



## ISAF EVIDENCE COLLECTION GUIDE



*Supporting the prosecution of Insurgency Crimes*

July 2010

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**A Guide to Collecting Evidence for Prosecution in Afghan Courts**

For the National Security Prosecutor's Unit (NSPU) or a provincial court to prosecute and convict detainees, including Afghan murder suspects or National Security criminals, capturing units must provide evidence and witness statements against the suspects for use in an Afghan court of law. Appropriate evidence collection may result in admissible evidence in support of effective prosecutions. Turn all evidence associated with the suspect over to Afghan authorities and obtain a thoroughly documented receipt for the evidence.

Evidence collection may also be necessary without an actual detention. Operators may find weapons, documents, or other items that should be collected as evidence, even if no one is detained.

To the greatest extent possible, in order to increase the likelihood of admissibility in the Afghan courts, evidence collection and case preparation should be **performed by Afghan partnering forces**.

This booklet is a guide. Your local prosecutor or judge may require a slightly different format or type of evidence. Your evidence may be tailored to fit your local court's requirements if necessary.

## **The Basics**

Afghan courts rely heavily upon photographic evidence and witness statements. Although Afghan courts prefer to have the physical evidence whenever possible, most cases can be successfully tried by providing these very basic forms of evidence. The following minimum standards, if executed properly, will provide the Afghan prosecutor with the evidence needed to successfully present a case for prosecution.

The **basic** evidence collection standards to prepare a case for prosecution in Afghan court are as follows:

### **Prior to the Operation.**

Each tactical unit conducting an operation will appoint an evidence collection team (a.k.a. Site Exploitation (SE) team) who will plan for, collect, receive, and handle all evidence seized during the operation. This team will be properly trained on evidence collection and handling procedures and will **include an Afghan partnering member.**

Whenever possible, obtain a search warrant before an operation where you plan to collect evidence. If the warrant is not obtained in advance, your unit should ensure that a warrant is obtained after the operation.

### **Planning and Equipment**

During planning for a specific operation, the team will consider the following issues and prepare accordingly:

Possible evidence

- Documents
- Weapons
- IED components / explosives
- Drugs
- Witness statements (Interpreters!)

### Handling requirements

- Amounts, weight, bulk
- Containers (plastic bags, etc.)
- Protective equipment (eg. for chemicals)

### Transportation requirements

### Handover process

- Afghan point of contact (eg. Afghan NDS investigator/prosecutor)
- Time and location

### Tasks on Site

#### **Secure the scene**

- After the objective is secured, control the surrounding area and treat as a “crime scene” to ensure that evidence is not moved, touched, or tainted.

- Safety of the unit and partnering forces comes first. If concern for safety does not allow for some of the procedural steps, finish documenting the evidence immediately upon return to base.

**Document the scene or site.**

It is important that Afghan partnering forces are as involved in the collection of evidence as possible. Afghan forces should be sketching and photographing the site, with support from the tactical unit.

- Sketch

Sketch the crime scene and depict (label) the location of suspect's location, rooms, and all evidentiary items. In the event that there is not ANSF, NDS, or other partnered forces at the scene, complete the sketch and have it translated upon return to base.

- Photographs



Take overlapping photographs detailing the scene of the crime. To begin, provide an overall picture of the entire site to include various angles (four corners) of the compound and approaches. Next, take pictures of marked evidence bags (e.g. Building 10 Room E) and then of the individual rooms themselves (Note: these marked evidence bags should correspond with that of what is depicted on the sketch). When possible, use a photo log to record the photographs and room sketch.

- Photograph each piece of evidence in its original location prior to touching or moving the item. Moving another item in order to view and photograph a piece of evidence is acceptable.
- In addition, photograph items located on the suspect's person as individual pieces after removing them.
- Photograph each piece of evidence separately, showing all detail, like serial numbers, size (use a yardstick or measuring tape, etc.). Also, be sure to properly identify the room on site that the evidence came from. Once photographs are complete, return evidence to the marked bags (i.e. Ziploc bags) for transport.

- Photograph the suspect(s) together with any and all evidence that was at the scene of their capture. Include a placard with the suspect's name, date, place of capture and 8 digit MGRS and an ANP or ANSF representative in the photo with the suspect for identification. Evidence displayed in the photograph should include, but not be limited to: disguises, identification documents (passports), cell phones, notebooks, currency, maps, invoices, uniforms, patches, communications equipment, ammunition, IED components (parts), weapons, and precursor chemicals. Do not allow the suspect to touch any of the evidence.
- Photograph witnesses, onlookers and the surrounding environment.
- Copy video and/or photographs to a CD and print photographs (place into PowerPoint in the form of a storyboard) to prepare for transfer of evidence to NDS/ANSF authorities.

- For each photograph, include a short statement of authenticity, signed, dated and thumb-printed by an Afghan partnering force.

For example:

“I (name and rank) took the attached photograph on (time and Afghan date). The picture shows (describe the scene—who and what is in it). This picture accurately depicts the suspect and evidence found with that suspect during the Afghan-led operation to arrest the suspect. This photograph has not been altered in any way.”

### **Blowing Items in Place**

If certain evidence is too dangerous to transport, such as large weapons caches or explosives, you may blow it in place. Before you do this, take photographs of all of the evidence that you will destroy. Have an Afghan partnering force member write a statement describing the items that were destroyed in as much detail as possible (amount, type, etc.). The statement should also state that the witness observed the items being blow in place and explain that reason the items were destroyed.

### Witness Statements

Witness statements are a key part of cases in Afghan courts. Statements from Afghan citizens are important and will carry a great deal of weight in an Afghan court. Judges prefer in-person or video testimony, so whenever possible, these forms of testimony should be used in addition to written statements.

- Take statements from eye-witnesses, witnesses who simply know the suspect, and an ANSF/ANP witness. In the Afghan courts, these statements are very important and carry much more weight than they might in other countries. Take a **minimum** of four statements. **The more witness statements you collect, the better.**
- Take statements from any and all eye-witnesses at the scene.
- Take statements from Afghan citizens who have first-hand knowledge of the suspect, regardless of whether they know about a particular event, as well as those who have first-hand knowledge of the suspect's conduct on the day of capture. Preferably, these citizens will live in the immediate vicinity of the capture.

- In addition to eye-witness and citizen statements, take one statement from a member of the ANSF/NDS who has first-hand knowledge of the suspect's conduct on the day of capture. If security concerns prevent including contact information for the member of ANSF/NDS, provide a POC from the capturing unit on the witness statement form to facilitate any further investigation.
- The victim of the crime is a witness too. Interview the victim as described above.
- Have each witness provide contact information in their statement.
- Never coerce or force a witness to make a statement.

**How to Interview a Witness at the Scene.**

- Make sure to have an interpreter who speaks the appropriate language (Dari, Pashto, etc.)
- Record the interview with a voice recorder or video recorder.
- Ask the witness “What, Who, When, Where, and How?”
- Ask open ended questions, for example, “What did you see?” instead of “Did you see the yellow car?”
- Ask follow-up questions to get more details.
- If it will help, ask the witness to draw a picture or diagram.
- At the end, always ask “Is there anything else you want to tell me?” or “Is there anything else you think I should know?”

- Do not write down word for word what the witness is saying. Write the content of the statement in clear, coherent language. Avoid military jargon unless the witness uses it.
- The statement should include language from the witness saying that they were not coerced into giving the statement, and indicating whether they are available to testify at trial. If they are not available to testify, the statement should explain why.
- Review the statement with the witness and allow them to make any corrections.
- Have the witness sign the statement and put their thumbprint on it.

If time on the objective does not safely allow for statements to be taken, at a minimum, take contact information, to include the person's name, father's name, village name, cell phone number, and MGRS (8 digit) of their home (or family's home) to enable Afghan investigators to question the person at a later date.

- In the event that no Afghan citizen is available or willing to cooperate, you should seek to obtain four statements from members of the ANSF/NDS who have first-hand knowledge of the suspect's conduct on the day of capture.
- If the ISAF unit is not partnered, making Afghan first-hand knowledge impossible, statements will be taken from ISAF military members and translated upon return to base.
- As soon as possible after the operation, contact village elders, mullahs, and other officials (ANP or NDS) to ensure that all available witnesses are identified.

### **Suspect Interview**

- The suspect interview should be conducted by an Afghan prosecutor, Afghan investigator or other Afghan partnering force whenever possible. A qualified ISAF interrogator should be present during the interview. When possible, all evidence, photographs, storyboards, witness statements, etc should be presented to the interviewer prior to talking to the suspect for the first time.



- Follow the same guidelines as in questioning witnesses (5 W's, etc.). Have the suspect sign the statement and place a thumbprint on it.
- Never coerce a suspect to sign a statement if they are not willing to do so. In the case a suspect is unwilling to sign a statement, have two witnesses include the details of any statement or admissions made by the suspect in their own statements.

**Brief Statement of Facts**

The scene/operation commander (or, ideally, the senior Afghan partnering force member on site) will provide a brief statement of facts. Detail what, if anything, occurred leading up to the collection of evidence or the actual detention and the events that unfolded post-capture. This statement will be translated to the respective dialect and turned over as accompanying evidence to propel the ensuing investigation.

**Arrest Form – Evidence Section**

- If a detention takes place, fill out the arrest form.
- While on site, fill out the minimum data to identify the detainee.  
Complete the rest of the form upon return to base.

**Other forms of evidence**

**Pocket Litter**

- Loose evidence, such as money, keys, scraps of paper, and other “pocket litter” may be contained in a marked plastic bag and then documented appropriately.

**Documents**

- Documents can be processed for finger prints.
- Collect and store documents in paper containers when possible.

- Documents found in separate areas should be stored separately.

### **Weapons**

- Photograph weapons before moving them.
- Take notes on the condition of the weapon as found.
- Note and photograph the serial number, if there is one.
- Store weapons in plastic bags to preserve fingerprints and genetic samples.
- Do NOT blow weapons in place if they can be collected and preserved as evidence.
- Store the weapon separately from any ammunition or magazines.

### **Explosive Materials / IED Components**

- Any explosive materials found on site (e.g. Homemade Explosives (HME)) should be handled by school trained Coalition/ANSF force personnel (EOD/CIED) only.
- Collect and properly document and store any IED components found on site (pressure plates, copper wire, switches, battery packs, etc)
- Turnover all evidence to EOD/CIED personnel so that it can be processed through the Combined Explosive Exploitation Cell (CEXC).

### **Electronic Media**

- Collect all cell phones, SIM cards, and media storage devices, such as computer hard drives, thumb drives, and USB devices.
- Do not turn cell phones off, remove batteries, check for contact information, answer incoming calls, or use them to make calls.
- Keep all power cords, cables, and chargers with the device.

### **Additional / Advanced Evidence Collection**

If the capabilities are available, and local prosecutors and judges accept the following forms of evidence, they may be used to supplement the basic evidence collection guidelines above.

### **Biometrics**

Biometrically enroll all subjects on-site using the HIIDE/BATS system. Ensure that a full enrollment is collected, to include iris scans and fingerprints. Additionally, ensure to properly document the ten digit grid coordinate associated with the location that the suspects were found.

### **Explosives Testing (X-Spray, Vapor Spray, IDEX, etc.)**

Immediately following capture, when possible, administer an explosive test (e.g. X-Spray) to ascertain whether the suspect has recently handled various types of explosives. Take a close-up photograph of the swab to accurately show the result of the spray test. Take an additional photograph depicting the result of the swab with the detainee. If requested, produce a translated chart showcasing the various chemicals.

Note: the swab will fade over time and the photograph will be the only accurate evidence. If available, a TIPLIFT test can also be utilized to test the subject for explosives once the force returns to base.

### **Fingerprints**

- Prints are easily destroyed. Be careful not to touch things that may have finger print evidence. Wear gloves **at all times**.
- Small, transportable items should be packaged and sent to the crime lab for processing.

### **DNA**

- Items found at the scene may have traces of DNA that can link the suspect to the crime.
- Collect evidence that may contain DNA and store it appropriately, as described below.

- Take a swab and collect a DNA sample from the inside of the suspect's cheek. Store the swab in a sealed plastic bag and label it with the name of the suspect, date, time, and location.

### **Shoeprints and Tire Tracks**

- Take a photograph before attempting to collect shoe prints or tire tracks.
- Make a cast, if possible.
- Shoe prints on hard, flat surfaces can sometimes be lifted like a finger print.

### **Videotaping the crime scene**

If the unit has a video camera, videotaping the crime scene is a good way to document evidence as well. It is also good for recording witness statements and statements made by the suspect.

### **Preservation of Evidence**

- When collecting evidentiary items wear gloves and handle them carefully so fingerprints and genetic samples are not destroyed. E.g. when collecting a mobile phone, hold on the edges only, not where the normal users fingerprints would be. Collect the most fragile or easily lost evidence first. (Note: placing items in a plastic bag in extreme heat will cause condensation and potential removal of latent fingerprints. Use paper bags if at all possible).

After documentation and intelligence exploitation, store all evidence in a sealed plastic bag or a sealed plastic container. Store evidence from the same crime scene together and mark it clearly so that future unit personnel will know what is in the container.

### **Wet Documents**

- Use latex gloves and a mask.
- Damp: unfold with care and allow to dry completely.



- Soaked: place in a paper bag to help absorb the moisture then place the paper bag into a plastic bag – do not seal the plastic bag. Monitor the documents for discoloration and remove while still damp and allow to dry completely.

- Bodily fluid soaked documents
- Use latex gloves and a mask.
- Place in a plastic zip lock bag and seal.
- Contact unit medical clinic upon return to base for handling of the documents and disposal.
- Use a digital camera to record the documents as well as possible.
- Do not leave documents sealed in plastic bag for any extended period of time.

**Labelling Evidence for Identification (Tagging)**

Tagging is not required by Afghan courts, but the unit may require tagging of evidence. If so, all evidence will be separately labeled (tagged) and clearly indicate the following for each individual piece of evidence:

- Name of item
- Name(s) of detainee/suspect associated with this specific item
- Number given to this specific piece of evidence
- Date/time of capture
- A short description of the item, to include, if applicable, color, serial number, etc.
- Exact location where item was located upon confiscation, to include MGRS (8 digit) and/or room
- Identity of capturing unit (ANA or NDS unit)

Retain a copy of each tag for record keeping purposes.

Translate tags into Dari or Pashto. If originally in Dari or Pashto, translate to English.

Place loose evidence such as “pocket litter” in a plastic bag and label it appropriately.

**Transferring Evidence (Chain of Custody)**

Transfer all detainees with the following, as applicable:

- A fully executed and translated Afghan NDS/ANSF Arrest Form, including the detainee’s thumbprint and the signatures of two Afghan witnesses
- A storyboard of all photographs taken at the scene and a translated statement of facts by the site commander

- All physical evidence necessary to assist the prosecution at trial, including disabled weapons and disabled IED components
- A fully executed and translated Afghan Search Form. Obtain this in advance if the capture is coordinated prior to execution with supporting Afghan NDS or other ANSF entities. An Afghan prosecutor can provide consent for a search by phone if unexpected evidence is found. If the Search Form cannot be obtained in advance, complete one upon return to base.
- Fully executed and translated witness statement forms, to include witness contact information from both Afghan civilians and ANSF/NDS witness POC
- Full commercial contact information for the unit POC, including cell phone, if available, to facilitate contact by NDS investigators and prosecutors for investigation purposes
- A fully executed and translated transfer of evidence form.
- Keep copies and/or records of every document or piece of evidence related to a criminal prosecution that is turned over to Afghan authorities.

### **Evidence Classification**

- All evidence and information collected is unclassified unless there is a specific reason to classify the information. Identify the regulation or authority for classification at the bottom of the first page of any classified evidence.

### **Additional References**

- [10-35 Forensics and Warrant-Based Targeting Newsletter](https://call2.army.mil/toc.aspx?document=5898) (APR 10)  
(<https://call2.army.mil/toc.aspx?document=5898>)
- CALL Site Exploitation Page:  
([https://call2.army.mil/doc\\_index.aspx?ID=442](https://call2.army.mil/doc_index.aspx?ID=442))
- [ATTP 3-90.15 SITE EXPLOITATION OPERATIONS](https://akocomm.us.army.mil/usapa/doctrine/DR_pubs/dr_aa/pdf/att_p3_90x15.pdf) (7/8/2010)  
([https://akocomm.us.army.mil/usapa/doctrine/DR\\_pubs/dr\\_aa/pdf/att\\_p3\\_90x15.pdf](https://akocomm.us.army.mil/usapa/doctrine/DR_pubs/dr_aa/pdf/att_p3_90x15.pdf))
- CALL Site Exploitation Handbook and Cache Search Operations  
(<https://call2.army.mil/toc.aspx?document=2889>)

**Points of Contact**

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