



# Department of Defense

## INSTRUCTION

NUMBER 5505.11

July 9, 2010

*Incorporating Change 1, May 3, 2011*

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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 5505.11 (Reference (a)) in accordance with the authority of DoD Directive 5106.01 (Reference (b)).

b. Establishes policy, assigns responsibilities, and prescribes procedures in accordance with part 20 of title 28 of the 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 criminal history database.

c. Updates procedures to extend the requirement to submit, or ensure the submission of, fingerprints and criminal history data pertaining to foreign national subjects of investigations.

d. Updates procedures in cases involving violations of chapter 47 of title 10, U.S.C. (also known and hereinafter referred to as "The Uniform Code of Military Justice" (UCMJ)) (Reference (e)). These procedures advance the requirement to submit offender criminal history data to the CJIS Division from the point when charges are referred to an earlier point when an agent or other law enforcement investigator determines, following coordination with the servicing Staff Judge Advocate (SJA) or legal advisor if necessary, that probable cause exists to believe that the subject has committed an offense listed in Enclosure 2 of this Instruction, but in no case earlier than apprehension (military), arrest (civilian), or the subject interview.

e. Rescinds the option of holding Federal Document (FD-249), "Suspect Fingerprint Card," in anticipation that final disposition will be available within 60 days. FD-249 shall be submitted in accordance with this Instruction, and final disposition will be recorded and submitted using an FBI/Department of Justice Form R-84, "Final Disposition Report."

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 Department of Defense (hereinafter referred to collectively 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.

3. DEFINITIONS. See Glossary.

4. POLICY. It is DoD policy that the DCIOs and other DoD law enforcement organizations shall submit to the CJIS Division of the FBI, as prescribed herein and based on a probable cause standard determined in conjunction with the servicing SJA or legal advisor if necessary, offender criminal history data for all:

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

b. Civilians investigated for offenses equivalent to those listed in Enclosure 2. 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 Public Law 106-523 (Reference (f)) in accordance with Deputy Secretary of Defense Memorandum (Reference (g)).

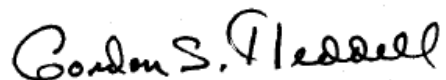
c. Military Service members, their dependents, and DoD employees and contractors investigated by foreign law enforcement organizations for offenses equivalent to those listed in Enclosure 2 and made available to the DCIOs or other DoD law enforcement organizations.

5. RESPONSIBILITIES. See Enclosure 3.

6. PROCEDURES. See Enclosure 4.

7. RELEASABILITY. UNLIMITED. 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>.

8. EFFECTIVE DATE. This Instruction is effective immediately.



Gordon S. Heddell  
Inspector General

Enclosures

1. References
  2. Listed Offenses
  3. Responsibilities
  4. Procedures
- Glossary

ENCLOSURE 1

REFERENCES

- (a) DoD Instruction 5505.11, "Fingerprint Card and Final Disposition Report Submission Requirements," June 20, 2006 (hereby cancelled)
- (b) DoD Directive 5106.01, "Inspector General of the Department of Defense," April 13, 2006
- (c) Part 20 of title 28, Code of Federal Regulations
- (d) Section 534 of title 28, United States Code
- (e) Chapter 47 and sections 1585a, 4027, 7480, and 9027 of title 10, United States Code (also known as "The Uniform Code of Military Justice")
- (f) Public Law 106-523, "Military Extraterritorial Jurisdiction Act of 2000," November 22, 2000
- (g) 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
- (h) Section 13 of title 18, United States Code
- (i) DoD 5400.11-R, "Department of Defense Privacy Program," May 14, 2007
- (j) U.S. Supreme Court Case 425 U.S. 25, "Middendorf v. Henry"
- (k) DoD 8910.1-M, "Department of Defense Procedures for Management of Information Requirements," June 30, 1998
- (l) Manual for Courts-Martial, United States, 2008
- (m) DoD Instruction 5200.08, "Security of DoD Installations and Resources and the DoD Physical Security Review Board (PSRB)," December 10, 2005

ENCLOSURE 2

LISTED OFFENSES

The following offenses are pursuant to the punitive articles of the UCMJ and require submission of offender criminal history data to the CJIS Division, FBI, by the DCIOs and all other DoD law enforcement organizations.

1. Article 78 - Accessory after the fact (for crimes listed in this enclosure)
2. Article 80 - Attempts (for crimes listed in this enclosure)
3. Article 81 - Conspiracy (for crimes listed in this enclosure)
4. Article 82 - Solicitation
5. Article 85 - Desertion
6. Article 90 - Striking or assaulting a superior commissioned officer
7. Article 91 - Striking or assaulting a warrant, noncommissioned, or petty officer
8. Article 94 - Mutiny and sedition
9. Article 95 - Resistance, flight, breach of arrest, and escape
10. Article 97 - Unlawful detention
11. Article 106 - Spies
12. Article 106a - Espionage
13. Article 107 - False official statements
14. Article 108 - Military property of the United States - sale, loss, damage, destruction, or wrongful disposition
15. Article 109 - Property other than military property of the United States - waste, spoilage, or destruction
16. Article 111 - Drunken or reckless operation of vehicle, aircraft, or vessel
17. Article 112a - Wrongful use, possession, etc., of controlled substances
18. Article 116 - Riot or breach of peace

19. Article 118 - Murder
20. Article 119 - Manslaughter
21. Article 119a - Death or injury of an unborn child
22. Article 120 - Rape and carnal knowledge (for offenses committed prior to October 1, 2007)
23. Article 120 - Rape, sexual assault, and other sexual misconduct (for offenses committed on or after October 1, 2007)
24. Article 120a - Stalking (for offenses committed on or after October 1, 2007)
25. Article 121 - Larceny and wrongful appropriation
26. Article 122 - Robbery
27. Article 123 - Forgery
28. Article 123a - Making, drawing, or uttering check, draft, or order without sufficient funds
29. Article 124 - Maiming
30. Article 125 - Sodomy
31. Article 126 - Arson
32. Article 127 - Extortion
33. Article 128 - Assault
34. Article 129 - Burglary
35. Article 130 - Housebreaking
36. Article 131 - Perjury
37. Article 132 - Frauds against the United States
38. The following offenses pursuant to Article 134:
  - a. Assault - Indecent (for offenses committed prior to October 1, 2007)
  - b. Assault - with intent to commit murder, voluntary manslaughter, rape, robbery, sodomy, arson, burglary, or housebreaking

- c. Bribery and graft
- d. Burning with intent to defraud
- e. Child endangerment (for offenses committed on or after October 1, 2007)

*f. Child pornography offenses, to include possession, distribution, production, receipt, viewing, and accessing*

*fg.* Correctional custody - offense against

*gh.* False or unauthorized pass offenses

*hi.* False pretenses, obtaining services under

*ij.* False swearing

*jk.* Firearm, discharge - willfully, under such circumstances as to endanger human life

*kl.* Fleeing the scene of an accident

*lm.* Homicide, negligent

*mn.* Impersonating a commissioned, warrant, noncommissioned, or petty officer, or an agent or official

*no.* Indecent acts or liberties with a child (for offenses committed prior to October 1, 2007)

*op.* Indecent exposure (for offenses committed prior to October 1, 2007)

*pq.* Indecent language

*qr.* Indecent acts with another (for offenses committed prior to October 1, 2007)

*rs.* Kidnapping

*st.* Mail: taking, opening, secreting, destroying, or stealing

*tu.* Mail: depositing or causing to be deposited obscene matters in

*uv.* Misprision of serious offense

*vw.* Obstructing justice

*wx.* Wrongful interference with an adverse administrative proceeding

*\*y.* Pandering and prostitution (having someone commit an act of prostitution is still an offense pursuant to Article 134, but if the pandering is “compelled,” it becomes an Article 120 offense, on or after October 1, 2007)

*yz.* Perjury: subornation of

*zaa.* Public record: altering, concealing, removing, mutilating, obliterating, or destroying

*aaab.* Reckless endangerment

*abac.* Seizure: destruction, removal, or disposal of property to prevent

*æad.* Self-injury without intent to avoid service

*adae.* Soliciting another to commit an offense (for crimes listed in this enclosure)

*æaf.* Stolen property: knowingly receiving, buying, concealing

*afag.* Testify: wrongful refusal

*agah.* Threat or hoax designed or intended to cause panic or public fear

*ahai.* Threat, communicating

*aiaj.* Weapon: concealed, carrying

39. Any offenses pursuant to section 13 of title 18, U.S.C. (Reference (h)), charged as a violation of Article 134.



ENCLOSURE 3

RESPONSIBILITIES

1. IG DoD. The IG DoD shall:

a. Develop and establish overall policy and provide guidance for DoD organizations to report offender criminal history data to the FBI for inclusion in the National Crime Information Center criminal history database.

b. Oversee and evaluate DCIO and other DoD law enforcement organizations' compliance with this Instruction.

2. HEADS OF THE DoD COMPONENTS. The Heads of the DoD Components shall:

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 nonjudicial proceedings pursuant to Article 15, UCMJ, against a military subject investigated by a DCIO or other DoD law enforcement organization for an offense listed in Enclosure 2. Offender criminal history data shall not be reported in accordance with this Instruction unless the subject has been investigated by a DCIO or other DoD law enforcement agency for an offense listed in Enclosure 2. For example, if a military unit investigates an alleged offense noted in Enclosure 2 and initiates a judicial and/or nonjudicial 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 they become aware that a non-DoD and/or foreign law enforcement organization has initiated an investigation against a U.S. military member, military dependent, or DoD civilian employee or contractor, for the equivalent of an offense listed in Enclosure 2 or punishable pursuant to the U.S.C.

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

ENCLOSURE 4

PROCEDURES

1. GENERAL PROVISIONS

a. Fingerprints and all information required on FD-249 shall be obtained from military subjects under investigation by a DCIO or other DoD law enforcement organization for offenses listed in Enclosure 2. Fingerprints and additional required information pertaining to civilian subjects shall be obtained for offenses punishable pursuant to the U.S.C. equivalent to those listed in Enclosure 2. Where required, a Privacy Act statement shall be provided to each suspect whose personal data is collected in accordance with DoD 5400.11-R (Reference (i)).

b. Offender criminal history data records required in accordance with this Instruction shall be initiated by preparing and submitting a FD-249 and, when required, an R-84, or their electronic equivalents, to the CJIS Division.

(1) For military subjects (investigated by a DCIO or other DoD law enforcement organization), the FD-249 shall be submitted when an agent or law enforcement official determines, following coordination with the servicing SJA or legal advisor if necessary (in no case earlier than apprehension (military), arrest (civilian), or the subject interview), that probable cause exists to believe that the person has committed an offense listed in Enclosure 2. If applicable, such coordination shall be documented in the investigative file.

(2) If applicable, approval of a request for discharge, retirement, or resignation in lieu of court-martial, and/or a finding of lack of mental competence to stand trial, shall be recorded as "final disposition" either on the FD-249 or R-84.

(3) Within 15 calendar days after final disposition of military judicial or nonjudicial proceedings, or the approval of a request for discharge, retirement, or resignation in lieu of court-martial, disposition information shall be reported by the DCIO or other DoD law enforcement organizations on the R-84, or an electronic data transfer equivalent, if it has not already been reported on an FD-249. Do not hold the FD-249 or R-84 pending appellate actions. Appellate action affecting the character of an initial disposition must be reported if it occurs. Dispositions that are exculpatory in nature (e.g., dismissal of charges, acquittal) shall also be documented on the R-84.

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

(a) Submit FD-249 within 15 calendar days of the subject interview, arrest, indictment, or information, as applicable, for offenses punishable pursuant to the U.S.C. that are equivalent to those listed in Enclosure 2.

(b) Submit Form R-84 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, prepare a memorandum for the case file. The memorandum shall 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 memorandums. However, copies of the submitted data must be obtained for the case file.

## 2. INFORMATION REQUIREMENTS

a. The FBI provides blank FD-249 and/or R-84, pre-addressed envelopes, and further guidelines for submission of criminal history data. Address requests for supplies and the guidelines for preparation of CJIS Division fingerprint cards to:

Federal Bureau of Investigation  
Criminal Justice Information Services Division  
Attention: Logistical Support Unit (LSU)  
1000 Custer Hollow Road  
Clarksburg, WV 26306

b. Questions regarding supplies may be directed to the LSU at (304) 625-3983; orders may be faxed to (304) 625-3984 or submitted electronically at [www.fbi.gov](http://www.fbi.gov). Additionally, the FBI offers training on fingerprinting and completing of the forms required in accordance with this Instruction. Organizations requiring training should contact the FBI customer service group at (304) 625-5590 between 8:00 AM and 5:30 PM eastern standard time. In order to request fingerprint cards and training aids, DCIOs and DoD law enforcement organizations MUST have an originating agency identification (ORI) number. The DCIOs and DoD law enforcement organizations requesting an ORI number should contact the Office of the IG DoD, Office of Investigative Policy and Oversight, (703) 604-8700, for further information. All fingerprint-related questions should be directed to the organization's fingerprint representative prior to contacting the FBI.

c. When submitting the FD-249 and R-84, 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 shall not be 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 on the FD-249 reflect the actual charges being pursued through court-martial or nonjudicial punishment.

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

(1) Adverse findings resulting from a summary court-martial should be recorded as follows: “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 has ruled that a summary court-martial is not a criminal proceeding (see U.S. Supreme Court Case 425 U.S. 25, “Middendorf v. Henry” (Reference (j))).

(2) Adverse findings resulting from nonjudicial proceedings pursuant to Article 15, UCMJ, shall be recorded as “nonjudicial 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.

e. The DoD internal reporting of criminal history data is exempt from review and approval in accordance with paragraph C4.4.7. of DoD 8910.1-M (Reference (k)).

GLOSSARY

DEFINITIONS

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

command action. The point in time when a company grade or field grade commander completes action to impose nonjudicial punishment, as specified in paragraph 4, Part V of Manual for Courts-Martial 2008 (Reference (l)).

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

DoD law enforcement organization. Those entities 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 Department of Defense in accordance with DoD Instruction 5200.08 (Reference (m)). These entities as designated may take reasonably necessary and lawful measures to maintain law and order and to protect installation personnel and property.

final disposition of military judicial proceedings. Action by the trial counsel to report the results of the findings and sentence in accordance with paragraph 1101(a) of Reference (l) or final approval of a resignation, retirement, or discharge in lieu of court-martial.

final disposition of military nonjudicial proceedings. Action on an appeal by the next superior authority, expiration of the time limit to file an appeal, or the date the Service member indicates that an appeal shall not be submitted, as specified in paragraph 7, Part V of Reference (l).

initiation. The referral of court-martial charges to a specified court by the convening authority in accordance with paragraph 601 of Reference (l) or receipt by the command of an accused service member's request for resignation, retirement, or discharge in lieu of court-martial.

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

military nonjudicial proceeding. Proceedings pursuant to Article 15 of the UCMJ.

offender criminal history data. The information, including fingerprints, that is recorded on the front and back of a standard FD-249 and R-84, or their electronic data transfer equivalent.

probable cause. Facts and circumstances, more than mere suspicion but less than proof beyond a reasonable doubt, that would lead a reasonable and prudent person to believe a crime has been, is being, or is about to be committed.