

ANNEX

GUIDELINES ON THE PRESERVATION AND COLLECTION OF EVIDENCE FOLLOWING AN ALLEGATION OF A SERIOUS CRIME HAVING TAKEN PLACE ON BOARD A SHIP OR FOLLOWING A REPORT OF A MISSING PERSON FROM A SHIP, AND PASTORAL AND MEDICAL CARE OF PERSONS AFFECTED

Introduction

The primary purpose of these Guidelines is to assist masters¹, with respect to the preservation of evidence and the pastoral and medical care of persons affected and, when appropriate, the collection of evidence, during the time period between the report or discovery of a possible serious crime and the time when law enforcement authorities or other professional crime scene investigators take action.

The master is not a professional crime scene investigator and does not act as a criminal law-enforcement official when applying these Guidelines. These Guidelines should not be construed as establishing a basis of any liability, criminal or otherwise, of the master in preserving and/or handling evidence or related matters.

These Guidelines focus on what can practically be carried out on board a ship for the preservation and/or collection of evidence and protect persons affected by serious crimes until such time that the relevant law enforcement authorities commence an investigation. They are designed to apply to all vessels regardless of ship type, and should help facilitate the restoration of the normal operation of the ship, once the situation relating to the serious crime on board comes to an end.

It is recognized that the risk of a serious crime taking place on a ship may be addressed through the applicable onboard security arrangements. Although the emphasis is on the need for preventive measures, the risk of a serious crime on board ships cannot be completely eliminated. If a serious crime is committed, it is imperative for all involved that it is fully investigated by the appropriate authorities. In addition, it is of the utmost importance that allegations of sexual assault and other serious crimes are taken seriously, that the persons affected are protected and that their pastoral needs are fully addressed.

The investigation of serious crimes at sea presents particular challenges due to the different entities that may be involved including, but not limited to, flag States, coastal States, port States and States of nationalities of the persons on board.

Reportable serious crimes

Given the differences in laws of the many jurisdictions where a ship may sail, it is not practical to provide a comprehensive list of the types and legal definitions of serious crimes that require reporting. Generally, the master should report alleged or discovered serious crimes to the flag State, other interested States and parties involved, including law-enforcement authorities. These could include, but are not limited to, a suspicious death or disappearance, a criminal act leading to serious bodily injury, sexual assault, conduct endangering the safety of the vessel, or substantial loss of currency or property.

¹ Reference to the master herein includes officers or crew members to whom the master has delegated any functions outlined in these Guidelines.

Cooperation and coordination between interested States and parties

Swift response by law enforcement authorities is important to persons affected by serious crimes.

Cooperation and coordination between interested States and parties should be undertaken in a manner consistent with international law. All interested States and parties involved should cooperate and coordinate to ensure that a full and complete investigation is undertaken. Regardless of which State undertakes the investigation, all investigations should be conducted in the most expeditious manner possible.

The flag State and other interested States should maintain communications between themselves to inform each other about the initiation, progress and outcome of their criminal investigation(s).

Role of the master

The overriding role of the master is to ensure the safety of passengers and crew, which should take precedence over any concerns related to the preservation or collection of evidence.

Once an allegation of a serious crime on board a ship has been made, the master should, as soon as possible, report the allegation to the flag State. The master should, as appropriate, also report the allegation to the interested States and parties involved, including law enforcement authorities.

It is recognized that the master is not a professional crime-scene investigator and that crew and resources to preserve and collect evidence may be limited depending on the vessel type.

The master should ensure the persons affected are properly cared for and take measures to preserve the evidence and follow the advice of the appropriate authorities, including law enforcement authorities.

The master should attempt to secure the scene of the alleged crime as soon as possible, with the main aim of allowing professional crime scene investigators to be able to undertake their work. The best option for preserving evidence is to seal the space, if practicable, and for all persons to be prevented from entering it. An example would be where an incident has taken place in a cabin, then the best option would be for the cabin door to be locked, the key secured and notices posted which would inform that no one should enter.

Where an incident has occurred in a space that cannot be sealed, the master should aim to collect the evidence, as may be instructed by the flag State Administration, or as otherwise guided by the law enforcement authorities. While recognizing that collecting evidence will likely only be carried out in limited and exceptional circumstances, in such cases the master could use the techniques and procedures outlined in appendix 2.

Following the allegation of a serious crime, and given the master's inherent authority on board the ship, the master should draw up a list of persons who may have information and invite them to record their recollection of events on the pro forma attached at appendix 1. Any person may refuse to provide their recollection of events. Whenever possible, the master should attempt to obtain accurate contact information for persons believed to have information about an alleged crime or missing person, to facilitate subsequent contact by law-enforcement officials or other professional crime-scene investigators.

Missing persons

In the event that a person is reported or believed to be missing, immediate actions should be taken to find the missing person. The ship should be searched and consideration given to mustering those aboard as an efficient way of resolving the situation. If the missing person is not found, the relevant shipboard emergency procedures should be followed, and it should be reported to the appropriate search and rescue organization². If, at any time, the master has any reasonable grounds to suspect that the person went missing due to a criminal act, the other relevant sections of these Guidelines should be followed.

Pastoral and medical care

All persons affected by alleged serious crimes deserve full consideration of the allegations and should receive pastoral and medical care, as appropriate.

In cases of allegations of a serious crime, especially sexual assaults and serious physical attacks, the persons affected should receive respect for coming forward, recognition that the allegation will be reported and given support during this time of trauma. They should be given every opportunity to explain what has happened, give a full account of the incident, and be reassured that every effort will be made to protect them from any further harm while they remain on board the vessel. The persons affected should also be free from any burden of decision-making relating to the alleged perpetrator.

In cases in which the master is aware that a person has attempted suicide or has threatened to commit suicide, the master should attempt to protect this person to the extent practicable. This person should be treated with care and respect. In such cases, the master should seek guidance on how to proceed, either from qualified medical persons if on board, from radio medical advice or from other medical advice that may be available through the flag State or other authorities. If it is determined that a person believed to be at risk of suicide should be disembarked from the ship, the master should coordinate such action with the flag State, coastal State and/or port State, as appropriate. If the circumstances indicate that the suicide or threat of suicide is related to a serious crime on board, the master should refer to applicable provisions in these Guidelines.

The persons mentioned in this section should have access to medical care and attention by a medical professional, either on board or ashore, as necessary. The privacy of the person affected should be respected during this process. Where relevant, radio medical advice should be sought.

² Reference should be made to the International Aeronautical and Maritime Search and Rescue (IAMSAR) Manual.

Appendix 2

Preface

The guidance provided in sections 1-4 of this appendix is derived from MSC.1/Circ.1404. That guidance was addressed to Member Governments and was originally developed to provide guidance to investigators to assist in the investigation of the crimes of piracy and armed robbery against ships. It is understood that the master is not a professional crime scene investigator and does not act in the capacity of a criminal law enforcement official and that the guidance in sections 1-4 will likely only be applied in limited and exceptional circumstances by masters who may be called upon to collect evidence that may otherwise be lost if no action is taken.

Section 1

Recovery and packaging of evidence

The following guidance is intended to assist the master to collect material which may assist in the subsequent investigation by a law enforcement authority.

The master should:

- .1 wear fresh protective clothing such as overalls, rubber gloves (for each separate item if practical) as well as have some facial protection, e.g. chemical/dust masks, to give some protection to himself and to avoid distribution of own fingerprints and biological material on the recovered items;
- .2 items in the open and vulnerable to weather conditions should be given priority over those that are enclosed, e.g. bridge, machinery spaces, cabins, mess room, etc.; and
- .3 all items are to be photographed, identified, labelled, and logged at the location found before removal and packaging. The camera should be set to the correct date and time before starting. This will help ensure an accurate visual record which would be of evidential value. The film or digital imaging record will also be subject to evidential value.

Section 2

Identification and labelling

Each item recovered will need to be given an "identification reference" with a sequential number (i.e. 01, 02, 03, etc.) to link it to the point of recovery and by whom.

For example, an abbreviation of the vessel's name, the point of discovery, e.g. Deck 3 mid-ships stairwell in Zone 2, the initials (not full name) of the finder and the sequential number of the item recovered.

Each item, when packaged, will be given a label with the same unique reference to link it to the point of discovery. An example of this could be if the ship was named **Sea Spirit** and the person recovering was Ronaldo Fernandez, giving an identification reference of:

SS/Date & Time/Crew Mess Room /RF/1, .../RF/2, ...RF/3 etc.

Where an item of obvious significance is found, then the person recovering AND the person able to identify it in relation to any alleged perpetrator should include this on their pro-forma statement (see appendix 1). Should more than one person be involved in recovering items, then the identification reference would include that person's initials, also starting from 01.

All items recovered will need to be safely stored in a clean and dry environment until such time as they are landed ashore.

If a paper sack or cardboard box is used to package the item, then the identification reference should be written in ink or similar (not pencil) on the outside of the package. In the case of plastic bags, glass jars or smaller containers, then a reference label will need to be attached. Please note that adhesive tape and NOT staples should be used to attach the label.

Example:

IDENTIFICATION REFERENCE

.....SS...../..03-03-2011..1425 / Crew Mess Room /.....RF...../...01.....
(Ship name) / (Date/Time) / (Location) / (Recovered by) / (Seq. number)

Brief description:

Signature:

Section 3

Log of Items Recovered From Search or Seizure

Item No.	Date/ Time	Location found	Description of item	Recovered by	Signature	Identification Reference	Remarks
01	03/03/2011 1425	Crew Mess Rm	Knife used by alleged perpetrator	Ronaldo Fernandez		As above	

Section 4

Guidelines on recovery and packaging of evidence

TYPE OF EXHIBIT	SAMPLING/TREATMENT	RECOMMENDED PACKAGING	PRACTICAL OPTIONS FOR CONSIDERATION
<p><u>WARNING:</u> THE HANDLING OF BODY FLUIDS CONSTITUTES A HEALTH HAZARD ALWAYS SEEK ADVICE IF UNSURE</p>			
<p>BLOOD</p>			
<p>A) Bloodstained items</p>	<p>If an easily removable item, e.g. knife, ashtray, bottle, etc. (see further down re: clothing), allow the item to dry completely and naturally before packaging.</p> <p>DO NOT accelerate drying.</p> <p>Make a note on exhibit seizure form if blood stain was wet when obtained.</p>	<p>Place each individual item in a <u>separate</u> suitable, properly sealed container, e.g. sealed strong paper bags or stout paper sacks. In the absence of sacks, cardboard boxes will suffice. Bags/sacks should be folded over twice and sealed with adhesive tape (adhesive tape or similar), boxes should also be sealed with tape.</p> <p>Clearly mark any sack or container that contains blood with "BIOHAZARD"</p>	<p>Bags/paper sacks must not have been used previously. If no "police issue" sacks are available, suitable sacks would be those used for paper waste disposal. If a cardboard box is used, it should be as clean as possible and lined with clean paper. Write the exhibit identification reference on the sack/box as you seal it.</p> <p>Note: Plastic bags should not be used for blood stained items as they promote dampness. Nor should staplers ever be used to seal bags.</p> <p>Seek advice and guidance from Ships Doctor/Medic and/or shore authorities if required.</p>
<p>B) Bloodstains on immovable objects</p>			<p>If possible seal off the room.</p> <p>Mark any sack or container that contains blood with "BIOHAZARD"</p>

TYPE OF EXHIBIT	SAMPLING/TREATMENT	RECOMMENDED PACKAGING	PRACTICAL OPTIONS FOR CONSIDERATION
<p>1) Pools of wet blood</p> <p>WARNING – Syringes and needles pose a serious health hazard and must be handled with extreme care</p> <p>Wherever possible seek medical advice before handling</p>	<p>Can be collected using a syringe.</p> <p>Sample of the blood can be taken by swabbing, ensuring that a sample is taken from each individual pool.</p>	<p>Blood (not syringe) to be placed into a clean, dry bottle/jar with a screw top. Syringe to be disposed of in proper "sharps" box.</p> <p>Area taken from to be indicated in notes, exhibit reference documented on outside of swab then placed in an exhibit bag</p> <p>Please make note as to type of stain i.e. wet/dry</p>	<p>As above.</p>
<p>2) Partly clotted blood</p>	<p>Lift with a clean knife or scalpel blade.</p>	<p>As above.</p>	<p>As above.</p> <p>Keep all WET or SEMI-SOLID blood samples in a cool place. If delay likely in passing to authorities, consider deep freezing samples (away from food products). Take advice before doing so.</p>
<p>3) Dry blood</p>	<p>If practical and possible, cut away the surface containing the stain. A non-stained part of the item should also be taken as a control sample.</p> <p>OR</p> <p>Scrape dry blood onto a clean sheet of paper.</p>	<p>Place each individual item (including the control sample) into a separate suitable container, e.g. paper sack, cardboard box and seal properly with adhesive tape.</p> <p>Fold paper carefully and seal in a labelled envelope.</p>	<p>Seek advice from Ships Doctor/Medic and shore authorities.</p> <p>Never use staplers.</p>

Type of Exhibit	Sampling/Treatment	Recommended Packaging	Practical Options for Consideration
4) Semen stained items	<p>The whole item containing the stain should be taken. If the stain is still wet, ALLOW ITEM TO DRY NATURALLY in an isolated area, before packaging. Avoid talking over the item, as contamination can occur.</p> <p>If small items such as tampon, sanitary towel, knickers should be frozen where possible.</p> <p>Condoms should be sealed with either a clip or tied at the top.</p>	<p>Place each individual item in a sealed paper sack or clean cardboard box.</p> <p>Please note any stains which were wet when obtained, within the notes and on exhibit.</p>	<p>As above. May be impractical to obtain and store. However if possible could provide valuable evidence.</p>
FIBRES & HAIRS			
Items onto which fibres may have been transferred (e.g. from victim's clothing to other clothing, bedding, weapons)	<p>Where possible recover the whole item with the minimum of disturbance. If it cannot be packaged, cut out approximately 20 cm square of material OR pull out tufts of fibres. Otherwise, seek advice from shore authorities as to fibre sampling.</p>	<p>Place in an envelope sealing all seams and openings. Large items should be placed in a clean paper sack or cardboard box. If there is more than one piece then wrap each item SEPARATELY and seal effectively with adhesive tape.</p>	<p>Do not use staplers, seal with adhesive tape. A plastic sack could be used if the item is completely dry.</p> <p>Polythene bags (providing no dampness) or paper sacks can be used.</p>
Rope or Twine used by alleged offender	<p>Recover the whole length of rope if possible OR obtain a length at least 30 cm long. For suspicious deaths or suicide, recover the whole item.</p>	<p>Wrap each item separately in a polythene or paper sack and seal effectively.</p>	<p>Do not use staplers to seal any bag. Always use adhesive tape.</p>
Where there is a possibility of a PHYSICAL FIT between broken or cut ends	<p>If the rope must be cut to remove it, first clearly label the original cut or broken ends.</p> <p>Always leave knots intact.</p>	<p>Protect the cut or broken ends with paper or polythene bags so that they cannot be damaged and place each individual piece of rope or twine in a separate polythene or paper sack.</p>	<p>As well as potential evidence re: a crime, such evidence could be of considerable value to an accident investigation or inquest re: suicide.</p>

Items recovered that may have hairs present	Recover the whole item wherever possible.	Wrap each item separately in a polythene or paper sack and ensure the bag is completely sealed.	Do not use staples to secure the bag, only adhesive tape.
CLOTHING, BEDDING AND FOOTWEAR			
Clothing (used or left)	Recover the whole item of clothing.	As above.	As above.
Wet or damp items WARNING – See first page re: handling materials containing body fluids	Allow to dry naturally as soon as possible on a paper-lined surface.	When completely dry package as above. If cannot dry place in plastic bag and freeze. (if very wet)	Avoid risks of contamination by drying at separate locations where practical.
Footwear	Package any footwear used by the alleged offender(s).	Use separate paper sacks or cardboard boxes for each item and seal securely.	Suitable boxes might be those that contained photocopier paper. Do not place in plastic as will sweat.
Bedding	Where possible and practical recover whole item. Mark upper and lower surfaces head and foot to establish orientation of sheets, blankets, quilts, etc.	Wrap each item separately at the recovery location if possible. Place in a stout paper sack and seal with adhesive tape.	Ensure that all recovered items are kept separate to avoid cross contamination. If a number of cabins are involved, if practical, ensure different staff recovers bedding and bag and seal items at a separate location before storage.

FOOTWEAR MARKS			
Surface transfer marks	Where possible recover whole item, e.g. on paper(s), cardboard, glass, bedding, etc.	Place each item separately in an appropriate and clean container (e.g. cardboard box) to protect.	As above.
	If not possible to recover consider photographing placing two rulers at right angles to show size of mark.	If digital photographs taken, do not use any photo enhancement facilities. Leave for experts to improve on.	If film photography is used, package the entire film cassette.
GLASSWARE & CERAMICS			
Glasses, cups mugs, etc., used by the alleged offender(s)	Recover whole or broken items used by the alleged offender.	Place any broken pieces in a polythene bag or paper envelope and place in a sturdy cardboard box. Whole items should be individually packaged. Seal the box completely with adhesive tape.	If a box or sack contains broken items that could cut or injure, please label "CAUTION, INJURY HAZARD".
EXPLOSIVES, FIREARMS & OTHER WEAPONS			
IMPORTANT – Safety takes precedence over evidence collection. Specialist advice MUST be sought before ANY action is taken.			Seek urgent advice from shore authorities before taking action unless to do so is critical to preserving life.
Weapons other than firearms (e.g. knives, hammers, hatchets)	DO NOT attach any adhesive material to the blades or handles (this could destroy fingerprints or other evidence of value).	Place in cardboard box or other secure container and seal with adhesive tape.	Where there are items that could cut or injure, please label "CAUTION, INJURY HAZARD".

RECOVERY AND PROTECTION OF PROJECTILES			
<p>WARNING – see above re: blood and firearms</p>	<p>Any wounds resulting from a firearm injury should (subject to medical advice) be photographed before surgery. Wherever possible a ruler or scale should be in the photograph adjacent to the wound.</p>	<p>Seek advice re: packaging from shore side authorities.</p> <p>Photographs of injuries should be in colour as this will show differentiation between blood staining and blackening. Films should not be processed unless it is essential, but retained for the relevant authorities.</p>	<p>As above.</p>
	<p>Unless it is absolutely essential to do so, do not attempt to remove a bullet or air pellet that is imbedded in walls, doors, etc. This should be left to forensic experts. Photograph any projectile in situ.</p>		<p>Wherever possible, seek advice from shore authorities before removal of area surrounding projectile.</p> <p>Mark the area clearly without touching or damaging the scene.</p>
MODEL, REPLICA AND BLANK FIRING FIREARMS			
<p>IMPORTANT – Safety takes precedence over evidence collection. Specialist advice MUST be sought before ANY action is taken.</p>			<p>Seek urgent advice from shore authorities before taking action unless to do so is critical to preserving life.</p>

CLOTHING OF PERSON SUSPECTED OF DISCHARGING A FIREARM AND ANY VICTIM			
WARNING – See first page re: caution to be applied when dealing with body fluids	<p>Clothing should be gently handled to preserve lightly adhering firearm discharge residue.</p> <p>As above. BUT bloodstained clothing must be allowed to dry naturally before packing.</p>	<p>Items of clothing must be individually packaged in paper sacks, sealed with adhesive tape and labelled.</p>	<p>Plastic sacks can be used where clothing is dry.</p> <p>Ensure that separate people deal with the suspect and victim's clothing at separate locations to eliminate the possibility of cross contamination.</p>
Clothing of victim (crew)	As above.	As above.	As above.
DOCUMENTS (e.g. DEMANDS/RANSOM NOTES)			
Hand-written documents	<p>Obtain the ORIGINAL document, place in a polycover and if possible make a photocopy to be used as a working document (e.g. to Fax to authorities or Head Office).</p>	<p>Place in a clean polyfolder or polythene bag.</p> <p>DO NOT WRITE ON OR MAKE ANY INDENTATIONS ON DOCUMENT.</p>	