



Department of Defense INSTRUCTION

NUMBER 5505.16

May 7, 2012

Incorporating Change 1, March 28, 2017

IG DoD

SUBJECT: Criminal Investigations by Personnel Who Are Not Assigned to a Defense Criminal Investigative Organization

References: See Enclosure 1

1. PURPOSE. This Instruction establishes policy, assigns responsibilities, and provides instructions in accordance with the authority in DoD Directive (DoDD) 5106.01 (Reference (a)) and Appendix 3 of Title 5, United States Code (also known as “The Inspector General Act of 1978, as amended” (Reference (b))) for DoD Components that employ personnel who are conducting criminal investigations who are not assigned to a defense criminal investigative organization (DCIO).

2. APPLICABILITY. This Instruction applies to OSD, the Military Departments, 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 (IG, DoD), the Defense Agencies, the DoD Field Activities, and all other organizational entities within the DoD (hereinafter referred to collectively as the “DoD Components”).

3. DEFINITIONS. See Glossary.

4. POLICY. It is DoD policy that DoD Components employing personnel who are conducting criminal investigations who are not assigned to a DCIO shall:

a. Promptly notify the servicing DCIO at the onset of all investigations initiated on Military Service members, DoD civilians, or DoD contractors who are identified as suspects or victims of criminal activity.

b. Ensure deoxyribonucleic acid (DNA) collection is completed pursuant to DoD Instruction (DoDI) 5505.14 (Reference (c)).

- c. Ensure fingerprint and offender criminal history data is reported pursuant to DoDI 5505.11 (Reference (d)).
- d. Regularly report Defense Incident-Based Reporting System (DIBRS) data pursuant to ~~DoDD~~ *DoDI* 7730.47 (Reference (e)).
- e. Ensure subjects of criminal investigations are titled and indexed pursuant to DoDI 5505.7 (Reference (f)).
- f. Report allegations of misconduct made against senior officials of the reporting DoD Component or other Components to the IG DoD within 5 workdays of receipt pursuant to DoDD 5505.06 (Reference (g)).
- g. Promptly and regularly report sexual assault investigation data to the appropriate military criminal investigative organization (MCIO) for incorporation into the Service's annual report of sexual assaults involving Service members, pursuant to DoDD 6495.01 (Reference (h)).

5. RESPONSIBILITIES

- a. IG DoD. The IG DoD shall monitor and evaluate compliance with this Instruction.
- b. Heads of the DoD Components. The Heads of the DoD Components shall prescribe Component procedures implementing the requirements of this Instruction and ensure compliance with this Instruction.

6. PROCEDURES. See Enclosure 2.

7. INFORMATION COLLECTIONS REQUIREMENTS

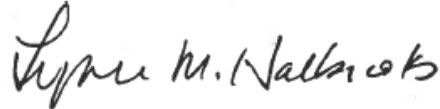
- a. The DIBRS referred to in paragraph 4.d. of this issuance has been assigned Report Control Symbol DD-P&R(M)1973 in accordance with the procedures in *Volume 1 of DoD Manual* 8910.010-M (Reference (i)).
- b. The data on sexual assault investigations referred to in paragraph 4.g. of this issuance is exempt from licensing requirements in accordance with C4.4.7. and C3.8.2.2.2. of Reference (i).

8. RELEASABILITY. ~~UNLIMITED~~ *Cleared for public release*. This Instruction is *approved for public release and is* available on ~~the Internet from~~ the DoD Issuances Website at <http://www.dtic.mil/whs/directives>.

9. EFFECTIVE DATE. *This issuance is effective May 7, 2012.*

~~a. This ISSUANCE is effective May 7, 2012.~~

~~b. This ISSUANCE must be reissued, cancelled, or certified current within 5 years of its publication in accordance with DoDI 5025.01 (Reference (j)). If not, this Instruction will expire effective May 7, 2022 and be removed from the DoD Issuances Website.~~



Lynne M. Halbrooks
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Defense

Enclosures

1. References
2. Procedures

Glossary

ENCLOSURE 1

REFERENCES

- (a) DoD Directive 5106.01, "Inspector General of the Department of Defense," April 20, 2012, *as amended*
- (b) Appendix 3 of Title 5, United States Code (also known as "The Inspector General Act of 1978, as amended")
- (c) DoD Instruction 5505.14, ~~"Deoxyribonucleic Acid (DNA) Collection Requirements for Criminal Investigations," May 27, 2010~~ "Deoxyribonucleic Acid (DNA) Collection Requirements for Criminal Investigations, Law Enforcement, Corrections, and Commanders," December 22, 2015, *as amended*
- (d) DoD Instruction 5505.11, "Fingerprint Card and Final Disposition Report Submission Requirements," ~~July 9, 2010~~ July 21, 2014, *as amended*
- (e) DoD ~~Directive Instruction~~ 7730.47, "Defense Incident-Based Reporting System (DIBRS)," ~~October 15, 1996~~ January 23, 2014
- (f) DoD Instruction 5505.07, "Titling and Indexing Subjects of Criminal Investigations in the Department of Defense," January 27, 2012
- (g) DoD Directive 5505.06, "Investigations of Allegations Against Senior *DoD* Officials ~~of the Department of Defense~~," ~~April 10, 2006~~ June 6, 2013
- (h) DoD Directive 6495.01, "Sexual Assault Prevention and Response (SAPR) Program," January 23, 2012, *as amended*
- (i) DoD ~~Manual~~ 8910.01-M, Volume 1, ~~"Department of Defense Procedures for Management of Information Requirements," June 30, 1998~~ "DoD Information Collections Manual: Procedures for DoD Internal Information Collections," June 30, 2014, *as amended*
- ~~(j) DoD Instruction 5025.01, "DoD Directives Program," October 28, 2007~~
- ~~(k) DoD Directive 5015.2~~ DoD Instruction 5015.02, "DoD Records Management Program," ~~March 6, 2000~~ February 24, 2015

ENCLOSURE 2

PROCEDURES

1. INITIATING A CRIMINAL INVESTIGATION

a. DCIOs have:

(1) Investigative responsibility regarding all personnel, property, and resources assigned to their respective Military Services as well as components where they have been assigned investigative responsibility for criminal matters.

(2) The authority and independent discretion to assume investigative responsibility, join an investigation, or monitor the progress of an investigation when it involves personnel, property, or resources associated with a Military Service or other DoD Component in which the DCIO has investigative jurisdiction.

b. If a suspect or subject of the offense is not known, the DCIO having investigative responsibility for the victim's component has the authority and independent discretion to assume investigative responsibility, join the investigation, or monitor the progress of the investigation.

c. When an investigation is assumed by a DCIO, all material pertinent to the investigation shall be released to the servicing DCIO.

2. NOTIFICATION REQUIREMENTS. DoD Components who employ personnel who are conducting criminal investigations who are not assigned to DCIOs shall establish procedures to notify the servicing DCIO upon initiation of all criminal investigations of:

- a. Military Department members and their immediate family members.
- b. Civilians employed by the Military Department.
- c. Entities or individuals under contract to a Military Department.
- d. A crime in which a Military Department is identified as the victim.
- e. Civilians employed by DoD Components.
- f. Contractors employed by DoD Components.

3. REQUIREMENTS. DoD Components who employ personnel who are conducting criminal investigations who are not assigned to DCIOs shall establish procedures to:

- a. Develop and maintain an automated records management and information system that is compliant with records management requirements listed in ~~DoDD~~ *DoDI* 5015.02 (Reference (k/j)), the Federal Bureau of Investigation Law Enforcement National Data Exchange (N-DEX), DIBRS, and the Defense Clearance and Investigations Index (DCII); or
- b. Execute a formal agreement with a DCIO or other DoD law enforcement organization to meet N-DEX, DIBRS, and DCII reporting requirements.
- c. Submit required DNA samples pursuant to Reference (c). If an investigation is transferred to a DCIO, the requirement to submit DNA samples is assumed by the DCIO.
- d. Submit fingerprint data pursuant to Reference (d). If an investigation is transferred to a DCIO, the requirement to submit fingerprint data is assumed by the DCIO.
- e. Submit data responsive to DIBRS requirements pursuant to Reference (e). If an investigation is transferred to a DCIO, the requirement to submit DIBRS data is assumed by the DCIO.
- f. Submit data responsive to DCII requirements pursuant to Reference (f). If an investigation is transferred to a DCIO, the requirement to submit DCII data is assumed by the DCIO.
- g. Submit data responsive to annual sexual assault reporting requirements pursuant to Reference (h). If an investigation is transferred to an MCIO, the requirement to submit sexual assault reporting data is assumed by the MCIO.

4. COMMANDER-DIRECTED INQUIRY (CDI). This Instruction shall not supersede a commander's inherent authority of command to conduct a CDI outside of IG channels. Unless and until the matter is investigated by personnel who are conducting a criminal investigation who are not assigned to DCIO, the requirements outlined in section 3 of this enclosure do not apply.

5. IG INQUIRY. This Instruction shall not supersede IG inquiries or non-criminal investigations. Unless and until the matter is investigated by personnel who are conducting a criminal investigation who are not assigned to DCIO, the requirements outlined in section 3 of this enclosure do not apply.

6. SENIOR OFFICIAL INVESTIGATIONS. Pursuant to Reference (g), allegations of misconduct against senior officials shall be promptly reported to the IG DoD at the time such allegations are received by another DoD Component. Except in unusual circumstances, the IG DoD shall promptly notify the Head of the appropriate DoD Component or Components when an allegation is received. Allegations of criminal misconduct against senior officials shall be investigated by the appropriate investigative organization.

GLOSSARY

PART I. ABBREVIATIONS AND ACRONYMS

CDI	commander-directed inquiry
DCII	Defense Clearance and Investigations Index
DCIO	defense criminal investigative organization
DIBRS	Defense Incident-Based Reporting System
DNA	deoxyribonucleic acid
DoDD	DoD Directive
DoDI	DoD Instruction
IG DoD	Inspector General of the Department of Defense
MCIO	military criminal investigative organization
N-DEx	Federal Bureau of Investigation National Law Enforcement Data Exchange

PART II. DEFINITIONS

These terms and their definitions are for the purpose of this Instruction.

CDI. Administrative fact-finding procedures to gather, analyze, and record relevant information about matters of primary interest to command authorities. Commanders use the inherent authority of command to authorize administrative inquiries and investigations conducted outside of IG channels.

criminal investigations. Investigations into alleged or apparent violations of law undertaken for purposes which include the collection of evidence in support of potential criminal prosecution.

DCIOs. The U.S. Army Criminal Investigation Command, the Naval Criminal Investigative Service, the Air Force Office of Special Investigations, and the Defense Criminal Investigative Service.

MCIOs. The U.S. Army Criminal Investigation Command, the Naval Criminal Investigative Service, and the Air Force Office of Special Investigations.

other DoD law enforcement organizations. The U.S. Army Military Police, the U.S. Navy Masters at Arms, the U.S. Air Force Security Forces, and the U.S. Marine Corps Criminal Investigation Division.

senior official. Active duty, retired, Reserve, or National Guard military officers in grades O-7 and above, or selected for promotion to grade O-7; current and former members of the Senior

Executive Service; other current and former DoD civilian employees whose positions are deemed equivalent to that of a member of the Senior Executive Service (e.g., Defense Intelligence Senior Executive Service employees, Senior Level employees, and non-appropriated fund senior executives); and current and former Presidential appointees.