symbol to meet Occupational Safety and Health Administration requirements.

Shippers should contact the USACIL for the most current guidance on proper packaging and shipping of any such items, before shipment to the USACIL.

e. Exposure plan. Each organization should be covered by a Blood-borne Pathogen Exposure Plan which meets the requirements of current federal regulations, 29 CFR, Part 1910.1030, and current DA and DOD guidelines. This plan should outline practices, procedures, and exposure control methods for personnel who may have occupational exposure to blood-borne pathogens. The plan will also include provisions for offering the Hepatitis B vaccination series to all occupationally exposed personnel and address the availability of medical treatment and arrangements for disposal of contaminated materials.

f. Other materials. Care must be taken to recognize the potential hazardous nature of other types of material which might be handled as evidence or be found at crime scenes such as hazardous chemicals, explosives, compressed gases, or radioactive materials. In some instances, such as clandestine drug laboratories or some environmental crimes, hazardous materials may pose an extreme danger to investigative personnel or others if mishandled.

(1) In situations involving hazardous chemicals, compressed gases, or radioactive materials, DALEO or Army CI agents should consult with appropriate health and safety professionals or environmental professionals and AR 385–10 for guidance in handling, collecting, storing, and transporting of materials which may pose a risk to themselves or others. In some instances, the evidence may have to be destroyed immediately, due to the public health hazard. In these situations, the evidence should be photographed, if safely possible, prior to destruction.

(2) In situations involving explosives, the DALEO or Army CI agents will coordinate with the supporting Explosive Ordinance Detachment for guidance in handling, collecting, storing, and transporting of materials which may pose a risk to themselves or others. In some instances, the evidence may have to be destroyed immediately or stored in a separate facility due to public safety. If destroyed, the evidence should be photographed, if safely possible, prior to destruction.

2–15. Procedures for unrestricted sexual assault reporting

Military victims of sexual assault can elect either restricted (see para 2–16) or unrestricted reporting. Unrestricted reporting requires normal law enforcement reporting, investigative, and evidence procedures.

a. Retention of evidence in unrestricted sexual assaults. In accordance with Section 586 of Public Law 112–18, physical evidence (personal property) and forensic evidence (less the sexual assault forensic evidence (SAFE) kit, see para 2–15*b*) must be retained for 5 years from the date of the seizure of evidence. After the 5-year period and the conclusion of all legal, adverse action, and administrative proceedings the physical and forensic evidence will be released in accordance with paragraph 2–9 of this regulation.

b. Section 538 of Public Law 113–291 (Carl Levin and Howard P. ‘Buck’ McKeon National Defense Authorization Act for Fiscal Year 2015), revised Section 586 of Public Law 112–81 (codified in 10 USC, Section 1561 note), to allow for the release of personal property prior to the 5-year period. All physical and forensic evidence must be retained for a period of at least 5 years from the date of seizure of the evidence. Personal property items (SAFE kit is not personal property) gathered as evidence may be returned to their rightful owner prior to the 5-year period only:

(1) After written evidence disposition is obtained from the senior attorney or designated representative (written evidence disposition by the senior attorney or designated representative is signing the appropriate block on the DA Form 4137 in accordance with this regulation, or attaching an email or memorandum with the disposition authorization to the appropriate DA Form 4137) and when:

(2) It is determined that the allegation is unfounded (false or baseless), that is, the crime did not occur or it was determined through investigation to be a false allegation; or

(3) The evidence is taken from a suspect who is later deemed to be the wrong person (for example, mistaken identity); or

(4) All legal, adverse action, and administrative proceedings (signed DA Form 4833) related to such allegation in accordance with Public Law 113–291, Section 538 (codified in 10 USC, Section 1561 note) have concluded.

c. When items gathered as evidence are digital or electronic in nature, they may also be returned (less contraband or illegal files, such as child pornography) if a forensically sound copy or duplicate has been made of the digital or electronic evidence stored on or accessed through an electronic device and that copy or duplicate is sufficient for command action or prosecution. Coordinate with the supporting DFE to determine and verify if the copy or duplicate digital or electronic is forensically sound (Refer to the Glossary for definition of forensically sound).

d. All physical (for example, personal property) evidence and forensic evidence (except SAFE kit) can be disposed of after the 5-year period, provided all legal, adverse action, and administrative proceedings are concluded. The physical (for example, personal property) and forensic evidence (except SAFE kit) will be released in accordance with paragraphs 2–8 and 2–9 of this regulation.

e. In accordance with Public Law 114–236, Chapter 238, the victim has the right (option) to retain the SAFE kit or its probative contents for the duration of the maximum applicable statute of limitations or 20 years, whichever is shorter.

Also, in accordance with Public Law 114–236 (if the victim requests the SAFE kit to be retained), not later than 60 days prior to the destruction of the SAFE kit, the victim will be contacted in writing (that is, memorandum, email, and so forth.) and notified of the planned SAFE kit destruction. The victim may request, in writing, for the SAFE kit or its probative contents to be further retained.

f. Evidence pertaining to unsolved rapes and sexual assaults (formerly known as aggravated sexual assault) will be retained indefinitely. Long-term retention of evidence procedure as outlined in paragraph 2–13 should be followed.

g. Items which have been evaluated and determined to be of no probative value (for example, DFE examination of computer determined to have no probative value, items collected from the crime scene determined to belong to a third party not related to the incident) may also be returned to their rightful owner prior to the conclusion of all legal, adverse action, and administrative proceedings related to such incident. In all cases, the disposition of items will be in accordance with this regulation, and will also include the supporting trial counsel or civilian prosecutor in the Final Disposition Authority section of the DA Form 4137, authorizing the release of the evidence.

h. Any evidence collected in investigations in which the victim declined to participate will be retained for 5 years after the final law enforcement report has been dispatched. The evidence is retained in case the victim changes their mind and decides to participate in the investigation. Prior to making final disposition of the evidence, the victim will be contacted and advised of the pending disposition of the evidence. This should be done in writing and the victim should be given 30 days to respond, either in writing or verbally. If the victim cannot be located, such as, the victim is no longer in the service and there is no known forwarding address, then the evidence will be disposed 5 years after the final law enforcement report has been dispatched.

2–16. Procedures for restricted sexual assault reporting

a. Restricted reporting requires that law enforcement and criminal investigating organizations not be informed of the victim’s identity and not initiate any investigative procedures. The victim may allow sexual assault response coordinators (SARCs), medical treatment facility (MTF) personnel, victim advocates (VAs), or chaplains to collect specific items that may be later used as evidence, should the victim(s) decide to later report the incident to law enforcement. In sexual assault cases, additional forensic evidence may be collected using the SAFE kit, National Stock Number (NSN) 6640–01–423–9132, or a suitable substitute. The MTF, SARC, VA, or chaplain will have only temporary possession of the evidence and must immediately notify the installation law enforcement office to transfer custody of evidence to the installation law enforcement evidence facility. The SAFE kit, other items such as clothing or bedding sheets, and any other articles provided by the MTF, SARC, VA, or chaplain will be stored in the installation law enforcement’s evidence room separate from other evidence and property. The first law enforcement officer receiving the SAFE kit or other items from the MTF, SARC, VA, or chaplain will initiate a DA Form 4137. Law enforcement personnel will have the MTF, SARC, VA, or chaplain sign the DA Form 4137 releasing the items to law enforcement. Procedures for handling evidence specified in this regulation will be strictly followed.

b. Installation law enforcement will complete an information report in the law enforcement database for restricted reporting in accordance with AR 190-45, Law Enforcement Reporting.

c. Property and the SAFE kit will be stored for 10 years and then destroyed, unless released earlier to investigative authorities or the owner via a SARC or special victim counsel. Thirty days prior to destruction of the property, a letter will be sent to the SARC by the PM or designated representative, advising the SARC that the personal property will be destroyed, unless law enforcement personnel are notified by the SARC that the victim has elected unrestricted reporting. Clothing or other personal effects may be released to the SARC for return to the victim. (see Under Secretary of Defense Memorandum, 10 Jun 19, subject: Procedures to Implement the “Catch a Serial Offender” Program).

d. The victim has the right (option) to retain the SAFE kit or its probative contents (see para 2-15g) for the duration of the maximum applicable statute of limitations or 20 years, whichever is shorter. Also, not later than 60 days prior to the destruction of the SAFE kit, the SARC will be contacted in writing (that is, memorandum, email, and so forth) and notified of the planned SAFE kit destruction. The victim may request through the SARC, in writing (that is, memorandum, email, and so forth), for the SAFE kit or its probative contents to be further retained. The SARC will contact the evidence custodian and state whether or not the victim wants the SAFE kit or its probative contents to be further retained. The victim’s name will not be revealed to the evidence custodian.

e. The information report within the law enforcement database will be updated when the evidence is destroyed, the victim requests further retention, or the evidence is released to investigative authorities (such as USACIDC).

Chapter 3 Inspections, Inventories, and Inquiries

3-1. Inspections

a. General. A monthly inspection of the evidence room will be conducted by an individual in accordance with this regulation. The first inspection conducted by a new DES, PM, SAC/RAC, group command sergeant major or commander assuming supervisory control of an evidence room will include an inventory of all evidence in accordance with this regulation, in order to identify any evidence room discrepancies and problem areas upon assuming overall responsibility. This regulation contains an internal control evaluation checklist which should be used by the inspector to assist with the monthly inspection. The inspector will determine if—

- (1) The evidence room is orderly and clean.
- (2) Structural and security requirements of this regulation are being met. The inspector must verify that spare keys and combinations to the evidence room locks are properly sealed on Standard Form (SF) 700 (Security Container Information) and secured in the USACIDC or CI supervisor or PM safe.
- (3) Evidence is being received, processed, safeguarded, and disposed of in accordance with this regulation.
- (4) Evidence on temporary release for laboratory examination or presentation at a judicial proceeding has not been so released for an excessive period. Evidence released to trial counsel or appropriate prosecutor for a trial or hearing must be returned to the controlling evidence custodian as soon as it is no longer required, unless it is entered as a permanent part in the record of trial.

b. Recording inspections. The first inspection/inventory conducted by a new DES, PM, SAC/RAC, group command sergeant major or commander assuming supervisory control of an evidence room will be recorded in the evidence ledger in accordance with this regulation.

(1) For regular monthly inspections performed by the USACIDC Commander, SAC/RAC, the group sergeant major, the PM or designated representative, as appropriate, the below statement will be entered in the evidence ledger immediately below the last entry made prior to the inspection. It will be signed by the commander, SAC/RAC, the group command sergeant major, the PM or a designated representative, as appropriate. “I (Name), certify that on (Date), in accordance with AR 195-5, I inspected the evidence room. Evidence is being processed in accordance with AR 195-5 with (no exceptions) or (the following exceptions). (Signature).”

(2) For regular monthly inspections performed by CI Commanders/SACs, because the amount of on hand evidence is normally minimal, a 100 percent joint inventory will be performed by the Commander/SAC and Primary Evidence Custodian. The below statement will be entered in the evidence ledger immediately below the last entry made prior to the inspection. It will be signed by the CI Commander/SAC and the Primary Evidence Custodian. “We, the undersigned, certify that on (Date), in accordance with AR 195-5, a joint inventory of the evidence room was conducted. All evidence was properly accounted for with (no exceptions) or (the following exceptions). (Signature of Officer) (Signature of Evidence Custodian) (Printed Name, Grade, Unit).”

c. The United States Army Criminal Investigation Laboratory. Inspections and inventories of the evidence processing area and storage vaults to validate 100 percent accountability of evidence will be conducted on at least a quarterly basis. The method, implementation, and use of accountability systems are delegated to the Director, USACIL, who will publish these procedures in an internal policy memorandum or similar document.

3-2. Inventories

a. General. Inventories will be conducted—

- (1) Once in each calendar quarter.
- (2) On change of the primary evidence custodian; on change of the detachment commander, DES, PM, SAC/RAC or CI supervisor assuming supervisory control of an evidence room in the manner specified in this regulation.
- (3) On loss of evidence stored in the evidence room or breach of security of the evidence room.
- (4) With the assistance of the internal control evaluation checklist.

b. Quarterly inventories. (CI units are exempt from the requirements of this paragraph but must adhere to the standards of AR 380-5).

(1) *Disinterested officer inventories.* The evidence custodian and a disinterested officer appointed for that purpose will conduct a joint quarterly inventory. For DES and PM activities, a disinterested officer inventory will be conducted each quarter. For USACIDC elements, a disinterested officer inventory will be conducted in each of three calendar quarters per year (for example, the 1st, 2nd, and 4th quarters). The joint inventory will be of all evidence stored in the evidence room, including temporary evidence facilities as described in this regulation. The appropriate USACIDC commander/SAC/RAC, group command sergeant major or PM will send a written request to the proper commander to appoint a disinterested commissioned or warrant officer, NCO in the grade of E-7 or above, or United States Government Civilian in the grade of GS-09 or above, or equivalent. The appointing authority will give the requesting activity a copy of the appointing document. In areas where there is no appointing authority, the local USACIDC commander/SAC/RAC, group command sergeant major or PM will identify a disinterested officer meeting the requirements of this paragraph, and prepare a MFR

which will serve as the appointment orders. This MFR will be filed in the same manner as appointment orders. These documents will be retained by the evidence custodian, until the next disinterested officer inventory is completed. The disinterested officer will not be a current member of USACIDC or assigned to an MP activity or unit on the installation. This regulation will be cited as the authority to appoint the disinterested officer. At the time of the inventory, the disinterested officer will provide the evidence custodian a copy of the appointing document which will be retained in the evidence room administrative files in a folder labeled Disinterested Officer Appointment Orders. The disinterested officer will not ask the evidence custodian to verify the weight of any drug or controlled substance evidence but rather, will ensure that the number of containers listed on DA Form 4137 as containing drug or controlled substances is correct and that any seals on any containers are intact. The disinterested officer will use the following guidelines to conduct the inventory:

- (a) Review the provisions of this regulation.
- (b) Conduct a physical count of evidence to verify that evidence in the evidence room corresponds with that shown on DA Form 4137 to include evidence maintained in other temporary evidence facilities, such as vehicle impound yards, container expresses (CONEX), and so forth.
- (c) Cross-reference all DA Forms 4137 (including those in suspense files) with entries in the evidence ledger to ensure accountability of all evidence.
- (d) Ensure that copies of DA Form 4137 in the suspense file are properly annotated with the registered mail number, if sent to the USACIL or another agency, and proper signature, if released for court-martial, UCMJ, Art. 32 investigations, or for other official purposes.

(2) *Reverse inventories.* For USACIDC elements only, a joint reverse inventory with the evidence custodian and a member of the next higher command element will be conducted one calendar quarter per year of all evidence stored in the evidence room, including temporary evidence facilities as described in this regulation. The reverse inventory will occur in the quarter that the disinterested officer inventory specified in this regulation does not. A reverse inventory is not required if there has not been any evidence received in, maintained in, disposed of, or otherwise accounted for by the evidence room, since the date of the last previous reverse inventory. The designated member of the next higher command element may be the commander, executive officer, command sergeant major, sergeant major, first sergeant, operations officer, operations NCO, or the equivalent. The designated member of the immediately higher battalion or field office will use the following procedures for the reverse inventory:

- (a) Systematically search each area of the evidence room, and identify all the items of evidence stored.
- (b) Compare each item of evidence with the evidence ledger and the evidence voucher. Ensure the description, quantity, marking, and method of storage match the actual item. Sealed items of evidence will not be breached, during the inventory.
- (c) Note all discrepancies, if any, between the item of evidence on hand and as it is described in the supporting documentation.

(d) Check each entry in the evidence ledger and each evidence voucher for administrative correctness in accordance with this regulation. Make any administrative corrections needed to bring the documents into compliance with the regulation.

- (e) Record the results of the reverse inventory in the evidence ledger in accordance with this regulation.
- c. *Reverse inventories on change of the director of emergency services, Provost Marshal, special agent-in-charge/resident agent-in-charge or detachment commander assuming supervisory control of an evidence room.* When the DES, PM, SAC/RAC or detachment commander assuming supervisory control of an evidence room changes, the incoming leader and the primary custodian will conduct a reverse inventory of all evidence in the evidence room within 30 calendar days of assuming the position using the procedures specified in this regulation. This reverse inventory will be in addition to any other required inventory and not a replacement.

d. *Inventories on change of custodian.* When the primary evidence custodian changes, the incoming and outgoing primary custodians will conduct a joint physical inventory of all evidence in the evidence room. The joint inventories may be done at the same time as quarterly inventories by disinterested officers; however, each type of inventory will be recorded separately. All evidence records will be carefully checked to ensure proper documentation and accountability. The outgoing custodian will resolve all discrepancies, before transfer of accountability. A joint inventory need not be conducted between the primary custodian and the alternate, when the alternate custodian replaces the primary custodian for 30 consecutive calendar days or less. However, if it is known that the primary custodian will be gone for more than 30 consecutive calendar days, the alternate will be appointed on orders as the primary custodian, and a joint inventory will be conducted. If the alternate custodian becomes the primary custodian due to death, extension of absence beyond 30 calendar days, sudden illness, or emergency transfer of the primary custodian, a joint inventory will be conducted. It will be conducted by the alternate custodian and a person appointed by the USACIDC commander/SAC/RAC/group operations officer or PM, as appropriate.

e. *Inventories in case of lost evidence or breach of security.* This inventory will be conducted by the person assigned to conduct the inquiry. The inventory will be conducted in the presence of the primary or alternate evidence custodian.

f. Inventories of fungible evidence. Sealed containers of fungible or other sealed evidence will not be breached for any type of inventory, unless directed by the supervisor responsible for them. If a sealed container is breached, the evidence will be sealed in a new container, in accordance with this regulation. The supervisor directing the breach will prepare a MFR explaining the reason for the breach. The MFR will be attached to the corresponding DA Form 4137.

g. Recording inventories.

(1) Quarterly inventories will be recorded in the evidence ledger as follows: “We, the undersigned, certify that on (Date), in accordance with AR 195–5, a joint inventory of the evidence room was conducted. All evidence was properly accounted for with (no exceptions) or (the following exceptions). (Signature of Officer) (Signature of Evidence Custodian) (Printed Name, Grade, Unit).”

(2) Reverse inventories will be recorded in the evidence ledger as follows: “I, the undersigned, certify that on (Date), in accordance with AR 195–5, a reverse inventory of the evidence room was conducted. All evidence was properly accounted for with (no exceptions) or (the following exceptions). (Signature of the member of the next higher command or new DES, PM, SAC/RAC, group operations officer or commander along with printed name, rank, position, and unit).”

(3) Change of custodian inventories will be entered in the evidence ledger immediately below the last entry. Both the incoming and the outgoing primary custodians will sign them, as follows: “I (Name) assume the position of primary custodian and accept responsibility for all evidence shown on evidence custody documents in the evidence document files. A joint inventory was conducted on (Date), with (Name), the outgoing evidence custodian. Any discrepancies have been resolved to my satisfaction. (Signature of Incoming Primary Custodian) (Signature of Outgoing Primary Custodian or Appointed Person).”

(4) On satisfactory completion of the change of custody inventory, each DA Form 4137 in the document files will be annotated and signed to show the change of custody. Copies of DA Form 4137 in the suspense files will also be checked to ensure they reflect the:

(a) Registered mail receipt number, if sent to the USACIL or other agency.

(b) Proper signature, if released for court-martial, for investigations under UCMJ, Art. 32, or other official purposes.

(5) Upon the death of the primary custodian or the inability of the primary custodian to conduct a joint inventory and transfer custody of the evidence, the Released By block of each DA Form 4137 will be annotated N/A Custodian Unable to Sign. The alternate custodian will complete the “Received By” block to accept custody of the evidence described on the DA Form 4137. The Purpose of Change of Custody block will show why the primary custodian was unable to sign. The person appointed to make the inventory with the alternate custodian will sign under the ledger entry that shows the inventory.

(6) The results of an inventory conducted for loss of evidence or breach of security will be recorded in the evidence ledger and in the report of inquiry.

3–3. Inquiries

a. If during an inspection or inventory of an evidence room an item(s) of evidence cannot be located, the evidence custodian and the USACIDC commander/SAC/RAC, PM, PM’s designated representative, or CI supervisor, as appropriate, will have up to 5 working days to try to resolve the problem, before an official inquiry is initiated. The apparent missing evidence could simply have been misplaced within the evidence room, or there could have been a lack of proper documentation on the collection, processing, or transference of the item(s). If the problem cannot be resolved by the end of the 5th working day, an inquiry will be initiated as specified in this regulation. Any corrective actions made to resolve the problem will be fully documented in a MFR. The MFR will be attached to the appropriate DA Form 4137.

b. If evidence is lost or security of the evidence room is breached, an inventory will be conducted and an inquiry or investigation will be performed in accordance with AR 15–6. Inquiries or investigations will be initiated by the appropriate USACIDC commander/SAC/RAC or PM. All losses or breaches of security and the start of inquiries will be reported to the Commander, USACIDC (CICG–ZB–SOCO), 27130 Telegraph Road, Quantico, VA 22134, or Headquarters, Department of the Army (HQDA) (DAMO–ODL), 2800 Army Pentagon, Washington, DC 20310–0440, or DCS, G–2 (Army G–2X), 1000 Army Pentagon, Washington, DC 20310–1000, as appropriate.

c. If the inquiry fails to account for or recover the evidence, relief for accountability of the evidence must be granted. For MP activities, this will be done by the installation or activity commander with an information copy of the entire proceedings sent through the Army command PM to HQDA (DAPM–MPO), 2800 Army Pentagon, Washington, DC 20310–0440. For USACIDC activities, relief will be granted by the appropriate USACIDC group commander, with an information copy of the entire proceedings being furnished to the Commander, USACIDC (CIOP–CO), 27130 Telegraph Road, Quantico, VA 22134. For CI units, relief will be granted by the Army G–2X. Relief from further accountability for lost evidence:

(1) Permits the closure of the DA Form 4137.

(2) Has no bearing on administrative or judicial action against those responsible for the loss or breach.

d. Upon receipt of packaged evidence, if evidence appears to be missing after the parcel has been inventoried, the appropriate USACIDC or CI supervisor or PM will be notified immediately by the primary or alternate custodian. On verification of missing evidence from the parcel, the sender will be notified immediately and will be requested to search for the missing items. If the sender cannot locate the evidence, an inquiry will be conducted in accordance with AR 15–6.

Chapter 4

Security Standards for Evidence Storage

4–1. Storage concepts

An evidence room is a structure, a room, or a vault that exceeds or equals the minimum acceptable structural and security standards required by this regulation. The same procedures will be used for consolidated or long-term evidence rooms/facilities.

a. Routine office classified documents will not be stored in the evidence room. Only classified information determined to be evidence of a crime will be stored in an evidence room. All containers or storage facilities used to store classified information must meet the security standards in AR 380–5, as appropriate (for example, Secret and Top Secret). The primary and alternate evidence custodians are required to have the necessary level of security clearance.

b. Evidence storage facilities may be used for storage of controlled substances for training in the narcotics detector dog program in accordance with this regulation.

c. Property, to include training and operational load ammunition, which is not evidence will not be stored in the evidence room.

d. Those installations or activities, which routinely maintain evidence of insufficient quantity to reasonably justify construction and maintenance of an evidence room as described in this regulation, may utilize a depository consisting of a safe approved by General Services Administration (GSA) for evidence storage. Such use is subject to the following provisions:

- (1) The container must be located in a locked, controlled access room.
- (2) All other administrative and accountability requirements of this regulation must be met.

4–2. Physical security of evidence rooms and the United States Army Criminal Investigation Laboratory evidence processing and storage areas

a. *Location.*

(1) The USACIDC and MP evidence rooms will normally be in the same building as the operational or administrative staffs of the USACIDC unit or MP investigations/PM.

(2) CI units will store evidence in accordance with AR 381–20.

b. *Construction.*

(1) Walls must extend from the true floor to the true ceiling. Walls and ceilings may be masonry or wood. Walls and ceilings will not be constructed of exposed combustible material. Walls or ceilings with wooden or metal studs must have a combined exterior and interior sheathing material thickness of at least one inch. Permanently installed flooring (other than masonry) may be used, if the floor cannot be breached without considerable damage to the building structure. NOTE: For any new evidence room construction being planned or occurring after the publication date of this regulation, plywood (at least 3/4 inches thick) will be installed from the true floor to the true ceiling behind the drywall, if drywall is used as the masonry wall material. As an alternative, steel mesh, as specified in this regulation, can be used behind the drywall.

(2) If walls and ceilings in accordance with this regulation are not available, No. 8 gauge high carbon manganese steel mesh with a 2–inch diamond grid or No. 6 gauge steel mesh with a 2–inch diamond grid, permanently attached to the interior wall or ceiling, may be used. Walls or ceilings may also be lined with steel plates at least 1/8 inch thick.

(3) A prefabricated steel mesh cage may be installed in a room as an evidence facility, if the room's walls, flooring, or ceiling do not meet structural standards. The cage must be number 8 gauge high carbon manganese steel mesh with a 2–inch diamond grid or number 6 gauge steel with a 2–inch diamond grid, conform to Headquarters, United States Army Corps of Engineers standards, and be attached to the floor. There will be no space between the floor and the bottom of the cage. When a cage creates a space between the original walls of the room and the cage, the added space must be used only for processing, not storing, evidence. Screws and bolts used to construct the cage will be spot welded to preclude disassembly.

c. *Doorways.*

(1) There must be only one doorway leading to and from the evidence room. Entrance into the evidence room must require opening two successive doors.

(2) When an interior steel mesh cage is used, the door to the cage will serve as the second door. In this case, the outer door will be of solid core wood or metal.

(3) When a steel cage is not used, two doors hung one behind the other will be used. One door may be of steel mesh welded to a steel frame. The second door may be of solid core wood or steel, or it may be a hollow wooden door reinforced outside with a steel plate not less than 1/8 inch thick.

(4) If a barred door is used, the vertical steel bars will be at least 3/8-inch thick and no more than 4 inches apart. Horizontal bars will be welded to the vertical bars and spaced, so that openings do not exceed 32 square inches.

(5) Either door may be hung on the outside of the doorway. They will be hung with the door frame attached to the door casing.

(6) Door hinges will be installed so that doors cannot be removed without seriously damaging the door or jamb. All exposed hinge pins will be spot welded or installed with brads to prevent removal. This is not required, when safety and stud hinges are used or when the hinge pins are on the inside of the doors. (A safety hinge has a metal stud on the face of one hinge leaf and a hole in the face of the other leaf. As the door closes, the stud enters the hole and goes through the full thickness of the leaf. This creates a bolting or locking effect).

(7) The outer door will be secured by one high-security, key opened lock or padlock. The padlock will conform to military specification MIL-DTL-43607H. The nomenclature for the proper outer door lock is S&G 833C, Padlock, Key Operated, High Security Shrouded Shackle. The inner door will be secured by a changeable combination lock or padlock that conforms to Federal specification FF-P-110. The proper inner door combination padlock NSN is 5340-00-285-6523. As an alternative to this requirement, the outer door can be a Class V GSA-approved vault door with a built in GSA-approved combination lock. When a combination lockable vault door is used as the outer door, the inner door will be secured by one high-security, key opened lock or padlock that conforms to military specification MIL-DTL-43607H.

(8) High-security, key opened locks or padlocks on the outer door will be used with one of two styles of hasps under military specification MIL-DTL-29181. The two styles are the right hand or left hand for use on sliding and hinged doors. A heavy steel hasp and staple will be used for the inner door secured by a padlock that conforms to Federal specification FF-P-110. The hasp and staple will be attached with smooth-headed bolts or rivets that go through the thickness of the door or jamb. They will be spot welded or installed with brads on the inside of the door. Heavy duty hasps and staples are acceptable, if they cannot be removed when the doors are closed.

(9) Evidence rooms with manned 24-hour surveillance only need single doors. In these cases, the single doors will be of solid wood or covered with metal to prevent seeing into the evidence room. These rooms will have high-security locks or padlocks as specified in this regulation.

d. Windows and other openings.

(1) Windows, ducts, vents, or similar openings of 96 square inches or more with at least one dimension greater than 6 inches will be covered with hardened steel bars or a suitable steel mesh.

(2) When bars are used, they will be at least 3/8-inch thick, and vertical bars will not be more than 4 inches apart. Horizontal bars will be welded to the vertical bars and spaced with openings of no more than 32 square inches. The ends of the bars will be securely embedded in the wall or welded to a steel channel frame fastened securely to the window casing.

(3) Acceptable steel mesh can be made from high-carbon manganese steel, no less than fifteen one-hundredths of an inch thick, with a grid not more than 2 inches from center to center. Number 6 gauge steel mesh with a 2-inch diamond grid may be used when high-carbon manganese steel is not readily available. The steel mesh will be welded or secured to a steel channel frame and fastened to the building by smooth-headed bolts that go through the entire window casing. The steel mesh will be spot welded or installed with brads on the interior or cemented into the structure itself to prevent easy forced entry.

(4) If air conditioners are installed in windows or outside walls, security measures will be taken to ensure the air conditioners cannot be removed from the outside, and access to the evidence room cannot be gained from the window openings.

e. Intrusion detection systems. Consideration should be given to equipping evidence rooms with a standardized DOD intrusion detection system (IDS) connected to a central monitoring station, with personnel on duty to provide an armed response to an alarm signal. The decision to install an IDS is based on a thorough risk assessment of the location of the facility, the quantity and types of evidence being stored, and the relative cost of measures to provide security equal to an IDS. Field elements will coordinate with their supply support activity and facilities engineer to acquire and install an approved IDS. Coordination will be made with the local installation physical security office for assistance.

f. Internal fixtures. Evidence rooms will be equipped with the fixtures listed below; however, they will not be utilized as offices by the evidence custodians –

(1) *Securable containers or vaults.* Securable containers or vaults in accordance with AR 190-11 for high-value items, narcotics contraband, weapons, and ammunition. Containers may be field safes, filing cabinets, lockers, or locally made containers with at least one approved locking device.

(a) At least one container will be used for added security of high value items (such as jewelry and watches), and large quantities of narcotics (for example, one ounce of heroin or cocaine or one kilo of hashish or marijuana).

(b) Small amounts of narcotics or contraband evidence may be stored in bins or on shelves with other evidence.

(c) A separate container for each category of sensitive/high value evidence is not required.

(d) All weapons and ammunition will be secured in an approved safe or separate locked container.

(e) Containers weighing less than 500 pounds will be secured to the structure to prevent unauthorized removal. A chain may be secured to the container and fastened to a radiator, a water pipe, an eyelet installed for this purpose, or other similar object. When several containers are used, they may be fastened together without being fastened to the structure, if the combined weight of all containers fastened together is at least 500 pounds. The containers, with any attached chains, will be secured with approved locking devices. Chains used to secure containers will be heavy-duty hardened steel of at least 5/16-inch thickness or of equivalent resistance to force required to cut or break a secondary padlock. An example of an equivalent chain is type 1, grade C, class 4, NSN 4010-00-149-5583, NSN 4010-00-149-5575, or NSN 4010-00-171-4427.

(2) *Shelves or bins.* The evidence room will be equipped with bins, cabinets, or shelves as space permits, for neat and orderly arrangement of evidence. Adjustable shelves are recommended when possible. Uniform-sized envelopes, arranged numerically by document numbers, are recommended for storing small items (such as controlled substances) on shelves or in drawers.

(3) *Worktable.* When possible, evidence rooms should be large enough for a worktable or desk for processing of incoming and outgoing evidence by the custodian.

(4) *Refrigerator.* A refrigerator is required as a permanent fixture in the evidence room, if storage of unstable or perishable evidence is expected. A refrigerator is normally not necessary in USACIDC major procurement fraud units.

(5) *Containers for controlled substance training aids.* When these materials are stored in evidence storage facilities, they will be secured in a separate GSA-approved safe under criteria in DA Pam 190-12. Controlled substance training aids will not be secured in containers with evidence, and evidence will not be stored in the safe with controlled substance training aids. When a USACIDC evidence room is used for this purpose, the unit requesting the storage will provide the safe to be used for this purpose.

g. *The United States Army Criminal Investigation Laboratory.* Evidence processing and storage areas at the USACIL are not considered to be evidence rooms, as defined in this regulation. The following physical security standards apply to the USACIL:

(1) *Evidence processing branch storage vaults.* Evidence processing branch storage vaults and storage walk-in coolers will provide equivalent security or exceed the construction requirements for evidence rooms described in this regulation. If necessary to meet engineering and maintenance requirements for the vault cooling systems, alternative construction means and intrusion detection systems may be used, if they provide equivalent security.

(2) *Building perimeter.*

(a) *Doors.* All exterior doorways which give access to interior administrative or evidence processing and storage areas, including maintenance rooms from which interior access could be gained, will be equipped with intrusion detection systems. Doors will be a minimum of 1 3/4 inch thick solid core wood or hollow steel. Hollow steel doors will be industrial type construction with at least skin plate thickness and will be internally reinforced with continuously spaced stiffeners. Door frames will be constructed with a minimum of 18-gauge steel. Doors with locking systems exposed to the outside will be kept to the absolute minimum based on operational considerations. Door hinge mounting screws and pins will not be exposed to the exterior of the facility.

(b) *Windows and other openings.* All exterior windows and other openings will meet the construction standards of this regulation.

(3) *Firearm Branch reference library.* The vault holding the Firearm Branch reference library will meet the construction standards for category II arms storage facilities found in AR 190-11. Ammunition storage will meet the requirements for category IV ammunition storage as found in AR 190-11. The reference library and ammunition storage vaults will be equipped with intrusion detection systems.

(a) Arms stored within the Firearms Branch reference library vault are not required to be individually secured in racks.

(b) Weapons and ammunition stored as items of evidence may be stored in the Firearms Branch reference library and ammunition storage vaults.

(c) To maintain separation and accountability, class IV arms maintained for the USACIL operational requirements will be stored in a GSA approved class V security container, preferably within a vault equipped with an IDS.

4-3. Temporary evidence facilities

A temporary evidence facility may be needed due to size, amount, and type of evidence collected; the physical location of the USACIDC or MP element; or the time in which the evidence is acquired.

a. Safe or filing cabinet. A safe or secure filing cabinet will be used for temporary storage of evidence during non-duty hours, pending release to the evidence custodian. Access to the safe or filing cabinet will be restricted to the person securing the container. A key-opened padlock will be used. Combination locks are not permitted for this purpose. One spare key for the lock will be secured in a separate sealed envelope in the safe controlled by the USACIDC commander/SAC/RAC or PM. There should be sufficient temporary containers, depending on the volume of evidence handled, so that each duty person has a container to use during the absence of the evidence custodian. This will limit the change of custody of evidence, when duty personnel change during weekends, and the custodian is not available. Temporary containers will be secured to the structure or fastened together in accordance with this regulation.

b. Temporary evidence room. A salvaged CONEX or military van (MILVAN) (or equivalent container) can be made into an acceptable temporary evidence room. The CONEX/MILVAN must be weatherproofed. If openings are cut into the sides for air and light, they must be covered with angle iron or steel bars, or steel mesh must be welded to the internal walls. Two steel straps, at least 2 inches wide and 1/4-inch thick, will be put on the front side of the CONEX/ MILVAN. They should be mounted to completely span the door width. The straps will be hinged or hung from eyebolts welded to the side of the CONEX/ MILVAN, beyond the hinges of the door. The upper strap will be mounted about 18 inches from the top of the door and the lower strap the same distance from the bottom. The free end of each strap will be slotted to fit a staple of heavy pattern steel. The straps will be secured with high security, key opened padlocks described in this regulation. Whenever a CONEX or equivalent container is used as an evidence room, it will be near a 24-hour operational activity and routinely observed by that activity's personnel.

c. Building, room, or fenced enclosure.

(1) A separate building, room, or fenced enclosure as appropriate may be used when there are—

(a) Unusually large items of physical evidence (such as motor vehicles or boats).

(b) Large amounts of recovered property that cannot be placed in the evidence room.

(2) The building should have walls that extend from the floor to the true ceiling. The building should be equipped with deadbolt locking devices on the doors or a hasp and staple attached with smooth-headed bolts or rivets. The doors should be solid core wood or steel, and the hinges should be installed so that the doors can't be removed without causing serious damage to the door or jamb. The windows should have locking devices and blinds. If a room is used as a temporary storage area, it would be preferable to use one without windows. In any event, the room should meet the same standards outlined above for a building.

(3) A fenced enclosure will be used only when there is no suitable building or room.

(4) Normally, evidence that requires a fenced enclosure can be processed, photographed, and released after consulting with trial counsel or civilian prosecutor. However, if an enclosure or separate building must be used for temporary storage, the responsible supervisor and evidence custodian must protect the evidence.

4-4. Security

a. Evidence room. The evidence room will be locked at all times, when not occupied by the primary or alternate custodian. Authorized personnel will have access to the evidence room, only when accompanied by the responsible custodian. Personnel will never be left in the evidence room without the custodian. The primary or alternate controlled substance training aids custodian will have escorted access to the evidence room to issue and receive training aids or accomplish the responsibilities for security, control, and accountability of the controlled substance training aids, in accordance with AR 190-12 and DA Pam 190-12. Training aids custodians will not have access to or handle evidence. Primary or alternate evidence custodians will not have access to or handle controlled substance training aids. Evidence custodians will not be training aids custodians.

b. Key and combination control.

(1) Except for the combinations to the training aid locks, only primary and alternate custodians will know the combinations of locks in the evidence room. However, copies of all combinations will be recorded on SF 700. These will be kept in sealed envelopes in the safe of the appropriate USACIDC supervisor or PM.

(2) Each key-operated lock will have two keys with the exception of the HSP which is supplied with three keys (two operator keys and one control key). Except for the keys to the training aids container, the primary custodian will always keep one key to each lock. All other duplicate keys will be put in a separate sealed envelope and secured in the safe of the appropriate USACIDC supervisor, PM, or DES. All keys pertaining to the evidence room will be accounted for on a DA Form 5513 (Key Control Register and Inventory).

(3) Lock combinations will be changed, whenever the primary or alternate evidence custodian changes. All combinations and key locks will be changed upon possible compromise.

(4) Keys will be transferred from the primary to the alternate custodian utilizing DA Form 5513 and only if the primary custodian is to be absent for more than one working day or three non-working days.

(5) Master key padlocks or set locks will never be used in the evidence room.

(6) When controlled substances training aids are stored in evidence rooms, only the primary and alternate controlled substance training aids custodians will know the combinations of the locks on the controlled substance training aids containers. The combinations will be recorded on SF 700 and will be kept in a sealed envelope secured in the safe of the PM or security officer.

Chapter 5

Submission of Evidence to the United States Army Criminal Investigation Laboratory

5–1. Processing of evidence to the United States Army Criminal Investigation Laboratory

a. Physical evidence that may contribute to the resolution of an investigation may require technical examination or analysis by the USACIL.

b. Expedient contact with the USACIL at dodfsccmb@mail.mil, normally within 5 working days, should be made to facilitate a determination of items requiring laboratory examination. Perishable evidence should be sent immediately to the USACIL. Evidence may only be held longer when the development of additional evidence is imminent or if the additional evidence is required to complete the requested examinations (for example, holding questioned documents until the standards and exemplars have been obtained). Another exception would be waiting for information to establish whether or not an actual crime has occurred (for example, a suspected sudden infant death syndrome case with pathology and/or toxicology report pending).

c. Evidence will be protected, packed, and sealed in accordance with this regulation and ATP 3–39.12. To maintain the chain of custody, packages will contain evidence from only one investigation.

d. Contributors will send evidence, DA Form 4137, and DD Form 2922 to the USACIL. Although not required, when submitting multiple items of evidence for examination by multiple branches within USACIL, pre-submission of supporting documentation via email to the Forensic Case Management Branch (dodfsccmb@mail.mil) allows a USACIL case number to be assigned prior to shipping. This reduces triage time at the lab by identifying any required additional standards or examinations and allows USACIL to obtain any additional required information prior to receipt of the evidence at USACIL. This can reduce turn-around time, especially for larger, more complex submissions.

e. Any supporting documentation relevant to the investigation, such as a detailed synopsis; statements from victim(s), subject(s), and witness(es); sexual assault paperwork preliminary police reports; and crime scene images, sketches, and videos should be forwarded to the USACIL. Such documents will be submitted during the pre-submission coordination with the USACIL or attached to the DD Form 2922. The Laboratory Examination Request will include a synopsis in section seven which contains sufficient details to provide the examiner an adequate idea of what crimes were committed and how they were perpetrated (a copy of the initial police report can be attached to the Laboratory Examination Request in lieu of the synopsis, with section seven annotated (see attached police report)).

f. Requests for USACIL analysis from non-USACIDC/PMO elements (for example, trial counsel, unit commanders, and alcohol and drug abuse program coordinators) must be coordinated with and made by local USACIDC/PMO Army elements. This will ensure that items of material value or physical evidence in a criminal investigation are not mishandled, contaminated, or accounted for improperly and that USACIDC/PMO elements are aware of incidents of suspected criminal activity as defined in this regulation. Prior coordination is encouraged to ensure the laboratory is capable of providing the desired service. Other activities should submit evidence through their supporting Defense Criminal Investigative Organization (Air Force Office of Special Investigations, Naval Criminal Investigative Service, and Defense Criminal Investigative Service).

5–2. Sealing

a. General. As with all steps of handling and processing evidence, caution must be taken to prevent cross-contamination. The USACIL should be consulted for answers to questions pertaining to any shipment, especially computers or digital media evidence.

(1) All evidence submitted to the USACIL will be sealed in a shipping container. The original DA Form 4137, plus the original and one copy of the DD Form 2922, will be enclosed in an addressed envelope which must be placed under the outer wrapper of the package.

(2) Multiple items of evidence from the same investigation may be mailed in one consolidated shipping container provided cross-contamination can be eliminated. The items must be packaged and sealed in separate evidence containers, before they can be consolidated into a single shipping container. Fungible evidence in sealed containers may also be sent in the same shipping package as non-fungible evidence from the same investigation. While the minimum standards of double wrapping must be met for all evidence in the container, evidence sealed in one container (for example, heat-sealed bag, manila envelope, cardboard box) need only be wrapped once to meet this requirement.

(3) When possible, evidence should be packaged and shipped compartmentalized by forensic discipline. For example, separate and ship SAFE kits/whole blood under separate registered mail from evidence that requires only latent print examinations. Digital evidence must be separated from evidence requiring refrigeration. Compartmentalizing evidence facilitates the optimum storage and routing of the evidence, reduces unnecessary handling of items, and contributes to the thorough and timely examination of evidence by the appropriate forensic branches. In addition, all examinations, handling, and field testing of evidence should be documented and the information provided to the USACIL.

b. Fungible evidence.

(1) After wet or damp fungible items have been visually examined, field tested, and dried, they will be sealed in a container before sending them to the USACIL. They may be sealed in paper or manila envelopes, cardboard boxes, wrapping paper, or an equivalent off-the-shelf product based on technology advances. Evidence will be sealed as early as possible when in custody to reduce the number of persons having access to it and to preclude loss, contamination, or alteration of the evidence. Containers with previous markings or seals will not be reused to seal fungible or trace evidence.

(2) Like items of fungible evidence seized at the same time should be sealed in one container, when possible (for example, packets of heroin taken from the same location at the same time).

(3) When evidence is sealed in containers other than heat-sealed bags, all openings, joined surfaces, and edges will be sealed with paper packaging tape or the equivalent designed to indicate evidence of tampering. Cellophane or masking tape will not be used. A self-adhering DA Form 4002 will be affixed to the container. The individual who sealed the container will write his/her initials or signature across each of the seals and his/her time and date of acquisition on at least one location on the container. The writing will be written across both the tape and container. When a sealed container is breached, it will be resealed, when appropriate. The individual resealing the container will write his/her initials or signature and date of resealing across the new seals.

(4) When heat-sealed bags are used, procedures provided with the equipment will be used. A DA Form 4002 will be affixed to the outside of the bag away from the heat-sealed strip. The evidence room document number, law enforcement report number, item number, and total number of items on the DA Form 4137, time and date the evidence was obtained, initials of the person who obtained the evidence, and any pertinent remarks will be annotated on the label. Each heat-sealed strip will be marked for identification by the DALEO with the time and date the evidence was obtained and the initials of the DALEO who obtained and sealed the evidence. Each heat-sealed strip will also be embossed with a raised seal unique to the submitting unit or installation. There is no requirement for any additional label to be placed on the heat-sealed strip at the location where it is embossed. Heat-sealed bags should not be used, when items of evidence could degrade because of moisture.

(5) Small amounts of powders, hairs, fibers, small paint chips and similar materials will not be placed in plastic bags, as they may adhere to the inside because of static electricity. They should first be placed in folded paper packets which should then be secured in a second container. Small fragments of glass can be placed in film canisters or plastic. With all such evidence, double-packaging should always be used.

(6) Evidence to be submitted for serological tests will not be sealed in a plastic container. This evidence will be packaged in accordance with ATP 3–39–12.

c. Other evidence. Evidence, such as glass, metal, clothing items and plastics (including plastic bags), should be sealed in a suitable container other than heat-sealed bags, especially when latent print examination is contemplated. All nonporous items of evidence collected for possible latent print evidence must be processed using cyanoacrylate (superglue) fuming, prior to the items being sealed, to preserve any latent prints.

d. Document evidence and nonporous latent print evidence. Questioned document evidence and nonporous latent print evidence will not be heat-sealed or placed unprotected in plastic bags or document protectors, because there is a risk of damage to the evidence. Paper envelopes or folders are preferred for document evidence. Only nonporous latent print evidence should be superglue fumed, before shipment to the laboratory. Submission of nonporous latent print evidence, which has not been superglue fumed, should be coordinated with the Forensic Case Management Branch prior to packaging and shipment to the laboratory. Evidence will be suspended, braced, or packed in a way that prevents any rubbing action which could destroy latent prints.

e. Computer components and digital media.

(1) Computer components and digital media should be packed in non-static materials. These components and media should not be sealed in plastic unless the packing material is specifically designed to protect digital media such as an anti-static bag. Digital media should not be packed with materials that can penetrate openings in the components or media, due to potential damage to the evidence.

(2) Components should be carefully inspected to ensure that interior hardware is securely fastened and will not move around and destroy evidence during shipment.

(3) Digital media should not be shipped in the same shipping container with a computer. Physical damage can be caused to the media from the shifting weight of the computer.

(4) Digital media such as floppy disks or compact discs should be shipped in specially designed shipping material that will shield the media from electronic or magnetic forces and will prevent physical damage to the media.

(5) Items powered by battery need to be charged to ensure that the battery has sufficient reserve to maintain power to the device long enough to allow the item to reach the USACIL and for the USACIL personnel to take responsibility for maintaining the battery.

5-3. Expeditious handling and examination of evidence

a. Expeditious handling may be necessary when-

- (1) The subject is being held in pretrial confinement.
- (2) A trial date is set.
- (3) UCMJ, Art. 39 or Grand Jury hearing scheduled.
- (4) The subject is due for transfer, separation, or reenlistment.
- (5) Analysis of covertly acquired controlled substances is needed for further investigation.
- (6) Other valid reasons exist.

b. The USACIDC or MP activities will request expedited handling by the USACIL, by checking the appropriate box in block 4 on the DD Form 2922.

c. If expeditious notification of the laboratory results is desired, this requirement will be annotated on the DD Form 2922 in block 13. This will include the name and telephone number of the person to be notified. If such notice is required after the evidence has been sent, the USACIL will be notified by the quickest means possible. The results of the USACIL examinations will be provided only to the activity which requested the examination.

d. The USACIL will process the evidence as expeditiously as possible. If this is not possible, the USACIL will notify the requester by telephone or email.

5-4. Special circumstances

a. If the USACIL determines that an entire evidence sample is likely to be consumed during analysis, every effort will be made to maintain an appropriate sample, and the following procedures will be followed:

(1) The USACIL will notify the DALEO responsible for the investigation that total consumption of the evidence sample is anticipated and that testing of that sample will occur 7 working days from notification.

(2) The responsible DALEO will acknowledge receipt of the notification to the USACIL and will notify the trial counsel or civilian prosecutor that the evidence in question will be totally consumed and that examination of the evidence will be delayed for a period of 10 working days from the day the responsible DALEO acknowledged receipt (automatic email acknowledgement that the email was read suffices) of the notification from the USACIL. The responsible DALEO will inform the USACIL of the name of the trial counsel or civilian prosecutor involved, and identify a USACIL POC to the Government attorney.

(3) The responsible DALEO will request that the trial counsel or civilian prosecutor advise the suspect's defense counsel of the anticipated total consumption of evidence and that if the defense counsel or defense consultant desires to be present at the evaluation, the burden is on the defense counsel to notify the DALEO of this wish through the trial counsel or civilian prosecutor.

(4) Upon notification that the defense counsel requests that counsel or a defense consultant be present at the sample testing evaluation, the DALEO will immediately notify the USACIL of this request.

b. Unless notified otherwise by the DALEO, the USACIL will conduct the requested examinations 10 working days after first notification of the DALEO.

c. If there is no suspect, laboratory sample testing evaluation will be conducted in the normal manner even though all of the sample will be consumed.

d. The USACIL will make every effort to ensure that some quantity of sample evidence remains after each examination.

e. In the cases where instrumental spectra is available and sample evidence is consumed, the spectra that is produced as part of the examination becomes equivalent to the evidence (for example, an instrumental data from deoxyribonucleic acid analysis, drug identification, or trace examination).

f. If an item is totally consumed during the course of an examination, the laboratory's internal chain of custody that reflects the item was consumed during analysis will be forwarded to the submitter with the DA Form 4137.

g. When the USACIL requires additional documentation or standards in order to complete an examination (for example, hair standards, handwriting exemplars, and so forth), a USACIL representative will contact the submitter with instructions for providing the required materials to complete the examination. If the USACIL does not receive a response within 10 working days, evidence then cannot be examined without access to the requested documentation or standards will be returned to the submitter unexamined.

5–5. Return of evidence to contributors by the United States Army Criminal Investigation

Laboratory evidence will normally be returned to contributors by registered mail or other equivalent accountable mail methods.

a. The USACIL personnel will ensure the items of evidence are placed in an appropriate shipping container (for example, envelopes or boxes, along with sufficient packaging to preclude damage, loss, destruction, and/or cross-contamination of the evidentiary material).

b. The USACIL personnel will annotate the custody document(s) to release the items of evidence to registered mail or other accountable mail method. The original chain of custody document(s) and laboratory report(s) will be placed in an envelope and attached to the outer surface of the container. The shipping container will then be wrapped and returned to the contributor.

c. Shipping containers must be opened by the evidence custodian at the receiving USACIDC or MP activity to properly account for all items of evidence listed on the DA Form 4137. This does not require the seal(s) to be opened on the individual item(s) of evidence originally sealed by the DALEO or sealed by laboratory personnel.

Appendix A

References

Section I

Required Publications

AR 15–6

Procedures for Administrative Investigations and Boards of Officers (Cited in para 3–3*b*.)

AR 25–400–2

The Army Records Information Management System (ARIMS) (Cited in para 1–7*b*.)

AR 190–11

Physical Security of Arms, Ammunition, and Explosives (Cited in para 4–2*f*(1).)

AR 190–12

Military Working Dogs (Cited in para 4–4*a*.)

AR 190–45

Law Enforcement Reporting (Cited in para 2–16*b*.)

AR 190–53

Interception of Wire and Oral Communications for Law Enforcement Purposes (Cited in para 2–9*g*.)

AR 380–5

Department of the Army Information Security Program (Cited in para 2–6*h*.)

AR 381–20

Army Counterintelligence Program (Cited in para 1–1.)

AR 385–10

The Army Safety Program (Cited in para 2–14.)

AR 638–2

Army Mortuary Affairs Program (Cited in para 2–9*j*.)

AR 710–2

Supply Policy Below the National Level (Cited in para 2–9*q*.)

ATP 3–39.12

Law Enforcement Investigations (Cited in para 2–1*a*.)

DA Pam 25–403

Guide to Recordkeeping in the Army (Cited in para 1–5.)

DODM 4160.21

Defense Materiel Disposition Manual (Cited in para 2–9*p*(1).)

Under Secretary of Defense Memorandum

Procedures to Implement the “Catch a Serial Offender” Program (Cited in para 2–16*c*.)

UCMJ, Art. 32

Investigation (Cited in para 2–4*f*(2).) (Available at <http://www.ucmj.us>)

UCMJ, Art. 39

Sessions (Cited in para 5–3*a*(3).) (Available at <http://www.ucmj.us>)

22 MJ 288

(United States Court of Military Appeals (CMA) 1986) United States v. Garries (Cited in para 2–7*c*(2).) (Available at <https://www.armfor.uscourts.gov>)

18 USC 922

Unlawful acts (Cited in para 2–9*n*(1).) (Available at <http://uscode.house.gov/>)

Section II

Related Publications

A related publication is a source of additional information. The user does not have to read it to understand this regulation.

AR 11–2

Managers' Internal Control Program

AR 25–30

Army Publishing Program

DA Pam 190–12

Military Working Dog Program

FED R. CRIM. P. 6(e)

Federal Rules for Criminal Procedures (Available at <https://www.federalrulesofcriminalprocedure.org>)

MCM

Manual for Courts-Martial, United States (2019) (Available at <http://www.gpo.gov>)

Postal Publication 52

Hazardous, Restricted, and Perishable Mail (Available at <https://pe.usps.com>)

29 CFR 1910.1030

Bloodborne Pathogens (Available at <http://www.gpo.gov>)

49 CFR 172

Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, and Training Requirements (Available at <http://www.gpo.gov>)

18 USC 504

Printing And filming of United States and foreign obligations and securities (Available at <http://uscode.house.gov>)

18 USC 924(d)

Penalties (Available at <http://uscode.house.gov>)

18 USC 1461

Mailing obscene or crime-inciting matter (Available at <http://uscode.house.gov>)

21 USC 812

Schedules of controlled substances (Available at <http://uscode.house.gov>)

26 USC 5861

Prohibited acts (Available at <http://uscode.house.gov>)

26 USC 5872

Forfeitures (Available at <http://uscode.house.gov>)

Section III

Prescribed Forms

Unless otherwise indicated, forms are available on the APD website (<http://armypubs.army.mil>) and DD forms are available on the OSD website (<https://www.esd.whs.mil/dd/>).

DA Form 4002

Evidence/Property Tag (Available through normal forms supply channels.) (Prescribed in para 2–1*b*.)

DA Form 4137

Evidence/Property Custody Document (Prescribed in para 1–4*h*(5).)

DD Form 2922

Forensic Laboratory Examination Request (Prescribed in para 2–6*d*.)

Section IV

Referenced Forms

Unless otherwise indicated, DA forms are available on the APD website (<http://armypubs.army.mil>); DD Forms are available on the OSD website (<http://www.dtic.mil/whs/directives/infomgt/forms/>); and SF forms are available on the GSA website (<http://www.gsa.gov/portal/forms/type/sf>).

DA Form 11-2

Internal Control Evaluation Certification

DA Form 2028

Recommended Changes to Publications and Blank Forms

DA Form 3862

Controlled Substances Stock Record

DA Form 4283

Facilities Engineering Work Request

DA Form 4833

Commander's Report of Disciplinary or Administrative Action

DA Form 5513

Key Control Register and Inventory

DD Form 281

Voucher for Emergency or Extraordinary Expense Expenditures

DD Form 1131

Cash Collection Voucher

DD Form 1348-1A

Issue Release/Receipt Document

PS Form 3811

Domestic Return Receipt (Available at any United States Post Office)

SF 700

Security Container Information (Stocked and Issued from GSA at the Federal Supply Service)

Appendix B

Internal Control Evaluation

B–1. Function

The function covered by this evaluation is evidence procedures.

B–2. Purpose

The purpose of this evaluation is to assist evidence handlers, evidence custodians, evidence room inspectors, leaders, and commanders in evaluating the key internal controls listed. It is intended as a guide and does not cover all controls.

B–3. Instructions

Answers must be based on the actual testing of key internal controls (for example, document analysis, direct observation, sampling, simulation, and/or other). Answers that indicate deficiencies must be explained and the corrective action identified in supporting documentation. These internal controls must be evaluated at least once every 5 years. Certification that the evaluation has been conducted must be accomplished on DA Form 11–2 (Internal Control Evaluation Certification).

B–4. Test questions

a. Collecting items of evidence by DALEO or Army CI agent.

(1) If an item of evidence was collected for trace evidence, was it packaged and sealed at the earliest opportunity to prevent the loss of evidence?

(2) If the item of evidence was of a nonporous material and was collected for latent prints, was it processed with superglue fuming to preserve the latent prints before the item was packaged and sealed?

(3) Were all items of evidence marked for identification with the initials, date, and time they were received or were the items packaged and sealed and the sealed container marked for identification?

(4) If the items of evidence were wet, were they air dried before they were packaged and sealed?

(5) When items were sealed, were they sealed in suitable containers (for example, shirt with bodily fluids should be packaged in cardboard or paper and not plastic)?

(6) Was a DA Form 4002 completed and attached to each item of evidence?

(7) Was a DA Form 4137 properly completed?

(a) Was a case number listed in the law enforcement report block?

(b) Was the receiving activity name and location listed?

(c) Was the person's name or the place from whom or where the evidence was obtained from properly listed?

(d) Was the correct time and date from when the evidence was received properly shown?

(e) Did the quantity and description of the articles of evidence correctly match the evidence collected?

(f) Did the description of the articles of evidence include needed statements about items that were superglue fumed or if the items of evidence were sealed in a container?

(g) Was the chain of custody correctly documented?

(h) If drug evidence was tested, was the drug testing documented in the chain of custody?

(8) Was all evidence turned into the evidence custodian by the end of the next work day after it was received, or if not, was there a memorandum for record attached to the DA Form 4137 explaining the cause for the delay?

b. Evidence custodian receiving evidence from DALEO or Army CI agent.

(1) Was the DA Form 4137 completed properly?

(2) Does the quantity and description of the articles of evidence match the items of evidence being turned in?

(3) Were all items of evidence marked for identification?

(4) Was there a DA Form 4002 attached to each item of evidence?

(5) If items of evidence were sealed, were they sealed in suitable containers and were they sealed correctly?

(6) Was evidence turned in on time or was there a memorandum of record attached to the DA Form 4137 explaining the cause for the delay?

(7) Was the evidence logged into the evidence room ledger?

(8) Was the evidence document number annotated on each DA Form 4002 and DA Form 4137?

(9) Were firearm, high value, and drug items properly secured in a weapons container or safe in the evidence room?

(10) Was the location where the items of evidence were placed in the evidence room annotated in pencil on the DA Form 4137 (the location can also be listed in pencil in the remarks column of the ledger if desired as well)?

c. Evidence custodian routine duties.

- (1) Were the primary and alternate evidence custodians thoroughly knowledgeable about how evidence must be handled and with this regulation?
 - (2) Did the primary and alternate evidence custodians meet the prerequisites for the positions?
 - (3) Were the primary and alternate evidence custodians appointed on orders for the positions and were copies of the appointment orders maintained in the evidence room files?
 - (4) Was the evidence room clean and orderly?
 - (5) Were all the required security standards, as specified in chapter 4 of this regulation, met?
 - (6) Were combinations to combination locks changed when the appointed primary or alternate evidence custodian changed?
 - (7) Were backup keys and combinations to locks secured within SF 700 envelopes and in the commander or senior leaders safe?
 - (8) Were all the required active, suspense, inactive, administrative files, and ledger present in the evidence room and were they being properly maintained?
 - (9) Were all items of evidence, needing laboratory examination, sent to the laboratory in a timely manner?
 - (10) Were items of evidence packaged, documented, and mailed properly when sent to the laboratory?
 - (11) Were suspense folders periodically checked to ensure items of evidence had not been release for an excessively long period of time?
 - (12) Was a system in place to sufficiently track commander's reports of action on subjects of investigations?
 - (13) Was there a system in place to expeditiously dispose of evidence that was no longer needed?
 - (14) Were all required monthly inspections completed?
 - (15) Were all required inventories conducted and were they properly coordinated far enough in advance to preclude problems in getting them completed?
- d. Monthly evidence room inspection.
- (1) Were inspections of the evidence room conducted monthly?
 - (2) Was the person conducting the inspection familiar with this regulation?
 - (3) Was the evidence room clean and orderly?
 - (4) Were only items of evidence and standard furnishings in the evidence room?
 - (5) Were all the required security standards, as specified in chapter 4 of this regulation, met?
 - (6) Were appointment orders of the current primary and alternate evidence custodians available in the evidence room files?
 - (7) Do the primary and alternate evidence custodians meet the prerequisites as required for the duty?
 - (8) Were combinations to combination locks changed when the appointed primary or alternate evidence custodian changed?
 - (9) Were backup keys and combinations to locks secured within SF 700 envelopes and in the commander or senior leaders safe?
 - (10) Were all items of evidence properly received, marked identification, sealed as appropriate, documented on DA Forms 4137, and logged into the evidence room ledger?
 - (11) Were all items of evidence, identified as needing laboratory examination, sent to the laboratory in a timely manner?
 - (12) Were any items of evidence sent to a laboratory other than the USACIL, and if so, did the Director of USACIL authorize it?
 - (13) Were there any DA Forms 4137 in the evidence room suspense folders and was any evidence signed out for an excessively long period of time?
 - (14) For items of evidence that were disposed of, was the final disposition of the evidence properly authorized and documented on the DA Forms 4137?
 - (15) For items of evidence that were disposed of, were the items disposed of in a proper and timely manner and in accordance with this regulation?
 - (16) Was the evidence room ledger being properly used and maintained?
 - (17) Were all permanent entries in the ledger handwritten in blue or black ink?
 - (18) When the alternate evidence custodian assumed duties, was the action documented in the ledger?
 - (19) When the primary evidence custodian resumed his/her duties or exchanged duties with a new primary evidence custodian, was the action documented in the ledger?
 - (20) Was a 100 percent inventory of the evidence completed on the change of primary evidence custodians and documented in the ledger?
 - (21) Were all required quarterly inventories and inventories for any new DES, PM, SAC/RAC or commander assuming supervisory control of an evidence room completed and documented in the ledger?
 - (22) Were appointment orders for disinterested inventory officers available in the evidence room files?

- (23) Were inactive DA Forms 4137 destroyed 3 years after the last item of evidence listed on them was disposed of?
- (24) Was there a system in place to notify the evidence custodian in a timely manner when commander's reports of action on subjects of investigations is completed?
- (25) Was there a system in place to expeditiously identify and dispose of evidence that was no longer needed?
- (26) Was the monthly inspection documented in the ledger?
- (27) Were all final disposition of evidence actions documented in appropriate hard copy investigation case files and online database case records in addition to on the DA Form 4137?
- (28) Were discrepancies identified during the previous inspection followed up?
 - e. Inventories.
 - (1) Was the person conducting the inventory familiar with this regulation?
 - (2) If the person conducting the inventory was a disinterested officer doing a quarterly inventory, did they have appointment orders available to give to the evidence custodian prior to the inventory?
 - (3) Were all items of evidence, documented as being in the evidence room, been located and accounted for?
 - (4) Were there any items of evidence still in the evidence room that had been documented as having been disposed of (such a problem can be found when a reverse inventory is conducted)?
 - (5) Were the evidence room suspense folders checked to ensure all items of evidences were accounted for?
 - (6) Were any items of evidence stored in ammunition supply points or impound lots inventoried?
 - (7) If any item(s) of evidence were found to be missing, were the actions, as specified in paragraph 3-3 of this regulation, conducted?
 - (8) Was the inventory documented in the ledger?

B-5. Supersession

This evaluation supersedes the internal control evaluation previously published in AR 195-5, dated 22 February 2013.

B-6. Comments

Help make this a better tool for evaluating internal controls. Submit comments to: Office of the Provost Marshal General (DAPM-MPD-PS), 2800 Army Pentagon, Washington, DC 20310-2800.

Glossary

Section I

Abbreviations

ACCA

Army Court of Criminal Appeals

APO

Army Post Office

AR

Army Regulation

ARIMS

Army Records Information Management System

AUSA

Assistant United States Attorney

CI

counterintelligence

CONEX

container express

DA

Department of the Army

DALEO

Department of the Army Law Enforcement Officer

DCS

Deputy Chief of Staff

DES

Director of Emergency Services

DFAS

Defense Finance and Accounting Service

DFE

digital forensic examiner

DFT

Division of Forensic Toxicology

DOD

Department of Defense

DOT

Department of Treasury

DRMS

Defense Reutilization and Marketing Service

GBL

Government Bill Of Lading

GS

general schedule

GSA

General Services Administration

HQDA

Headquarters, Department of the Army

HSP
High Security Padlocks

IDS
Intrusion Detection System

IRS
Internal Revenue Service

MFR
memorandum for record

MILVAN
military van

MOS
military occupational specialty

MP
military police

MTF
medical treatment facility

NCO
noncommissioned officer

NSN
national stock number

OTJAG
Office of the Judge Advocate General

PM
Provost Marshal

PMO
Provost Marshal Office

RAC
resident agent-in-charge

RFA
request for assistance

SA
special agent

SAC
special agent-in-charge

SARC
Sexual Assault Response Coordinator

SAUSA
Special Assistant United States Attorney

SCMO
Summary Courts-Martial Officer

SCRCNI
sealed container received, contents not inventoried

SD
Secure Digital

UCMJ
Uniform Code of Military Justice

USACIDC

United States Army Criminal Investigation Command

USACIL

United States Army Criminal Investigation Laboratory

USACRC

United States Army Crime Records Center

USC

United States Code

USPS

United States Postal Service

USSS

United States Secret Service

VA

victim advocate

Section II**Terms****Alternate evidence custodian**

A person assigned to act in the capacity of the primary custodian during temporary absences of the primary custodian.

Approved hasps

Hasps and hardware to provide comparable protection to that afforded by locks used. Listed below are examples of hasps approved for use with HSPs.

a. High security shrouded hasp. A heavy duty hasp meeting military specification MIL–H–29181(YD) for use with HSPs. The hasp has a cover that protects the lock from cutting or hammer tools and inclement weather.

b. High security hasp. A heavy duty hasp meeting military specification MIL–H–43905A for use with the high security lock.

Chain of custody

A chronological written record reflecting the release and receipt of evidence from initial acquisition until final disposition.

Consolidated evidence room/facility

A store room or facility in which items of evidence are combined from multiple locations into one secure room or facility.

Contingency Limitation .0015 Funds

Funds that comprise a part of the operations and maintenance, Army appropriation and are a portion of the Secretary of the Army emergency and extraordinary expense funds which are made available to the CG, USACIDC for emergency and unusual expenditures incurred during investigations and crime prevention.

Controlled substance

A drug or other substance listed in current schedules of 21 USC 812. (General categories are narcotics, derivatives of the Cannabis-Sativa plant, amphetamines, barbiturates, and hallucinogens).

Department of the Army law enforcement officer

An Army Soldier or DA Civilian employee, assigned to an Army law enforcement activity, who performs the duty of enforcing laws or investigating crimes in the interest of the Army. Evidence custodians, investigative assistants, and laboratory examiners are included in this term within this regulation when it pertains to collecting or handling evidence.

Evidence

Anything that helps to ascertain the truth of a matter, or gives proof of a fact. Evidence may be physical or testimonial. This regulation pertains to only physical evidence.

Evidence custodian document suspense files

Files with a copy of DA Form 4137---

a. Adjudication for evidence currently on temporary release for court, courts-martial, or for investigation under UCMJ, Art. 32.

- b. USACIL for evidence sent to USACIL for analysis.
- c. Pending Disposition Approval when the original DA Form 4137 is sent to the staff judge advocate for approval of final disposition.

Evidence depository

A safe approved by the GSA for evidence storage. An evidence depository is allowed for routine evidence storage by installations or activities which routinely maintain evidence of insufficient quantity to reasonably justify construction and maintenance of an evidence room.

Evidence ledger

The bound record book kept by the evidence custodian to provide double accountability and to cross-reference custody documents.

Evidence room

A storage room or facility in which items of evidence are secured.

Forensically sound

When potential electronic evidence is acquired and analyzed, it is important that it be preserved in the state in which it was found and that it not be changed by a digital forensic process unless absolutely unavoidable. While the preservation of the data and its associated properties are critical aspects of this concept, they tend to be used in the context of the acquisition of data as opposed to its analysis. Indeed, some digital forensic technologies may result in subtle changes in the way data is presented (for example, dates and times may be shown in different formats). However, in this case, the raw binary data has not been directly altered; rather, it differs from the original only in the way it is presented. The meaning of the data is unchanged, although its representation may be modified. Thus, the value of the data is not of itself diminished.

Found controlled substance

A drug or other controlled substance not of value as evidence.

Fungible evidence

Evidence that might easily be mutually interchangeable or replaced by another identical item or substituted for other like substances. It is not readily identified, marked distinctively, or possessed of individual characteristics.

Hasp

A slotted hinged metal plate that forms part of a fastening for a door or lid and is fitted over a metal loop and secured by a pin or padlock.

High security padlocks

High security and secondary locks in use with stock numbers other than those listed in a and b below are authorized or approved until replacement is required.

a. High security padlocks. The (HSP), military specification MIL-P-43607, with any of the following stock numbers, are approved locking devices.

(1) NSN 5340-00-799-8016, open shackle with clevis and chain. This lock is authorized for continued use as an HSP until stocks are depleted or replacement is needed. Then, the HSP in paragraph a(2) will be used.

(2) NSN 5340-00-799-8248, shrouded shackle with clevis and chain.

b. Secondary padlocks. Low security, Grade II, Style A, Class 1, Type A locks with and without the clevis and chain according to MIL-P-17802. (NSN 5340001583805, without the chain, and NSN 5340001583807, with the chain). These locks are to be used when HSPs are not required, such as when security chains are used to secure the Class V containers to a structure or to each other.

c. Built-in combination locks. Integral parts of Class V GSA-approved vault doors designed to provide protection against forced entry. They are also installed on Class V GSA-approved containers.

d. Combination padlocks. The changeable combination padlock used for the inner or door to the evidence room is not a high security lock. It is intended for use only as an inner door or protected area reusable seal. It is not intended for use with outer doors or to protect the evidence room or anything within the evidence room against forced entry. Any combination padlock used will conform to Federal specification FFP110 (SG 8077A and 8078A series).

Long-term

Items of evidence which are retained for an extended period of time.

Military police

The term that applies to Soldiers with the MOSs 31B and 31E and commissioned officers with specialty code 31A. At those installations where law enforcement and security services are provided by DA Civilian employees and contractor

personnel, the term Military Police or MP activities, as used in this regulation, applies to the individuals or the agency charged with the law enforcement or security responsibilities.

Nonfungible evidence

Evidence readily identified, marked distinctively, or with individual characteristics (for example, items with serial numbers or anything that can be marked for identification by the person assuming custody).

Physiological evidence

Evidence dealing with human or plant organisms.

Primary evidence custodian

A USACIDC SA, an MP (commissioned or noncommissioned officer), a CI agent, or a DA Civilian assigned responsibility for the operation of an evidence room.

Provost marshal

The senior law enforcement or security official on an installation or military community, as appropriate.

United States Army criminal investigation command supervisor

A commissioned officer, SA, or DA Civilian who has been assigned as a group, laboratory, district, field office commander, executive officer, operations officer, or to other positions within USACIDC as designated by the Commanding General, USACIDC, or the SAC/RAC of a USACIDC unit.

Section III

Special Abbreviations and Terms

This section contains no entries.

PIN 002228–000

UNCLASSIFIEDPIN 002228–000

UNCLASSIFIED

PIN 002228-000