



Department of Defense INSTRUCTION

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IG DOD

SUBJECT: Fingerprint Card and Final Disposition Report Submission Requirements

References: See Enclosure 1

1. PURPOSE. This instruction:

a. Reissues DoD Instruction (DoDI) 5505.11 (Reference (a)) in accordance with the authority in DoD Directive 5106.01 (Reference (b)).

b. Updates established policy, assigns responsibilities, and prescribes procedures in accordance with part 20 of Title 28, Code of Federal Regulations and section 534 of Title 28, United States Code (U.S.C.) (References (c) and (d)) for defense criminal investigative organizations (DCIOs) and other DoD law enforcement organizations to report offender criminal history data to the Criminal Justice Information Services (CJIS) Division of the Federal Bureau of Investigation (FBI) for inclusion in the National Crime Information Center (NCIC) criminal history database.

2. APPLICABILITY. This instruction:

a. 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 (referred to collectively in this instruction as the "DoD Components").

b. Is not intended to eliminate other requirements to provide criminal history data, including those concerning the Defense Incident Based Reporting System.

c. Does not apply to the collection of fingerprints for other than law enforcement activities, to include fingerprints collected in support of wartime activities.

3. POLICY. It is DoD policy that the DCIOs and other DoD law enforcement organizations

submit to the CJIS Division of the FBI, as prescribed in this instruction and based on a probable cause standard determined in conjunction with the servicing Staff Judge Advocate (SJA) or other legal advisor, offender criminal history data for all:

a. Members of the Military Services investigated for offenses listed in Enclosure 2 of this instruction by DCIOs or other DoD law enforcement organizations.

b. Civilians investigated for offenses equivalent to those listed in Enclosure 2 of this instruction by or whose investigations were made available to the DCIOs or other DoD law enforcement organizations. This includes foreign nationals, persons serving with or accompanying an armed force in the field in time of declared war or contingency operations, and persons subject to chapter 212 of Title 18, U.S.C. (Reference (e)) (also known as the “Military Extraterritorial Jurisdiction Act of 2000”) in accordance with the Deputy Secretary of Defense Memorandum (Reference (f)).

c. Military Service members, their dependents, and DoD employees and contractors investigated by foreign law enforcement organizations for offenses equivalent to those listed in Enclosure 2 of this instruction and made available to the DCIOs or other DoD law enforcement organizations.

4. RESPONSIBILITIES. See Enclosure 3.

5. PROCEDURES. See Enclosure 4.

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

7. EFFECTIVE DATE. This instruction is effective July 21, 2014.


Jon T. Rymer
Inspector General of the

Enclosures

1. References
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Glossary

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ENCLOSURE 1

REFERENCES

- (a) DoD Instruction 5505.11, "Fingerprint Card and Final Disposition Report Submission Requirements," July 9, 2010, as amended (hereby cancelled)
- (b) DoD Directive 5106.01, "Inspector General of the Department of Defense (IG DoD)," April 20, 2012, *as amended*
- (c) Part 20 of Title 28, Code of Federal Regulations
- (d) Title 28, United States Code
- (e) Title 18, United States Code
- (f) Deputy Secretary of Defense Memorandum, "Responsibility for Response to Reports of Alleged Criminal Activity Involving Contractors and Civilians Serving with or Accompanying the Armed Forces Overseas," September 10, 2008
- (g) Chapter 47 of Title 10, United States Code
- (h) Section 1707 of Public Law 113-66, "National Defense Authorization Act for Fiscal Year 2014," December 26, 2013
- (i) DoD 5400.11-R, "Department of Defense Privacy Program," May 14, 2007
- (j) DoD Instruction 5505.17, "Collection, Maintenance, Use, and Dissemination of Personally Identifiable Information and Law Enforcement Information by DoD Law Enforcement Activities," December 19, 2012, *as amended*
- (k) *Middendorf v. Henry*, 425 U.S. 25 (1976)
- (l) DoD Instruction 5505.03, "Initiation of Investigations by Defense Criminal Investigative Organizations," March 24, 2011, *as amended*
- (m) DoD 7730.47-M, Volume 1, "Defense Incident-Based Reporting System (DIBRS): Data Segments and Elements," December 7, 2010

ENCLOSURE 2

UNIFORM CODE OF MILITARY JUSTICE OFFENSES

The offenses listed in this enclosure are pursuant to the punitive articles of chapter 47 of Title 10, U.S.C. (also known and referred to in this instruction as the “Uniform Code of Military Justice” (UCMJ)) (Reference (g)) and require the DCIOs and all other DoD law enforcement organizations to submit offender criminal history data to the CJIS Division, FBI.

- a. Article 78 - Accessory after the fact (for crimes listed in this enclosure)
- b. Article 80 - Attempts (for crimes listed in this enclosure)
- c. Article 81 - Conspiracy (for crimes listed in this enclosure)
- d. Article 82 - Solicitation
- e. Article 85 - Desertion
- f. Article 90 - Striking or assaulting a superior commissioned officer
- g. Article 91 - Striking or assaulting a warrant, noncommissioned, or petty officer
- h. Article 94 - Mutiny and sedition
- i. Article 95 - Resistance, flight, breach of arrest, and escape
- j. Article 97 - Unlawful detention
- k. Article 106 - Spies
- l. Article 106a - Espionage
- m. Article 107 - False official statements
- n. Article 108 - Military property of the United States, i.e., sale, loss, damage, destruction, or wrongful disposition
- o. Article 109 - Property other than military property of the United States, i.e., waste, spoilage, or destruction
- p. Article 111 - Drunken or reckless operation of vehicle, aircraft, or vessel
- q. Article 112a - Wrongful use, possession, etc., of controlled substances

- r. Article 116 - Riot or breach of peace
- s. Article 118 - Murder
- t. Article 119 - Manslaughter
- u. Article 119a - Death or injury of an unborn child
- v. Article 120 - Rape and sexual assault for offenses committed on or after June 28, 2012
- w. Article 120 - Rape, sexual assault, and other sexual misconduct for offenses committed on or between October 1, 2007, and June 27, 2012
- x. Article 120 - Rape and carnal knowledge for offenses committed before October 1, 2007
- y. Article 120a - Stalking
- z. Article 120b - Rape and sexual assault of a child for offenses committed on or after June 28, 2012
- aa. Article 120c - Other sexual misconduct for offenses committed on or after June 28, 2012
- ab. Article 121 - Larceny and wrongful appropriation
- ac. Article 122 - Robbery
- ad. Article 123 - Forgery
- ae. Article 123a - Making, drawing, or uttering check, draft, or order without sufficient funds
- af. Article 124 - Maiming
- ag. Article 125 - Forcible sodomy; bestiality, in accordance with section 1707 of Public Law 113-66 (Reference (h)), which repealed the offense of consensual sodomy under the UCMJ
- ah. Article 126 - Arson
- ai. Article 127 - Extortion
- aj. Article 128 - Assault
- ak. Article 129 - Burglary
- al. Article 130 - Housebreaking

am. Article 131 - Perjury

an. Article 132 - Frauds against the United States

ao. Offenses pursuant to Article 134:

- (1) Indecent assault for offenses committed before October 1, 2007
- (2) Assault - with intent to commit murder, voluntary manslaughter, rape, robbery, sodomy, arson, burglary, or housebreaking
- (3) Bribery and graft
- (4) Burning with intent to defraud
- (5) Child endangerment for offenses committed on or after October 1, 2007
- (6) Child pornography offenses, to include possession, distribution, production, receipt, viewing, and accessing
- (7) Correctional custody - offense against
- (8) False or unauthorized pass offenses
- (9) Obtaining services under false pretenses
- (10) False swearing
- (11) Willfully discharging a firearm under such circumstances as to endanger human life
- (12) Fleeing the scene of an accident
- (13) Negligent homicide
- (14) Impersonating a commissioned, warrant, noncommissioned, or petty officer, or an agent or official
- (15) Indecent acts or liberties with a child for offenses committed before October 1, 2007
- (16) Indecent exposure for offenses committed before October 1, 2007
- (17) Indecent language
- (18) Indecent acts with another for offenses committed before to October 1, 2007
- (19) Kidnapping

- (20) Taking, opening, secreting, destroying, or stealing mail
- (21) Depositing, or causing to be deposited, obscene matters in mail
- (22) Misprision of serious offense
- (23) Obstructing justice
- (24) Wrongful interference with an adverse administrative proceeding

(25) Pandering and prostitution. Having someone commit an act of prostitution is still an offense pursuant to Article 134 of the UCMJ, but if the pandering is “compelled,” it becomes an Article 120 offense, on or between October 1, 2007 and June 27, 2012, and Article 120c offense on or after June 28, 2012.

- (26) Subornation of perjury
- (27) Altering, concealing, removing, mutilating, obliterating, or destroying public records
- (28) Reckless endangerment
- (29) Destruction, removal, or disposal of property to prevent seizure
- (30) Self-injury without intent to avoid service
- (31) Soliciting another to commit an offense (for crimes listed in this enclosure)
- (32) Knowingly receiving, buying, or concealing stolen property
- (33) Wrongful refusal to testify
- (34) Threat or hoax designed or intended to cause panic or public fear
- (35) Communicating threat
- (36) Unlawfully concealing or carrying a weapon

ap. Specific federal statutes charged as a violation of Article 134 of the UCMJ:

- (1) Aggravated identity theft pursuant to section 1028A of Reference (e)
- (2) Fraud and related activity in connection with computers pursuant to section 1030 of Reference (e)

(3) Fraud and related activity in connection with identification documents, authentication features, and information pursuant to section 1028 of Reference (e)

(4) Sabotage pursuant to chapter 105 of Reference (e)

aq. Any state criminal offenses pursuant to section 13 of Reference (e) (also known as the “Federal Assimilative Crimes Act”) charged as a violation of Article 134 of the UCMJ.

ENCLOSURE 3
RESPONSIBILITIES

1. IG DoD. The IG DoD:

a. Develops and establishes overall policy and provides guidance for DoD organizations to report offender criminal history data to the FBI for inclusion in the NCIC criminal history database.

b. Oversees and evaluates DCIO and other DoD law enforcement organizations' compliance with this instruction.

2. DoD COMPONENT HEADS. The DoD Component heads:

a. Issue procedures, as may be necessary, to implement and comply with this instruction.

b. Ensure that commanders and directors of DoD organizations establish and follow procedures to promptly notify the appropriate DCIO or other DoD law enforcement organization:

(1) When a military judicial proceeding is initiated or command action is taken in military non-judicial proceedings pursuant to the UCMJ against a military subject for one or more offenses listed in Enclosure 2 of this instruction, or an other than honorable discharge is based on an investigation conducted by a DCIO or other DoD law enforcement organization of one or more offenses listed in Enclosure 2 of this instruction.

(a) Offender criminal history data is not reported in accordance with this instruction unless the subject is investigated by a DCIO or other DoD law enforcement organization for an offense listed in Enclosure 2 of this instruction.

(b) For example, if a military unit investigates an alleged offense noted in Enclosure 2 of this instruction and initiates a judicial or non-judicial proceeding without a DCIO or another DoD law enforcement organization having investigated the subject, then the reporting requirements of this instruction do not apply.

(2) When the DoD Component becomes aware that a non-DoD or foreign law enforcement organization initiated an investigation against a Service member, military dependent, or DoD civilian employee or contractor, for the equivalent of an offense listed in Enclosure 2 of this instruction or punishable pursuant to the UCMJ.

(3) Of the final disposition of cases under the circumstances discussed in subparagraphs 2b(1) and 2b(2) of this enclosure.

ENCLOSURE 4

PROCEDURES

1. GENERAL PROVISIONS

a. The FBI implemented the Integrated Automated Fingerprint Identification System (IAFIS) to process criminal and civil fingerprint submissions electronically. As of April 15, 2012, all fingerprints must be submitted to the FBI electronically.

b. Fingerprints and all information required for completion of an FD-249, "Arrest and Institution Fingerprint Card," will be obtained from military subjects under investigation by a DCIO or other DoD law enforcement organization for offenses listed in Enclosure 2 of this instruction, and electronically submitted to the FBI. Electronically submitted fingerprints and additional required information pertaining to civilian subjects are obtained for offenses punishable pursuant to the U.S.C. equivalent to those listed in Enclosure 2 of this instruction. Where required, a Privacy Act statement is provided to each suspect whose personal data is collected in accordance with DoD 5400.11-R (Reference (i)).

c. Offender criminal history data records required in accordance with this instruction are initiated by preparing and submitting fingerprints electronically to the CJIS Division. Organizations with locations that do not have the electronic capability to submit fingerprint cards will have to develop procedures to convert the fingerprints collected on hardcopy FD-249s in order to submit them electronically. Final dispositions not completed at the time of submission and recorded on an FD-249 will be subsequently recorded and submitted to the FBI on an R-84, "Final Disposition Report," either hardcopy or electronically, in accordance with each agency's standard operating procedures.

(1) Using an FD-249, fingerprints are submitted electronically to the CJIS Division of the FBI for military subjects investigated by an agent or law enforcement official from a DCIO or other DoD law enforcement organization when probable cause (as defined in the Glossary) exists to believe that the person has committed an offense listed in Enclosure 2 of this instruction, following coordination with the servicing SJA or legal advisor (in no case earlier than apprehension (military), arrest (civilian), or the subject interview) in accordance with the policy in this instruction. As applicable, such coordination is documented in the investigative file.

(2) Approval from the convening authority of a request for discharge, retirement, or resignation in lieu of court-martial, or delivery of an other than honorable discharge based on an investigation conducted by a DCIO or other DoD law enforcement organization of one or more offenses listed in Enclosure 2 of this instruction; or a finding of lack of mental competence to stand trial, will be recorded as "final disposition" in the agency electronic fingerprint database for submission on an FD-249 or R-84 as appropriate.

(3) Disposition information will be reported by the DCIO or other DoD law enforcement organizations in their agency electronic fingerprint database within 15 calendar days after:

- (a) Final disposition of military judicial or non-judicial proceeding.
- (b) Approval of a request for discharge, retirement, or resignation in lieu of court-martial.
- (c) Discharge resulting in an other than honorable characterization of service that is based on an investigation by a DCIO or other DoD law enforcement organization of one or more offenses listed in Enclosure 2 of this instruction.

(4) The DCIO or other DoD law enforcement organizations will not hold the electronic fingerprint submission (i.e., FD-249), or R-84, pending appellate actions. Appellate action affecting the character of an initial disposition must be reported. Dispositions that are exculpatory in nature (e.g., dismissal of charges, acquittal) must also be documented in the agency electronic fingerprint database and submitted on an R-84.

(5) For civilian subjects investigated by a DCIO or other DoD law enforcement organization:

(a) The DCIO or other DoD law enforcement organization must submit electronic fingerprints within 15 calendar days of the subject interview, arrest, indictment, or required information, as applicable, for offenses punishable pursuant to the U.S.C. that are equivalent to those listed in Enclosure 2 of this instruction.

(b) The DCIO or other DoD law enforcement organization must update information electronically within 15 calendar days after sentencing.

(c) In cases investigated jointly with another law enforcement organization when that organization agrees to obtain and forward fingerprints and criminal history data to the FBI, the DCIO or other DoD law enforcement organization must document this in the case file. The documentation will identify each subject and the law enforcement organization collecting and forwarding the data. A current memorandum of understanding or agreement at the organizational level, addressing the requirement to obtain fingerprints and associated data and to forward said information to the FBI, will suffice in lieu of case-specific documentation in the case file. However, copies of the submitted data must be obtained for the case file.

d. Fingerprint cards and final disposition reports will be maintained in accordance with Reference (i) and DoDI 5505.17 (Reference (j)), as applicable. The FBI number associated with the electronically submitted fingerprints and associated by the offense will need to be maintained by the DCIO or other DoD law enforcement organization.

e. The DCIO or other DoD law enforcement organization will receive a transaction control number (TCN) from the FBI on acceptance of the fingerprints into CJIS. TCNs must be retained and retrievable by the organization that submitted the fingerprint cards in the event it becomes necessary for the organization to retrieve a particular set of fingerprints. The TCN is in addition to the FBI number associated with the submission in accordance with paragraph 1d of this

enclosure.

f. FD-249s must be electronically submitted to CJIS. DoD Components must provide their DCIOs and other DoD law enforcement organizations with the capability to electronically submit FD-249s to CJIS, in accordance with section 1 of this enclosure.

2. INFORMATION REQUIREMENTS

a. The FBI provides materials and guidelines for submission of criminal history data. Address requests for the guidelines for preparation of CJIS Division fingerprint cards to:

Federal Bureau of Investigation
Criminal Justice Information Services Division
Attention: Fingerprint Supply Center
1000 Custer Hollow Road
Clarksburg, WV 26306

b. Questions regarding supplies may be directed to the Fingerprint Supply Center (FSC) at (304) 625-3983.

(1) The 1-178, "CJIS Supply Requisition Form," for ordering fingerprint supplies, and the 1-178a, "CJIS Fingerprint Training Aids Supply Form," for ordering training materials, may be completed and submitted electronically at <http://www.fbi.gov/about-us/cjis/fingerprintsbiometrics/ordering-fingerprint-cards>.

(2) The completed forms may also be printed and faxed to the CJIS Division, FSC, at (304) 625-3984.

(3) Additionally, the FBI offers training on fingerprinting and completion of the forms required in accordance with this instruction.

(4) Organizations requiring training should contact the Training and Records Testimony Team (TRTT) at (304) 625-5279 between 8:00 AM and 5:30 PM, Eastern Time Zone. Organizations may also access training information at Law Enforcement Online at www.leo.gov in the Biometric Service Section-TRTT Special Interest Group.

c. To request fingerprint assistance and training aids, DCIOs and DoD law enforcement organizations must have an FBI originating agency identification (ORI) number. The DCIOs and DoD law enforcement organizations requesting an ORI number should contact the FBI, CJIS Division, Computerized Contributor Abbreviated Name and Address File Unit, at (304) 625-4543. All fingerprint-related questions should be directed to the organization's CJIS Systems Officer prior to contacting the FBI.

d. When submitting the FD-249 and R-84 as appropriate, charges must be described in commonly understood descriptive terms (e.g., murder, rape, robbery, assault, possession of a

controlled substance) or by a commonly understood title. Offenses are not described solely by references to a UCMJ punitive article or to the U.S.C. or other statutory provision. Investigators must ensure that the charges annotated in the electronic fingerprint database reflect the actual charges being pursued through court-martial or non-judicial punishment.

e. The disposition reflected on the FD-249 or the R-84 must also be described in common language (e.g., conviction (include offenses), dishonorable discharge, reduction in grade, forfeiture of pay, charges dismissed). The disposition of “conviction” is only reported for crimes prosecuted by general or special court-martial yielding a finding of guilty.

(1) Adverse findings resulting from a summary court-martial should be recorded: “Subject found guilty by summary court-martial.” Although action by summary courts-martial is disciplinary in nature for a violation of military law, the Supreme Court ruled in the case *Middendorf v. Henry* (Reference (k)) that a summary court-martial is not a criminal proceeding.

(2) Adverse findings resulting from non-judicial proceedings pursuant to Article 15, UCMJ, are recorded as “non-judicial disciplinary action.” An adverse finding or punishment pursuant to Article 15, UCMJ, is a disciplinary action, but does not constitute a criminal proceeding or conviction.

(3) Administrative discharges are recorded as “administrative discharges.” An administrative discharge not affiliated with an offense listed in Enclosure 2 of this instruction is not considered a disciplinary action and does not constitute a criminal proceeding or conviction. CJIS will only accept fingerprints into IAFIS if the original offense is associated with an article identified in Enclosure 2 of this instruction and Reference (c).

GLOSSARY

PART I. ABBREVIATIONS AND ACRONYMS

CJIS	Criminal Justice Information Services
DCIO	Defense Criminal Investigative Organizations
DoDI	DoD Instruction
FBI	Federal Bureau of Investigation
FD-249	(Federal Document) Arrest and Institution Fingerprint Card
FSC	Fingerprint Supply Center
IAFIS	Integrated Automated Fingerprint Identification System
IG DoD	Inspector General of the Department of Defense
NCIC	National Crime Information Center
ORI	originating agency identification
R-84	(Resolution) Final Disposition Report Form
SJA	Staff Judge Advocate
TCN	transaction control number
TRTT	Training and Records Testimony Team
UCMJ	Uniform Code of Military Justice
U.S.C.	United States Code

PART II. DEFINITIONS

Unless otherwise noted, these terms and their definitions are for the purpose of this instruction.

DCIO. U.S. Army Criminal Investigation Command, Naval Criminal Investigative Service, Air Force Office of Special Investigations, and Defense Criminal Investigative Service. See DoDI 5505.03 (Reference (1)).

DoD law enforcement organizations. An agency or activity, or any subdivision thereof, chartered and empowered to enforce the criminal laws of the United States on DoD property or

during DoD functions anywhere in the world. A traditional DoD law enforcement organization that employs recognized law enforcement officers are those organizations designated for the security or protection of DoD property, personnel, or places that are subject to the jurisdiction, administration, or in the custody of the DoD. See Reference (j).

military judicial proceeding. A summary, special, or general court-martial, pursuant to the UCMJ.

military non-judicial proceeding. Proceedings in accordance with Article 15, UCMJ.

offender criminal history data. The information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests; detentions; indictments; information or other formal criminal charges; and any disposition arising therefrom, including acquittal, sentencing, correctional supervision, and release of criminal history record information.

Privacy Act statement. Defined in Reference (i).

probable cause. Determination that there are reasonable grounds to believe that an offense has been committed and that the person to be identified as the offender committed it. See DoD 7730.47-M (Reference (m)).

TCN. The TCN is a unique number associated with the set of fingerprints submitted to CJIS. The TCN allows organizations to retrieve fingerprints associated with a particular subject.