

## Abstract 8

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### UNIQUE CHALLENGES FACED WHEN PROCESSING EVIDENCE AT THE USACIL

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### THE VIEWS OF THE AUTHOR DO NOT PURPORT TO REFLECT THE POSITION OF THE DEPARTMENT OF THE ARMY OR THE DEPARTMENT OF DEFENSE

The United States Army Criminal Investigation Laboratory (USACIL) has been instrumental in supporting the Army Criminal Investigation Division (CID) since the early 1940's. The USACIL also provides support to other branches of the armed forces and the number of cases from these branches has increased continually to date. The USACIL faces unique challenges because the cases are tried in military courts which follow a different set of rules than its civilian counterparts. The type of cases that the laboratory receives, how evidence is processed, and the likelihood of getting results are all affected by these rules.

All efforts are made to prevent the consumption of precious samples. Techniques have been implemented in the DNA section that allow for minute samples to be tested and still retain a portion for the defense. In some instances, a piece of evidence will need to be consumed. At USACIL a piece of evidence can not be consumed without issuing a Garries notification to the defense. A Garries notification involves informing the defense that evidence will need to be consumed. The defense then has seven days to express its intent to send an expert to view the evidence processing. After the seven day time limit has elapsed, the evidence can be tested.

The USACIL tests all intimate samples in a rape kit (ie. swabs from the victim and their underwear) for the presence of acid phosphatase (AP), prostate specific antigen (P30), and microscopic verification of sperm regardless of negative AP results. A combination of all three of these tests is performed on the same cutting in order to reduce the amount of sample that is used. The AP reagent does not affect the P30 test or the ability to find sperm. This has enabled an examiner to identify a serological fluid and still have enough of a sample for DNA and for further testing by the defense.

It is common for a general swabbing to be done on an area of evidence where a suspect is believed to have made contact. This raises questions as to how to swab the item and have enough of a sample to take to DNA and for the defense to test. A sufficient amount of DNA can be acquired from a sample by rubbing two swabs onto the area. This allows for a representative sampling of DNA to be transferred to each swab. One swab can be taken to DNA and the other can be saved for future testing.

USACIL gets evidence from crime scenes all over the world. As a result, restraints are not placed on how many or which pieces of evidence are sent into the laboratory for testing. All of the evidence collected at a crime scene is sent into the lab. Examiners decide which pieces of evidence will be tested using the laboratories "best evidence

policy” as a guide. This puts the burden of what evidence to test first on the laboratory and often requires much interaction with the agents involved with the case. Many of the sexual assault cases that are submitted involve “date rape” situations. This poses a challenge to the examiner because the victim has had some contact with the suspect previous to the alleged assault. This calls into question whether certain pieces of evidence, like fingernail scrapings, are as probative as they are when the victim does not know the suspect.

The military has recently started to allow a victim to restrict report their case. This allows the victim to get the treatment that they need and to decide up to a year later if they want to report the incident. As a result of restricted reporting, the scene of the incident may not be examined for evidence and a suspect rape kit may not be collected. This can cause crucial evidence to never make it to the laboratory. It can also result in an increase in rapes being reported well after the alleged incident. Because the rape is not officially reported, the rape kit may not get placed in a refrigerated area. This has brought about significant changes in the Department of Defense (DOD) rape kits such as the taking of a dried blood sample for a standard instead of liquid blood. Other changes include the collection of fingernail clippings from the victim and finger swabs from the suspect. This helps ensure that the most probative evidence is collected as close to the time of the assault as possible.

The techniques and strategies implemented by the USACIL can be used by other laboratories to conserve evidence and increase the chance of finding probative evidence that could help solve a crime.