



Department of Defense **INSTRUCTION**

NUMBER 5505.14
December 22, 2015

IG DoD

SUBJECT: Deoxyribonucleic Acid (DNA) Collection Requirements for Criminal Investigations, Law Enforcement, Corrections, and Commanders

References: See Enclosure 1

1. PURPOSE. This instruction:

- a. Reissues DoD Instruction 5505.14 (Reference (a)) in accordance with the authority in DoD Directive 5106.01 (Reference (b)).
- b. Updates policy, assigns responsibilities, and prescribes procedures in accordance with the guidance in section 1565 of Title 10, United States Code (U.S.C.); section 28.12(b) of Title 28, Code of Federal Regulations; and sections 14132, 14135, and 14135a of Title 42, U.S.C. (References (c), (d) and (e)), for DNA sample collection requirements for criminal investigations, law enforcement, corrections, and commanders.
- c. Recognizes DoD and the Coast Guard as “agencies of the United States” for the collection of DNA samples pursuant to References (d) and (e).
- d. Does not eliminate other legal or policy requirements to provide DNA, fingerprints, or criminal history data, including submissions to the Defense Incident-Based Reporting System pursuant to DoD Directive 7730.47 (Reference (f)).
- e. Does not regulate DNA or other biometric data collected from non-U.S. persons who are detained or held by DoD or the Coast Guard during combat or operational activities.
- f. Does not regulate DNA or other biometrical data collected pursuant to DoD Directive 8521.01E and Public Law 108-458 (References (g) and (h)).
- g. Does not regulate DNA samples maintained for identification of human remains, referred to in section 1565a of Reference (c).
- h. Assigns shared funding responsibility to the DoD Component heads and the Commandant of the Coast Guard for the collection of DNA samples pursuant to References (d) and (e).

i. Recognizes the United States Army Criminal Investigation Laboratory (USACIL) as the DoD's Combined Deoxyribonucleic Acid Index System (CODIS) participating laboratory.

j. Prohibits the collection of DNA samples from juveniles. For the purposes of this instruction, a "juvenile" is a person who has not attained his or her eighteenth birthday unless the individual is a Service member on active duty.

2. APPLICABILITY. This instruction applies to OSD, the Military Departments (including the Coast Guard at all times, including when it is a Service in the Department of Homeland Security by agreement with that Department), the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the DoD (referred to collectively in this instruction as the "DoD Components").

3. POLICY. It is DoD policy that DNA samples will be taken from Service members, DoD and non-affiliated DoD civilians, and contractors who are suspects of criminal investigations under the conditions in sections 3 and 7 of Enclosure 4.

4. RESPONSIBILITIES. See Enclosure 2.

5. PROCEDURES. See Enclosure 4.

6. RELEASABILITY. **Cleared for public release**. This instruction is available on the Internet from the DoD Issuances Website at <http://www.dtic.mil/whs/directives>.

7. EFFECTIVE DATE. This instruction is effective December 22, 2015.



Jon T. Rymer
Inspector General of the
Department of Defense

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ENCLOSURE 1

REFERENCES

- (a) DoD Instruction 5505.14, "Deoxyribonucleic Acid (DNA) Collection Requirements for Criminal Investigations," May 27, 2010, as amended (hereby cancelled)
- (b) DoD Directive 5106.01, "Inspector General of the Department of Defense (IG DoD)," April 20, 2012, as amended
- (c) Title 10, United States Code
- (d) Section 28.12(b) of Title 28, Code of Federal Regulations
- (e) Title 42, United States Code
- (f) DoD Instruction 7730.47, "Defense Incident-Based Reporting System (DIBRS)," January 23, 2014
- (g) DoD Directive 8521.01E, "Department of Defense Biometrics," February 21, 2008
- (h) Public Law 108-458, "Intelligence Reform and Terrorism Prevention Act of 2004," December 17, 2004
- (i) DoD Directive 5400.11, "DoD Privacy Program," October 29, 2014
- (j) DoD 5400.11-R, "Department of Defense Privacy Program," May 14, 2007
- (k) Title 37, United States Code
- (l) Title 18, United States Code
- (m) Manual for Courts-Martial, United States, current edition
- (n) Commandant Instruction M5527.1 (series), "Coast Guard Investigations Manual," current edition¹
- (o) DoD Instruction 1325.07, "Administration of Military Correctional Facilities and Clemency and Parole Authority," March 11, 2013

¹ This is a restricted U.S. Coast Guard document. A list of offenses that are investigated (see paragraph 3a of Enclosure 3) may be obtained by contacting the U.S. Coast Guard Freedom of Information Act Office, from the Internet at <http://www.uscg.mil/foia/>

ENCLOSURE 2

RESPONSIBILITIES

1. INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE. The Inspector General of the Department of Defense oversees and evaluates compliance with this instruction.

2. DoD COMPONENT HEADS. With respect to the criminal investigative and law enforcement organizations, correctional facilities, and commanders under their control, the DoD Component heads:

a. Issue procedures, as may be necessary, to implement and comply with this instruction.

b. Program, budget, and allocate funds for DNA collection and processing in coordination with the Secretary of the Army through their respective resource channels.

c. Require that:

(1) Commanders coordinate closely with the appropriate Defense Criminal Investigative Organization (DCIO), other DoD law enforcement organizations, DoD correctional facilities, or Coast Guard Investigative Service (CGIS) to ensure DNA samples are taken and processed as required by section 3 of Enclosure 4.

(2) Commanders and Directors of the DCIOs, other DoD law enforcement organizations, DoD correctional facilities, and CGIS provide appropriate Privacy Act statements to persons from whom DNA samples are taken as required by DoD Directive 5400.11 and DoD 5400.11-R (References (i) and (j)).

(3) DCIOs, other DoD law enforcement organizations, DoD correctional facilities, CGIS, and commanders will provide instructions concerning expungement rights and procedures to all persons from whom they collect DNA samples in accordance with this instruction. Such instructions will be included, in the form of a notice, in the USACIL DNA collection kits.

3. SECRETARY OF THE ARMY. In addition to the responsibilities in section 2 of this enclosure and through the Director, Defense Forensic Science Center, the Secretary of the Army:

a. Designates the Director, Defense Forensic Science Center, to serve as the CODIS program manager for DoD. USACIL will be responsible for conducting DNA analyses and submitting the results to the Federal Bureau of Investigation (FBI) for entry into the National DNA Index System.

b. Ensures a DNA collection kit is developed and provided to locations designated by the DoD Components with law enforcement organizations and correctional facilities. The collection kit will include a notice of general expungement rights.

c. Analyzes all DNA samples submitted in accordance with this instruction and forwards the results to the FBI for inclusion in CODIS.

d. Expunges profiles and destroys samples as required by this instruction.

e. Provides annual funding requirements to the DoD Component heads and Commandant of the U.S. Coast Guard for the implementation requirements in this instruction.

ENCLOSURE 3UNIFORM CODE OF MILITARY JUSTICE (UCMJ) OFFENSES

The offenses listed in this table are found in the punitive articles of chapter 47 of Reference (c) (referred to in this instruction as the UCMJ), wherein the collection and analysis of an individual's DNA is mandated (includes any offenses that constitute a felony under the U.S.C. for which a sentence of confinement for more than 1 year may be imposed), and requires the DCIOs, other DoD law enforcement organizations, DoD correctional facilities, CGIS, or commanders to submit offender DNA profiles through USACIL to the CODIS Division, FBI (see section 3 of Enclosure 4). If an accused is convicted of a lesser offense under one of the listed articles where more than 1 year of confinement may not be imposed, do not collect the individual's DNA.

Table. UCMJ Offenses Requiring DNA Sample Submission

Article No.
Article 78 – Accessory after the fact (for crimes listed in this table for which the maximum confinement exceeds 2 years)
Article 80 – Attempts (for crimes listed in this table)
Article 81 – Conspiracy (for crimes listed in this table)
Article 82 – Solicitation
Article 83 – Fraudulent enlistment, appointment, or separation
Article 84 – Effecting unlawful enlistment appointment, or separation
Article 85 – Desertion
Article 86 – Absence without leave for more than 30 days and terminated by apprehension only
Article 87 – Missing movement by design only
Article 90 – Assaulting or willfully disobeying a superior commissioned officer
Article 91 – Striking or assaulting a warrant officer or superior noncommissioned or petty officer or disobeying the lawful order of a warrant officer only
Article 92 – Failure to obey a lawful general order or regulation or dereliction in the performance of duties through neglect or culpable inefficiency resulting in the death or grievous bodily harm, or willful dereliction of duty resulting in death or grievous bodily harm only
Article 93 – Cruelty and maltreatment
Article 94 – Mutiny and sedition
Article 95 – Escape from post-trial confinement only
Article 96 – Releasing prisoner without proper authority – or suffering a prisoner to escape through design only
Article 97 – Unlawful detention
Article 98 – Noncompliance with procedural rules – Knowingly and intentionally failing to enforce or comply with provisions of the code only
Article 99 – Misbehavior before the enemy
Article 100 – Subordinate compelling surrender
Article 101 – Improper use of countersign
Article 102 – Forcing a safeguard

Table. UCMJ Offenses Requiring DNA Sample Submission, Continued

Article 103 – Captured or abandoned property. - Failing to secure public property taken from the enemy; failing to secure, give notice and turn over, selling, or otherwise wrongfully dealing in or disposing of captured or abandoned property of a value of more than \$500.00 or any firearm or explosive or looting or pillaging only
Article 104 – Aiding the enemy
Article 105 – Misconduct as a prisoner
Article 106 – Spies
Article 106a – Espionage
Article 107 – False official statements
Article 108 – Military property of the United States, i.e., sale, loss, damage, destruction, or wrongful disposition. - Selling or otherwise disposing of military property of a value of more than \$500.00 or any firearm or explosive; or willfully damaging, destroying or losing, or willfully suffering to be lost, damaged, destroyed, sold or willfully disposed of military property of a value or damage of more than \$500.00, or of any firearm or explosive only
Article 109 - Property other than military property of the United States, waste, spoilage, destruction, or damage of a value or damage of more than \$500.00 only
Article 110 – Improper hazarding of vessel
Article 111 – Drunken or reckless operation of vehicle, aircraft, or vessel, resulting in personal injury only
Article 112a – Wrongful use, possession, etc., of controlled substances
Article 113 – Misbehavior of sentinel or lookout, in time of war or while receiving special pay under Section 310 of Title 37, U.S.C. (Reference (k)) only
Article 115 – Malingering. - Feigning illness, physical disablement, mental lapse, or derangement in a hostile fire pay zone or in time of war, intentional self-inflicted injury, or intentional self-inflicted injury in a hostile fire pay zone or in time of war only
Article 116 – Riot or breach of peace – riot only
Article 118 – Murder
Article 119 – Manslaughter
Article 119a – Death or injury of an unborn child – Injuring an unborn child where the bodily injury would have been punishable by confinement for than a year had the injury occurred to the unborn child’s mother, killing an unborn child, attempting to kill an unborn child, or intentionally killing an unborn child only
Article 120 – Rape, sexual assault, aggravated sexual contact, or abusive sexual contact for offenses committed on or after June 28, 2012
Article 120 – Rape, sexual assault, and other sexual misconduct for offenses committed on or between October 1, 2007 and June 27, 2012
Article 120 – Rape and carnal knowledge for offense committed before October 1, 2007
Article 120a – Stalking
Article 120b – Rape of a child, sexual assault of a child, or sexual abuse of a child for offenses committed on or after June 28, 2012
Article 120c – Other sexual misconduct for offenses committed on or after June 28, 2012 – indecent visual recording, broadcasting or distribution of an indecent visual recording, and forcible pandering only

Table. UCMJ Offenses Requiring DNA Sample Submission, Continued

Article 121 – Larceny and wrongful appropriation. – Larceny of military property of a value of more than \$500.00 or of any military motor vehicle, aircraft, vessel, firearm or explosive; larceny of property other military property of a value of more than \$500 or any motor vehicle, aircraft vessel, firearm, or explosive; or wrongful appropriation of any motor vehicle, aircraft, vessel, firearm, or explosive only
Article 122 – Robbery
Article 123 – Forgery
Article 123a – Making, drawing, or uttering check, draft, or order without sufficient funds – For the procurement of any article or thing of value, with the intent to defraud, in the face amount of more than \$500.00 only
Article 124 – Maiming
Article 125 – Forcible sodomy; bestiality
Article 126 – Arson – Aggravated arson or simple arson where the property is of a value of more than \$500.00 only
Article 127 – Extortion
Article 128 – Assault. – Simple assault when committed with an unloaded firearm, assault upon a commissioned officer of the armed forces of the United States or of a friendly foreign power, not in the execution of office; assault upon a warrant officer, not in the execution of office; assault upon a sentinel or lookout in the execution of duty, or upon a person who, in the execution of office, is performing security police, military police, shore patrol, master of arms, or other military or civilian law enforcement duties; assault consummated by a battery upon a child under 16 years; aggravated assault with a dangerous weapon or other means of force likely to produce death or grievous bodily harm; or aggravated assault in which grievous bodily harm is intentionally inflicted only
Article 129 – Burglary
Article 130 – Housebreaking
Article 131 – Perjury
Article 132 – Frauds against the United States – Knowing it to be false or fraudulent, making any claim against the United States of any officer thereof; knowing it to be false, presenting to any person in the civil or military service of the United States, for approval or payment, any claim against the United States or any officer thereof; for the purpose of obtaining the approval, allowance, or payment of any claim against the United States or any officer thereof, making or using any writing of other paper knowing it to contain any false or fraudulent statements; for the purpose of obtaining the approval, allowance, or payment of any claim against the United States or any officer thereof, forging or counterfeiting any signature upon any writing or other paper or using any such signature knowing it to be forged or counterfeited; having charge, possession, custody, or control of any money, or other property of the United States of a value more than \$500 furnished or intended for the armed forces of the United States, knowingly delivering to any person having authority to receive it, any amount thereof less than that for which he receives a certificate or receipt; or, being authorized to make or deliver any paper certifying the receipt of any property of the United States of a value more than \$500 furnished or intended for the armed forces of the United States, making or delivering to any to any person such writing without having full knowledge of the truth of the statements therein contained and with intent to defraud

Table. UCMJ Offenses Requiring DNA Sample Submission, Continued

the United States only.
Article 133 – Conduct unbecoming an officer and gentleman – if the military judge determines that the offense was punishable by confinement for longer than 1 year
<p>Offenses pursuant to Article 134:</p> <ol style="list-style-type: none"> (1) Indecent assault for offenses committed before October 1, 2007 (2) Assault – with intent to commit murder, voluntary manslaughter, rape, robbery, sodomy, arson, burglary, or housebreaking (3) Bigamy (4) Bribery and graft (5) Burning with intent to defraud (6) Child endangerment for offenses committed on or after October 1, 2007. – Child endangerment by design, endangerment by culpable negligence resulting in grievous bodily harm or endangerment by culpable negligence resulting in harm only (7) Child pornography offenses, to include possession, distribution, production, receipt, and viewing (8) Disloyal statement (9) False or unauthorized pass offenses. – Possessing or using with intent to defraud or deceive, or making, altering, counterfeiting, or tampering with, or selling only (10) Obtaining services under false pretenses of a value of more than \$500.00 only (11) False swearing (12) Fraternalization (13) Negligent homicide (14) Impersonating a commissioned, warrant, noncommissioned, or petty officer, or an agent or official with the intent to defraud only (15) Indecent acts or liberties with a child for offenses committed before October 1, 2007 (16) Indecent language communicated to any child under the age of 16 years only (17) Indecent acts with another for offenses committed before October 1, 2007 (18) Kidnapping (19) Taking, opening, secreting, destroying, or stealing mail (20) Depositing or causing to be deposited obscene matters in mail (21) Misprision of serious offense (22) Obstructing justice (23) Wrongful interference with an adverse administrative proceeding (24) Pandering, if the pandering is “compelled,” it becomes an Article 120 offense, on or between October 1, 2007 and June 27, 2012, and Article 120c offense on or after June 28, 2012 (25) Subornation of perjury (26) Altering, concealing, removing, mutilating, obliterating, or destroying public records (27) Self-injury without intent to avoid service (28) Sentinel or lookout: offenses by or against - Loitering or wrongfully sitting on post by a sentinel or lookout in the time of war or while receiving special pay under section 310 of Reference (k) only (29) Soliciting another to commit an offense (for crimes listed in this enclosure) (30) Knowingly receiving, buying, or concealing stolen property of a value of more than \$500.00 only (31) Wrongful refusal to testify

Table. UCMJ Offenses Requiring DNA Sample Submission, Continued

(32) Threat or hoax designed or intended to cause panic or public fear (33) Communicating threat
Any Federal statutes charged as a violation of Article 134 of the UCMJ with a maximum punishment including confinement exceeding 1 year.
Any State criminal offenses pursuant to section 13 of Title 18, U.S.C. (Reference (l)) (also known as the “Federal Assimilative Crimes Act”) charged as a violation of Article 134 of the UCMJ, with a maximum punishment including confinement exceeding 1 year.

ENCLOSURE 4

PROCEDURES

1. The purposes for DNA collection are similar to those for taking fingerprints. They include making positive identification and providing or generating evidence to solve crimes through database searches of potentially matching samples.
2. DNA samples required by this instruction will be collected only with the USACIL DNA collection kit and submitted utilizing the USACIL DNA collection form. Kits may be requested from USACIL through its CODIS Branch at DSN 797-7258, (404) 469-7258, or usarmy.gillem.dfsc.mbx.codis@mail.mil. The kit will include the Privacy Act statement in the appendix to this enclosure as well as instructions for collecting DNA samples and for requesting expungement. The Privacy Act statement and notice of the general rights for requesting expungement will be provided when the sample is collected.
3. The DCIOs, other DoD law enforcement organizations, DoD correctional facilities, CGIS, and commanders will take DNA samples from Service members and expeditiously forward them to USACIL in accordance with Reference (e) and the Manual for Courts-Martial (Reference (m)) when:
 - a. DNA is taken in connection with an investigation, for offenses identified in Enclosure 3 of this instruction and Commandant Instruction M5527.1 (Reference (n)), conducted by a DCIO, other DoD law enforcement organization, or CGIS, and in which the investigator concludes there is probable cause to believe that the subject has committed the offense under investigation. The investigator must consult with a judge advocate before making a probable-cause determination. DNA samples may be collected, but not forwarded, before consultation. DNA will be taken from all drug suspects, except those who are apprehended or detained for the offenses of simple possession and personal use. However, DNA will be taken from those excluded suspects when charges are preferred for or the subject is convicted at special or general court-martial of simple possession or use.
 - b. Court-martial charges are preferred in accordance with Rule for Courts-Martial 307 of Reference (m) for an offense referenced in Enclosure 3 if a DNA sample has not already been submitted.
 - c. A Service member is ordered into pre-trial confinement for an offense referenced in Enclosure 3 by a competent military authority after the completion of the commander's 72-hour memorandum required by Rule for Courts-Martial 305(h)(2)(C) of Reference (m) if a DNA sample has not already been submitted.
 - d. A Service member is confined to a military correctional facility or temporarily housed in civilian facilities as a result of any general or special court-martial conviction for an offense referenced in Enclosure 3 if a DNA sample has not already been submitted in accordance with DoD Instruction 1325.07 (Reference (o)). This also applies to those instances where a Service

member does not receive confinement as a result of any general or special court-martial conviction for an offense identified in Enclosure 3, if a DNA sample has not already been submitted.

e. A commander conducts or directs a command-level investigation or inquiry when no criminal investigation was conducted by a DCIO, other DoD law enforcement agency, or CGIS, nor processed through DoD corrections authorities (e.g., no previous DNA collection), for all offenses identified in Enclosure 3. In those instances, after consultation with his or her supporting Staff Judge Advocate, the commander is responsible for collecting DNA samples from the Service member. The commander is responsible for ensuring that the Service member's DNA sample is collected in accordance with the commander's specific Military Department or U.S. Coast Guard procedures and in accordance with the DNA collection kit instructions.

4. If a commander conducts or directs a command level investigation or inquiry for offenses identified in Enclosure 3 of this instruction and Reference (n), the collection of DNA samples from Service members is not mandated if the Service member is punished via non-judicial punishment (e.g., Article 15 of the UCMJ) or found guilty by a summary court-martial. A commander is only mandated to collect a DNA sample if the Service member was convicted of a qualifying offense by a general or special court-martial.

5. Current Service members from whom samples are taken but who are not convicted of any offense by general or special court-martial (including action generally inconsistent with such a conviction, such as administration of non-judicial punishment, administrative separation, or referral to a summary court-martial) may request in writing that their DNA records be expunged in accordance with the procedures in this section.

a. Requests for expungement will be forwarded through the first commanding officer in the grade of major or lieutenant commander, or higher, in the Service member's chain of command. Such requests will include adequate proof that the charges have been dismissed, withdrawn, disposed of in a manner not resulting in preferral of charges pursuant to Rule for Courts-Martial 307 of Reference (m), or otherwise have not and will not result in a conviction of any offense (including proof of any action by a general or special court-martial convening authority that has the effect of a full acquittal).

b. The first commanding officer in the grade of major or lieutenant commander, or higher, will review and confirm the information and then submit the request through the relevant DCIOs, other DoD law enforcement organizations, or CGIS. The DCIOs, other DoD law enforcement organizations, or CGIS will then validate that the Service member has no convictions that would prohibit expungement.

c. If the first commanding officer in the grade of major or lieutenant commander, or higher, after consulting with a legal advisor, determines that expungement is not authorized, the commander should notify the requestor in writing with a copy furnished to the servicing DCIO, other appropriate DoD law enforcement organization, or CGIS. If the Service member has no

convictions that would prohibit expungement, the commander will coordinate with a legal advisor and may authorize expungement.

d. The DCIOs, other DoD law enforcement organizations, and CGIS will send appropriate requests for expungement to USACIL. Requests will be on letterhead and bear the title, signature, and telephone number of the special agent or law enforcement officer forwarding the request. Requests will clearly state that the Service member concerned is entitled to expungement and list the Service member's full name, social security number, and mailing address. Requests will include all documents submitted by the Service member along with any additional relevant documents in the possession of the commander or official receiving the request. The DCIOs, other DoD law enforcement organizations, and CGIS should maintain a copy of all requests in the case file, including those requests not forwarded to USACIL because expungement was not authorized.

e. USACIL will review requests for expungement to ensure they contain all of the required information. Incomplete requests will be returned to the submitter. When a request for expungement that is complete and complies with one or more of the criteria set forth in section 5 of this enclosure is received, USACIL will expunge the DNA records, destroy the submitted sample, notify the Service member of its actions, and maintain documentation of that notice.

6. Former Service members from whom samples were taken but who were not convicted of any offense by a general or special court-martial may request in writing that their DNA records be expunged in accordance with the procedures in this section.

a. Requests for expungement will be submitted to the Clerk of Court of the Military Department's Court of Criminal Appeals and include all reasonably available proof showing that none of the offenses giving rise to the collection of DNA resulted in a conviction at a general or special court-martial (including a final court order establishing that such a conviction was overturned, or establishing action by the convening authority that has the effect of a full acquittal). A court order is not final if time remains for an appeal or application for discretionary review with respect to the order. Such former Service members must include their name, social security number, current contact information, date of alleged offense, and contact information of the unit that the former Service member belonged to when the sample was taken. Requests that do not provide adequate information to identify the alleged offense or to confirm the alleged offense did not result in a conviction will be returned by "return receipt requested" with an explanation of the deficiency.

b. The Clerk of Court of the Military Department's Court of Criminal Appeals will search his or her records for any conviction pertaining to the former Service member and determine whether the former Service member is entitled to expungement. The Clerk of Court of the Military Department's Court of Criminal Appeals will send appropriate requests for expungement by former Service members to USACIL. Requests will be on letterhead and bear the title, signature, and telephone number of the Military Department Clerk of Court (or similar appropriate official) forwarding the request. Requests will clearly state that the Service member concerned is entitled to expungement and list the Service member's full name, social security number, and mailing address. Requests will include all documents submitted by the Service

member along with any additional relevant documents in the possession of the official receiving the request.

c. USACIL will review all requests for expungement that it receives to ensure they contain all the required information. Incomplete requests will be returned to the submitter. For complete requests, USACIL will coordinate with the FBI to expunge the DNA profile from the CODIS database.

7. DCIOs, other DoD law enforcement organizations, and CGIS will take DNA samples from civilians whom they detain or hold and who remain within their control when it is determined there is probable cause to believe the civilian has committed a qualifying federal offense as defined by Section 14135a(d) of Reference (e) or the equivalent to the offenses identified in Reference (n) and Enclosure 3 of this instruction, except for the listed violations that are exclusively military offenses. For the purposes of this instruction, DNA will be taken from all alleged civilian drug offenders, except those who are arrested or detained for the offenses of simple possession and personal use. DNA samples may also be taken by civilian law enforcement organizations; however, an individual DNA sample does not need to be taken more than once.

a. DNA samples taken by the DCIOs, other DoD law enforcement organizations, and CGIS will be forwarded to USACIL. The DCIOs, other DoD law enforcement organizations, and CGIS will document in the appropriate case file when civilian law enforcement organizations handle any aspect of the DNA processing and whether the civilian law enforcement agency forwarded the DNA sample to the FBI Laboratory. This instruction does not require DCIOs, other DoD law enforcement organizations, or CGIS to take samples from a civilian not in their control at the point when a probable-cause determination is made.

b. Civilians whose samples are taken and forwarded pursuant to section 7 of this enclosure, but who are not convicted of any offense, may request in writing that their DNA sample be expunged.

(1) To request expungement of DNA records for civilians pursuant to Reference (e), the requestor or legal representative must submit a written request to:

FBI
Laboratory Division
Attention: Federal Convicted Offender Program Manager
2501 Investigation Parkway
Quantico, VA 22135

(2) If the request is for expungement of DNA records resulting from an arrest pursuant to the authority of the United States, the requester must include, for each charge for which the DNA record was or could have been included in the national DNA index, a certified copy of a final court order establishing that such charge has been dismissed or, resulted in an acquittal, or that no charge was filed within the applicable time period.

(3) The copy of the court order must contain a certification that it is a true and accurate copy of the original court order and be signed and dated by an appropriate court official, such as a court clerk. The copy of the court order itself must be signed by a judge, be dated, and include sufficient identifying information (at a minimum the person's full name, social security number, or date of birth) to determine the identity of the person and that the conviction offense was overturned, the charge was dismissed, the charge resulted in an acquittal, or no charges were filed within the applicable time period.

c. DNA samples will not be taken from juveniles.

8. Expungement is not authorized under any of the conditions in paragraph 6 of this enclosure if the individual seeking expungement has a Federal conviction for a separate offense that should have but did not result in the collection and forwarding of DNA to USACIL in accordance with this instruction.

Appendix

Privacy Act Statement for DNA Sampling

APPENDIX TO ENCLOSURE 4

PRIVACY ACT STATEMENT FOR DNA SAMPLING

See the figure for the Privacy Act statement for DNA sampling.

Figure. Privacy Act of 1974 Statement

PRIVACY ACT STATEMENT

This statement is provided in compliance with the provisions of the Privacy Act of 1974, 5 U.S.C. § 552a, which requires that Federal agencies inform individuals who are requested to furnish personal information about themselves as to certain facts regarding the information requested.

The collection of a sample of an individual's deoxyribonucleic acid (DNA) by the U.S. Department of Defense is authorized by and conducted pursuant to 10 U.S.C. § 1565; 42 U.S.C. § 14135a et seq.; and 28 C.F.R. § 28.12. Collection is authorized for all offenses investigated pursuant to 42 U.S.C. § 14135a(a)(1)(A) and for all qualifying military offenses, as defined in 10 U.S.C. § 1565(d), including offenses that constitute a felony under the United States Code and offenses for which a sentence of confinement for more than one year may be imposed under the Uniform Code of Military Justice.

The purpose of the Department of Defense's collection of a sample of an individual's DNA is to allow for positive identification and to provide or generate evidence to solve crimes through database searches of potentially matching samples.

It is mandatory that United States persons who are arrested, facing charges, or convicted and non-United States persons who are detained by the Department of Defense or Coast Guard in non-combat or operational activities cooperate in the collection of a sample of his or her DNA. Failure to do so may result in samples taken by the minimum force necessary and/or disciplinary action for a violation of Article 92, Uniform Code of Military Justice, or a determination that the individual is guilty of a class A misdemeanor and punishment in accordance with Title 18 (Crimes and Criminal Procedure), United States Code.

Analysis conducted on DNA samples collected by the Department of Defense will be forwarded by the U.S. Army Criminal Investigation Laboratory (USACIL) to the Federal Bureau of Investigation for entry into the Combined DNA Index System (CODIS).

Pursuant to 42 U.S.C. § 14132(d) and 10 U.S.C. § 1565(e), an individual whose DNA is collected and analyzed in the above manner may request that his or her DNA analysis be expunged from USACIL records and CODIS if the individual is (i) not convicted of an offense in a Federal court, or in the case of a current or former Service member, not convicted of an offense by general or special court-martial (including action generally inconsistent with such a conviction, such as administration of non-judicial punishment, administrative separation, or referral to a summary court), and (ii) meets certain conditions set forth in DoD Instruction 5505.14, "Deoxyribonucleic Acid (DNA) Collection Requirements for Criminal Investigations."

GLOSSARY

PART I. ABBREVIATIONS AND ACRONYMS

CGIS	Coast Guard Investigative Service
CODIS	Combined Deoxyribonucleic Acid Index System
DCIO	Defense Criminal Investigative Organization
DNA	deoxyribonucleic acid
FBI	Federal Bureau of Investigation
UCMJ	Uniform Code of Military Justice
USACIL	United States Army Criminal Investigation Laboratory
U.S.C.	United States Code

PART II. DEFINITIONS

Unless otherwise noted, these terms and their definitions are for the purpose of this instruction.

commander. A commissioned or warrant officer who, by virtue of rank and assignment, exercises primary command authority over a DoD organization.

criminal history data. The information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests; detentions; indictments; information or other formal criminal charges; and any disposition arising therefrom, including acquittal, sentencing, correctional supervision, and release of criminal history record information.

DCIO. U.S. Army Criminal Investigation Command, Naval Criminal Investigative Service, Air Force Office of Special Investigations, and Defense Criminal Investigative Services (DCIS).

DoD law enforcement organizations. An agency or activity, or any subdivision thereof, chartered and empowered to enforce the criminal laws of the United States on DoD property or during DoD functions anywhere in the world. A traditional DoD law enforcement organization that employs recognized law enforcement officers are those organizations designated for the security or protection of DoD property, personnel, or places that are subject to the jurisdiction or administration, or are in the custody of, the DoD.

juvenile. A person who has not attained his or her eighteenth birthday unless the individual is a Service member on active duty.

non-judicial punishment. Disciplinary punishment, as listed in section 815 of Reference (c), imposed by a commander or other authorized officer for minor offenses without the intervention of a court-martial.

Privacy Act statement. Defined in Reference (j).

probable cause. As defined in Reference (m).

qualifying military offense. Defined in section 1565(d) of Reference (c).