



DEPARTMENT OF THE NAVY

OFFICE OF THE SECRETARY
1000 NAVY PENTAGON
WASHINGTON DC 20360-1000

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SECNAVNOTE 5800
PERS-84

JUN 6 2002

SECNAV NOTICE 5800From: Secretary of the Navy
To: All Ships and StationsSubj: POLICY FOR IMPLEMENTING THE DEOXYRIBONUCLEIC ACID (DNA)
ANALYSIS BACKLOG ELIMINATION ACT OF 2000Ref: (a) 10 U.S.C., Section 1565 (2000)
(b) USD (P&R) Memorandum of 16 May 01 (NOTAL)
(c) DODI 1325.7 of 17 Jul 01 (NOTAL)
(d) SECNAVINST 1050.1A
(e) SECNAVINST 5040.3AEncl: (1) List of Qualifying Offenses Requiring DNA Sample
Collection
(2) Definition of Terms

1. Purpose. To establish deoxyribonucleic acid (DNA) Sample Collection Program for military offenders convicted by general court-martial (GCM) or special court-martial (SPCM) of a "qualifying military offense" (QMO) as required by references (a) and (b).

2. Background

a. This notice provides policy for implementing reference (a). Reference (b) provides interim DOD policy to implement requirements of reference (a). This policy will be published by separate instruction upon future revision of reference (c). Applicable provisions of this notice act as interim policy until reference (d) is revised.

b. Under reference (a), each Uniform Code of Military Justice (UCMJ) offense listed in enclosure (1) has been determined to be a QMO. Department of the Navy (DON) is required to collect DNA samples from each member of Navy and Marine Corps who has been convicted by GCM or SPCM of a QMO.

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except any member in custody of the Federal Bureau of Prisons (FBOP) or under supervision of a Federal probation office. Reference (a) also requires collection of DNA samples from all members with a conviction of a QMO approved prior to 19 June 2001 if they are still subject to jurisdiction of Secretary concerned. Samples must be analyzed and results sent to Federal Bureau of Investigations (FBI) for inclusion in its Combined DNA Index System (CODIS).

c. Definitions of terms used within this notice are provided in enclosure (2).

3. Applicability. This notice applies throughout DON. It pertains to all DON personnel convicted of a QMO. For purpose of implementing references (a) and (b) a "QMO conviction" is defined as findings of guilty by GCM or SPCM that include a QMO after the court-martial convening authority (CA) has taken action under UCMJ, article 60. The requirement to collect DNA samples does not apply to findings of a summary court-martial or a proceeding under UCMJ, article 15.

4. Policy

a. DON shall take steps necessary to identify and collect DNA samples from all its prisoners who have a QMO conviction, regardless of Service affiliation, and naval offenders who have a QMO conviction but are not confined (or no longer in confinement). Collection of DNA samples per this policy shall start immediately.

b. Collection of DNA samples prior to QMO conviction is authorized in cases where stipulated within pretrial agreements, or provided as a provision to voluntary appellate leave. All voluntary submissions of DNA samples must be in requested in writing and signed by the member.

c. Members whose sentence includes an unsuspended and unremitted dismissal or punitive discharge may (at the request of the member) begin appellate leave prior to CA action, with subsequent assignment to the Navy and Marine Corps Appellate Leave Activity (NAMALA), provided the member is not in confinement, and, if applicable, has provided a DNA sample. If the sentence of the court-martial includes a sentence to confinement, the period of confinement must have been served

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(except in cases where parole has been granted), remitted, suspended or deferred prior to commencement of appellate leave and assignment to NAMALA.

5. Limitation. No limitations are placed on the lawful prerogatives of DON or its officials.

6. Responsibility

a. Assistant Secretary of the Navy (Manpower and Reserve Affairs) (ASN (M&RA)) is responsible for overall policy and execution of DNA Sample Collection Program for DON military offenders convicted of a QMO. Navy Personnel Command (NAVPERSCOM), Corrections and Programs Division (PERS-84) and Commandant of the Marine Corps (CMC), Corrections Section (POS-40) are assigned as "Component Responsible Officials" (CROs) and shall:

(1) Establish procedures to ensure DNA Sample Collection Program for DON military offenders convicted of a QMO are per references (a) and (b).

(2) Develop and implement DNA Sample Collection Program procedures for key points where disciplinary processing might terminate for an offender, e.g., Convening Authority Action, corrections personnel, Transient Personnel Units and the Navy-Marine Corps Appellate Leave Activity.

(3) Establish a quality assurance program, including training materials, to assist personnel in fulfilling legal and chain-of-custody requirements for DNA Sample Collection Program.

b. NAVPERSCOM (PERS-84) and CMC (POS-40) as DNA Sample Collection Program CROs for military offenders convicted of a QMO shall

(1) Ensure implementation and monitoring of DNA Sample Collection Program for military offenders convicted of a QMO.

(2) Serve as a centralized point of contact to U.S. Army Criminal Investigation Laboratory (USACIL) and provide USACIL with addresses of correctional facilities and other designated locations where collection kits will be mailed. USACIL address

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is U.S. Army Criminal Investigation Laboratory, Attn: CODIS Lab,
4553 North 2nd Street, Forrest Park, GA 30297-5122.

(3) Serve as a centralized point of contact for USACIL for program users, to include any discrepancies not explained by normal processing time.

(4) Maintain a sufficient number of USACIL collection kits to support individual command requests.

c. Navy and Marine Corps Regional/Area Commanders. Assist and support subordinate commands and activities, as necessary, in the implementation and monitoring of DNA Sample Collection Program for military offenders convicted of a QMO.

d. Staff Judge Advocates (SJAs) or Legal Officers (LOs)

(1) For QMO convictions resulting from CA action on or after 19 June 2001, the cognizant SJA shall ensure the top of the first page of initial promulgating order is annotated in bold with "DNA processing required. 10 U.S.C. 1565."

(2) Cognizant SJA/LO shall ensure a copy of each annotated promulgating order is provided to USACIL, current correctional facility where member is confined (for cases in which member is currently confined), and member's immediate commander. In cases of Navy members, SJA/LO shall ensure a copy of each annotated promulgating order is provided to NAVPERSCOM (PERS-84), 5720 Integrity Drive, Millington, TN 38055-8400. In cases of Marine Corps members, SJA/LO shall ensure a copy of each annotated promulgating order is provided to Commandant of the Marine Corps, Headquarters, U.S. Marine Corps (POS-40), 2 Navy Annex, Washington, DC 20380-1775.

(3) Cognizant SJA/LO shall notify and brief immediate COs about their responsibilities on individual cases. SJA/LO are not required to notify the immediate commander if a member convicted of a QMO is currently in confinement. DOD correctional facility where the member is confined will, upon receipt of initial promulgating order containing the annotation that DNA processing is required, ensure DNA sample is collected from the member and sent to USACIL.

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e. Correctional facilities shall

(1) Identify and collect DNA samples from all of its offenders who have a QMO conviction, regardless of Service affiliation.

(2) Identify and collect DNA samples from all of its offenders who have an adjudicated QMO offense, regardless of Service affiliation, in cases where stipulated within pretrial agreements, or provided as a provision to voluntary appellate leave. All voluntary submissions of DNA samples must be requested in writing and signed by the member.

(3) Ensure all DNA samples are collected by qualified medical personnel using kits provided by USACIL and per accompanying instructions. Correctional facilities shall ensure the member's confinement record reflects a DNA sample has been collected and, when revised, ensure data entry into the Corrections Management Information System (CORMIS) database. Correctional facilities shall complete or forward, as appropriate, an administrative entry, (NAVPERS 1070/613 for Navy) (page 11 for Marine Corps), to appropriate unit commanders for potential inclusion into the member's service record/book. The administrative entry shall read as follows: "DNA blood sample drawn this date per Section 5, DNA Analysis Backlog Elimination Act of 2000 (10 U.S.C. 1565), and forwarded to U.S. Army Criminal Investigation Laboratory (USACIL) on (date)." Where other servicemembers are involved, a letter or E-Mail indicating the blood draw will be forwarded to the appropriate service corrections headquarters. Addresses and phone numbers follow:

- (a) Office of the Deputy Chief of Staff for
Operations and Plans (Attn: ODL)
400 Army Pentagon
Washington, DC 20310-0400
Comm (703) 695-8872/DSN 225
- (b) Navy Personnel Command (PERS-84)
5720 Integrity Drive
Millington, TN 38055-0000
Comm (901) 874-4445/DSN 882

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- (c) Headquarters, J.S. Marine Corps (POS-40)
2 Navy Annex
Washington, DC 203-80-1775
Comm (703) 692-4251/DSN 222
- (d) Air Force Security Forces Center (AFSFC/SFCI)
1720 Patrick Street
Lackland Air Force Base, TX 78236-5226
Comm (210) 671-0889/DSN 473
- (e) Commander (adm-3)
Coast Guard Personnel Command
2100 Second St., S.W., Room 1616
Washington, DC 20593-0001
Comm (202) 267-1621

(4) Process and mail packaged sample to USACIL and notify USACIL by phone Comm (404) 469-7258/DSN 797, or electronic mail, codis_lab@usacil-acirs.army.mil, the sample has been mailed. Notification shall include name and social security number of the individual from who sample was taken, and correctional facility from which sample is being mailed. USACIL will confirm receipt of sample by electronic mail and notify sender if problems are encountered that require the DNA sample to be redrawn. Correctional facilities will maintain a centralized account of disposition (e.g., offender's name, date of CA action, QMO, date sample taken, date sample mailed, USACIL confirmation receipt, expungement activity, etc.) associated with DNA Sample Collection Program. CORMIS, when revised, shall be used to document disposition activity.

(5) Ensure a member with a QMO conviction for who a DNA sample has been collected is provided a card informing them if the conviction for each QMO is reversed during appellate review, the member may request USACIL expunge the DNA analysis from CODIS. USACIL provides preprinted cards as part of the collection kit.

(6) Examine promulgating orders published prior to 19 June 2001 for each offender to ascertain existence of convictions for a QMO and coordinate with SJA/LO to obtain review and annotation of the "DNA processing required. 10 U.S.C. 1565." stamp prior to DNA processing for each offender with such QMO conviction.

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f. Convening Authorities shall

(1) Identify and coordinate with COs for collection of DNA samples from those naval members who have a QMO conviction, but are not (or no longer) confined.

(2) Where each QMO conviction has been reversed, initiate an expungement process by USACIL independent of any request from affected member or former member.

g. Commanding Officers shall

(1) Process all DNA samples as outlined in paragraph 6e(2)-(5), above, from those naval members who have a QMO conviction, but are not (or no longer) confined.

(2) Ensure an administrative entry reflecting collection of DNA sample for QMO conviction per 10 U.S.C. 1565 is documented per service directives. This may be accomplished electronically or by completing an administrative entry (page 13 for Navy and page 11 for Marine Corps) for inclusion into the member's service record/book. The administrative entry shall read as follows: "DNA blood sample drawn this date per Section 5, DNA Analysis Backlog Elimination Act of 2000 (10 U.S.C. 1565), and forwarded to U.S. Army Criminal Investigation Laboratory (USACIL) on (date)."

h. Navy and Marine Corps Appellate Leave Activity (NAMALA) shall make every reasonable effort to

(1) Identify those naval members on appellate leave who have a QMO conviction.

(2) Contact and notify member of the collection requirement. When notified request they provide a sample, as required by law, while remaining in excess appellate leave status. Arrangements will be coordinated for DNA processing at a military installation closest to members appellate leave address to minimize expense.

(3) Coordinate processing of all DNA samples as outlined in paragraph 6e(2)-(5), above.

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(4) Ensure an administrative entry reflecting collection of DNA sample for QMO conviction per 10 U.S.C. 1565 is documented per service directives.

i. Judge Advocate General (JAG) of the Navy shall provide advice, instruction, guidance and assistance regarding legal aspects of the DNA Sample Collection Program.

j. Naval Inspector General (NAVINSGEN) shall give favorable consideration, upon request, to the inclusion of the DNA Sample Collection Program in the DON Inspection Program, reference (e).

k. Bureau of Medicine and Surgery (BUMED) shall provide upon request qualified medical personnel in support of collection of DNA samples from offenders upon a QMO conviction using kits provided by USACIL and per accompanying instructions.

l. U.S. Army Criminal Investigation Laboratory (USACIL), under authority of references (a) and (b), shall

(1) Analyze all DNA samples in DOD and submit results to FBI.

(2) Provide collection kits to all correctional facilities and other locations designated by NAVPERSCOM (PERS-84) and CMC (POS-40).

(3) Upon receipt of an expungement request, for each QMO conviction, request the Service's designated point of contact NAVPERSCOM (PERS-84) or CMC (POS-40) to provide a certified copy of a final order establishing conviction was overturned. Additionally, USACIL shall determine whether the requester has a conviction for a qualifying Federal offense (42 U.S.C. 14135a) or qualifying District of Columbia offense (42 U.S.C. 14135b) before taking action to expunge the record based on a QMO. Only in those cases where USACIL has verified the requester has no other qualifying military, Federal, or District of Columbia conviction will it expunge the DNA analysis from CODIS. When a DNA analysis is expunged, the DNA sample maintained at USACIL will be destroyed.

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DNA analysis is expunged, the DNA sample maintained at USACIL will be destroyed.

m. U.S. Disciplinary Barracks (USDB), per reference (b), is designated point of contact to answer all questions from FBOP facilities and Federal probation offices pertaining to whether prisoners and former prisoners still under supervision have a QMO.

7. Cancellation Contingency. This notice remains in effect until issuance of a revision to reference (c).



William A. Navas, Jr.
Assistant Secretary of the Navy
(Manpower and Reserve Affairs)

Distribution:

SNDL Parts 1 and 2

MARCORPS PCN 71000000000 and 71000000100

QUALIFYING MILITARY OFFENSES UNDER 10 U.S.C. § 1565

Definition: Court-Martial Conviction. The findings of guilty by a general court-martial (10 U.S.C. § 818) or special court-martial (10 U.S.C. § 819) after the court-martial convening authority has taken action under 10 U.S.C. § 860.

Offense	UCMJ Article	Title 10 Section	NIBRS Code	DIBRS Code
Murder	118	918	09A	118A-D
Voluntary Manslaughter	119	919	09A	119-A
Rape	120	920	11A	120A
Carnal Knowledge	120	920	36B	120B1/2
Forcible Sodomy	125	925	11B	125A
Sodomy With a Child	125	925	11B	125B1/2
Aggravated Assault (with a dangerous weapon or other means or force likely to produce death or grievous bodily harm)	128	928	13A	128-J1-J2
Aggravated Assault (in which grievous bodily harm was intentionally inflicted)	128	928	13A	128-H1-H2
Indecent Assault	134	934	11D	134-C1
Indecent Acts With another	134	934	11D	134-R5
Indecent Acts With a Child	134	934	11D	134-R1
Indecent Language to a Child	134	934	90Z	134-R3
Pandering (By compelling or by arranging or by receiving consideration for arranging)	134	934	40B	134-B5*
*Only in cases when accused arranged for, or received valuable consideration for arranging for, a certain person to engage in sexual intercourse or sodomy with another person.				
Prostitution Involving a Minor	134	934	40A	134-B6
Kidnapping	134	934	100	134-S1
Robbery	122	922	120	122A-B
Burglary	129	929	220	129-
Housebreaking	130	930	220	130-
Maiming	124	924	13A	124

Enclosure (1)

<u>Offense</u>	<u>UCMJ Article</u>	<u>Title 10 Section</u>	<u>NIBRS Code</u>	<u>DIBRS Code</u>
Arson	126	926	200	126A-B2
Assault With Intent to Commit Murder	134	934	13A	134-C2
Assault With Intent to Commit Rape	134	934	11A	134-C4
Assault With Intent to Commit Voluntary Manslaughter	134	934	13A	134-C3
Assault With Intent to Commit Robbery	134	934	13A	134-C5
Assault With Intent to Commit Sodomy	134	934	11B	134-C6
Assault With Intent to Commit Arson	134	934	13A	134-C8
Assault With Intent to Commit Burglary	134	934	13A	134-C8
Assault With Intent to Commit Housebreaking	134	934	13A	134-C7
Solicitation of Another to Commit a Qualifying Offense	134	934	90Z	134-U7**

**For this offense, the offense code will be the code of the offense solicited and "S=Solicit" will be reflected in Data Element 18 of the offense information field.

The following offenses do not have a related DIBRS code:

Attempt to Commit a Qualifying Offense - Article 80, UCMJ (10 U.S.C. § 880)

Conspiracy to Commit a Qualifying Offense - Article 81, UCMJ (10 U.S.C. § 881)

Conviction for any conduct similar to the above offenses, any conduct which involves any form of sexual abuse, and any conduct of a sexual nature that involves a minor, when charged as an assimilative offense under Article 134, UCMJ.

Conviction for any conduct similar to the above offenses, any conduct which involves any form of sexual abuse, and any conduct of a sexual nature that involves a minor, when charged as conduct unbecoming an officer and a gentleman in violation of Article 133, UCMJ, or conduct that is prejudicial to good order and discipline or is service discrediting, under Article 134, UCMJ.

Conviction for conduct described in Chapter 117, §§ 2421, 2422, 2423, 2425, of title 18, United States Code, when charged as Article 133 or 134, UCMJ, offenses.

Conviction for conduct described in Chapter 110, §§ 2251, 2251A, 2252 of title 18, United States Code, when charged as Article 133 or 134, UCMJ, offenses.

Peonage or Slavery: Conviction for conduct described in Chapter 77 of title 18, United States Code, when charged as Article 133 or 134, UCMJ, offenses.

Enclosure (1)

DEFINITION OF TERMS

1. Component Responsible Official. Person designated by the Secretary of the Navy primarily responsible for coordinating, implementing, and managing the DNA Sample Collection Program.
2. Combined DNA Index System (CODIS). Software that enables Federal, State and local laboratories to store and compare DNA profiles electronically and thereby link serial crimes to each other and identify suspects by matching DNA from crime scenes to convicted offenders.
3. Commanding Officer. As used in the context of this notice, commanding officer refers to the individual who has direct oversight, jurisdiction, and continued responsibility for the safety and well-being of member concerned.
4. Corrections Management Information System (CORMIS). Software that provides storage and retrieval capability on information about inmates, facilities and other data relating to Navy corrections.
5. Deoxyribonucleic Acid (DNA). The class of nucleic acids that contain deoxyribose, found chiefly in the nucleus of cells: responsible for transmitting hereditary characteristics and for the building of proteins.
6. DNA Collection (collect DNA sample). The act of accomplishing the steps associated with the U.S. Army Criminal Investigation Lab DNA Database Collection Kit Instructions.
7. Federal Bureau of Prisons (FBOP). Federal corrections agency of the Department of Justice (DOJ) responsible for the custody and care of federal offenders.
8. Federal Bureau of Investigations (FBI). Principal investigative arm of the United States Department of Justice (DOJ).
9. United States Army Criminal Investigation Laboratory (USACIL). Full service forensic science laboratory serving Army, Air Force, Navy and Marine Corps criminal investigators worldwide.

Enclosure (2)

10. Qualified Medical Personnel. Any medical department personnel qualified to draw blood. This includes, but is not limited to lab technicians, phlebotomists, hospital corpsmen, independent duty hospital corpsmen, nurses, nurse practitioners, and doctors.

11. Qualifying Military Offense (QMO). Uniform Code of Military Justice (UCMJ) offense as listed in enclosure (1) of this notice.

12. Qualifying Military Offense (QMO) Conviction. Findings of guilty by general court-martial (GCM) or special court-martial (SPCM) that include a QMO after the court-martial convening authority (CA) has taken action under UCMJ, article 60.

Enclosure (2)