



DoD INSTRUCTION 5505.07

TITLING AND INDEXING BY DoD LAW ENFORCEMENT ACTIVITIES

Originating Component:	Office of Inspector General of the Department of Defense
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Approved by:	Robert P. Storch, Inspector General of the Department of Defense

Purpose: In accordance with the authority in DoD Directive 5106.01, this issuance:

- Establishes policy, assigns responsibilities, and prescribes uniform standard procedures for titling persons, corporations, and other legal entities in DoD law enforcement activity (LEA) reports and indexing them in the Defense Central Index of Investigations (DCII).
- Pursuant to Section 552 of Public Law 106-398 and Section 545 of Public Law 116-283, codified as a note in Section 1552 of Title 10, United States Code, establishes procedures for DoD personnel through which:
 - Covered persons titled in DoD LEA reports or indexed in DCII may request a review of the titling or indexing decision.
 - Covered persons titled in DoD LEA reports or indexed in DCII may request their information be corrected in, expunged, or otherwise removed from DoD LEA reports, DCII, and related records systems, databases, or repositories maintained by, or on behalf of, DoD LEAs.

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SECTION 1: GENERAL ISSUANCE INFORMATION

1.1. APPLICABILITY.

a. This issuance 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 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 issuance as the “DoD Components”).

b. Nothing in this issuance will infringe on the IG DoD’s or the Defense Intelligence Component Inspectors General’s statutory independence and authority in accordance with Chapter 4 of Title 5, United States Code, also known and referred to in this issuance as the “Inspector General Act of 1978,” as amended. In the event of any conflict between this issuance and the IG DoD or the Defense Intelligence Component Inspectors General’s statutory independence and authority, the Inspector General Act of 1978 takes precedence.

1.2. POLICY.

a. DoD LEAs will title subjects of criminal investigations in DoD LEA reports and index them in DCII as soon as there is credible information that they committed a criminal offense. When there is an investigative operations security concern, indexing the subject in DCII may be delayed until the conclusion of the investigation.

b. Victims and incidentals associated with criminal investigations can be titled in DoD LEA reports and indexed in DCII as victims or incidentals.

c. Titling and indexing are administrative procedures and will not imply any degree of guilt or innocence. Judicial or adverse administrative actions will not be taken based solely on the existence of a DoD LEA titling or indexing record.

d. A covered person is titled in a DoD LEA report to ensure accuracy and efficiency of the report. Their information is indexed in DCII to ensure this information is retrievable for future law enforcement or security purposes.

e. Once the subject of a criminal investigation is indexed in DCII, the information will remain in DCII, even if they are found not guilty, unless the DoD LEA head or designated expungement official grants expungement in accordance with Section 3.

f. All DoD LEA files will be marked, used, transmitted, and stored in accordance with DoD 5400.11-R, DoD Instructions 5200.48 and 5400.11, and Office of Management and Budget Memorandum M-17-12.

SECTION 2: RESPONSIBILITIES

2.1. IG DOD.

The IG DoD monitors and evaluates DoD Component compliance with this issuance.

2.2. UNDER SECRETARY OF DEFENSE FOR INTELLIGENCE AND SECURITY.

The Under Secretary of Defense for Intelligence and Security establishes policy for DCII operation, maintenance, and use and monitors DoD Component compliance.

2.3. DIRECTOR, DEFENSE COUNTERINTELLIGENCE AND SECURITY AGENCY.

Under the authority, direction, and control of the Under Secretary of Defense for Intelligence and Security, the Director, Defense Counterintelligence and Security Agency:

- a. Operates and maintains DCII.
- b. Maintains and protects the DCII data contents.
- c. Enables authorized DoD LEA users' access to the DCII system for searching, indexing, correcting, or expunging information.
- d. Enables authorized DoD Component users' access to the DCII system who require the information to detect and mitigate insider threat and to make debarment, security clearance eligibility, special access suitability, and other administrative determinations.

2.4. DOD COMPONENT HEADS.

The DoD Component heads:

- a. Designate DoD LEA personnel who will make the decision for their Component to title in DoD LEA reports and index in DCII.
- b. Designate expungement officials who may approve the removal of information about covered persons from DoD LEA reports, DCII, and other related records systems, databases, or repositories in accordance with Section 3.
- c. Establish and implement correction and expungement procedures in accordance with Section 3.

SECTION 3: CORRECTION AND EXPUNGEMENT PROCEDURES

3.1. BASIS FOR CORRECTION OR EXPUNGEMENT.

A covered person who was titled in a DoD LEA report or indexed in DCII may submit a written request to the responsible DoD LEA head or designated expungement officials to review the inclusion of their information in the DoD LEA report, DCII, and other related records systems, databases, or repositories in accordance with Section 545 of Public Law 116-283.

3.2. CONSIDERATIONS.

a. When reviewing a covered person's titling and indexing review request, the expungement official will consider the investigation information and direct that the covered person's information be corrected, expunged, or otherwise removed from the DoD LEA report, DCII, and any other record maintained in connection with the DoD LEA report when:

(1) Probable cause did not or does not exist to believe that the offense for which the covered person was titled and indexed occurred, or insufficient evidence existed or exists to determine whether such offense occurred.

(2) Probable cause did not or does not exist to believe that the covered person committed the offense for which they were titled and indexed, or insufficient evidence existed or exists to determine whether they committed such offense.

(3) Such other circumstances as the DoD LEA head or expungement official determines would be in the interest of justice, which may not be inconsistent with the circumstances and basis in Paragraphs 3.2.a.(1) and (2).

b. In accordance with Section 545 of Public Law 116-283, when determining whether such circumstances or basis applies to a covered person when correcting, expunging, or removing the information, the DoD LEA head or designated expungement official will also consider:

(1) The extent or lack of corroborating evidence against the covered person with respect to the offense.

(2) Whether adverse administrative, disciplinary, judicial, or other such action was initiated against the covered person for the offense.

(3) The type, nature, and outcome of any adverse administrative, disciplinary, judicial, or other such action taken against the covered person for the offense.

3.3. PROCEDURES.

DoD LEAs correct or expunge DoD LEA reports, DCII, and related records systems, databases, or repositories maintained by or on behalf of the DoD LEA when the DoD LEA head or

designated expungement official has approved that action. In accordance with Section 552 of Public Law 106-398 and Section 545 of Public Law 116-283 and this issuance, the DoD LEAs will establish:

a. Procedures for covered persons titled in DoD LEA reports or indexed in DCII to obtain a review of the titling or indexing decision.

b. Procedures for covered persons titled in DoD LEA reports or indexed in DCII to request their information be corrected in, expunged, or otherwise removed from DoD LEA reports, DCII, and related records systems, databases, or repositories maintained by, or on behalf of, DoD LEAs.

c. Procedures for a covered person to appeal a DoD LEA denying, in whole or in part, a request to correct, expunge, or otherwise remove information contained in DoD LEA reports, DCII, and any other record maintained in connection with DoD LEA reports.

d. Procedures for the applicable DoD LEA to correct, expunge, remove, or take other appropriate action on (or assist a covered person in doing so) any record maintained by a person, organization, or entity outside of the DoD to which such component provided, submitted, or transmitted a covered person's information that has or will be corrected in, expunged, or otherwise removed from DoD LEA records.

e. A timeline for the DoD LEA to respond to:

(1) Requests from covered persons to correct or expunge information in DoD LEA reports and DCII.

(2) Appeals of DoD LEA declination decisions.

(3) Requests for assistance from covered persons to correct or expunge information that the DoD LEA provided, submitted, or transmitted to a person, organization, or entity outside of the DoD LEA about the covered person.

f. Mechanisms through which the DoD LEA will keep a covered person informed of the progress of their request, appeal, or request for assistance.

GLOSSARY

G.1. ACRONYMS.

ACRONYM	MEANING
DCII	Defense Central Index of Investigations
IG DoD	Inspector General of the Department of Defense
LEA	law enforcement activity

G.2. DEFINITIONS.

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

TERM	DEFINITION
covered persons	Any person whose name or other identifying information: Was placed or reported, or is maintained in the subject or title block of a DoD LEA report. Was placed or reported, or is maintained as an item or entry in DCII. Was placed or reported, or is maintained in any system of records, records database, records center, or repository that is maintained in connection with a DoD LEA report.
credible information	Information disclosed or obtained by a DoD LEA person that, considering the source and nature of the information and the totality of the circumstances, is sufficiently believable to lead a trained DoD LEA person to presume the fact or facts in question are true.
criminal investigation	An investigation into reported or apparent violations of law undertaken for purposes that include collecting evidence to support potential prosecution.

TERM	DEFINITION
DCII	An automated central index that identifies both investigations conducted by DoD LEAs, and personnel security determinations made by DoD adjudicative authorities. DCII access is limited to DoD and other Federal agencies that have adjudicative, investigative, or counterintelligence missions. The DCII database is physically maintained by the Defense Counterintelligence and Security Agency; however, the data is the responsibility of the contributing agencies.
DoD LEA	Defined in DoD Instruction 5505.17.
expungement	Deletion of a single arrest or apprehension record or an entire criminal history record, including an individual’s descriptive information, fingerprints, arrests or apprehensions, and subsequent dispositions.
incidental	Any person or entity associated with a matter under investigation whose identity may be of subsequent value for law enforcement or security purposes.
index	The procedure where someone who is responsible for conducting DoD LEA reporting submits identifying information concerning subjects, victims, or incidentals of investigations for inclusion to DCII.
person	Includes corporations, companies, associations, firms, partnerships, societies, and joint stock companies, as well as individuals indicated in Section 1 of Title 1, United States Code.
probable cause	Defined in DoD Instruction 5505.11.
subject	A person, corporation, or other legal entity about which credible information exists that would cause trained DoD LEA personnel to believe they committed a criminal offense. A “subject” is a subset of a “covered person.”
title	Placing the name and identifying information of a person, corporation, or other legal entity in the title block of a DoD LEA report.

REFERENCES

- DoD 5400.11-R, “Department of Defense Privacy Program,” May 14, 2007
- DoD Directive 5106.01, “Inspector General of the Department of Defense (IG DoD),” April 20, 2012, as amended
- DoD Instruction 5200.48, “Controlled Unclassified Information (CUI),” March 6, 2020
- DoD Instruction 5400.11, “DoD Privacy and Civil Liberties Programs,” January 29, 2019, as amended
- DoD Instruction 5505.11, “Fingerprint Reporting Requirements,” October 31, 2019
- 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
- Office of Management and Budget Memorandum M-17-12, “Preparing for and Responding to a Breach of Personally Identifiable Information,” January 3, 2017
- Public Law 106-398, Section 552, “The National Defense Authorization Act for Fiscal Year 2001,” October 30, 2000
- Public Law 116-283, Section 545, “William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021,” January 1, 2021, codified as a note in Section 1552 of Title 10, United States Code
- United States Code, Title 1
- United States Code, Title 5, Chapter 4 (also known as the “Inspector General Act of 1978,” as amended)