



Department of Defense INSTRUCTION

NUMBER 5505.7

January 7, 2003

SUBJECT: Titling and Indexing Subjects of Criminal Investigations in the Department of Defense

- References:
- (a) DoD Instruction 5505.7, subject as above, May 14, 1992 (hereby canceled)
 - (b) Appendix 3 of title 5, United States Code
 - (c) [DoD Directive 5106.1](#), "Inspector General of the Department of Defense (IG, DoD)," January 4, 2001
 - (d) Public Law 106-398, "The National Defense Authorization Act for Fiscal Year 2001," October 30, 2000

1. REISSUANCE AND PURPOSE

This Instruction reissues reference (a) to:

1.1. Update responsibilities and procedures that provide a uniform standard for titling and indexing subjects of criminal investigations in the Department of Defense under the authority of the Inspector General of the Department of Defense, in accordance with references (b) and (c).

1.2. Update procedures to create a uniform process that affords individuals titled in criminal investigative reports or indexed in the Defense Clearance and Investigations Index (DCII) an opportunity to obtain a review of such actions, as required by reference (d).

2. APPLICABILITY AND SCOPE

This Instruction applies to:

2.1. The Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities in the Department of Defense (hereafter referred to collectively as "the DoD Components").

3. DEFINITIONS

Terms used in this Instruction are defined in enclosure 1.

4. POLICY

It is DoD policy under "The Inspector General Act of 1978" (Appendix 3 of 5 U.S.C.), and DoD Directive 5106.1 (references (b) and (c)) that the Inspector General of the Department of Defense shall develop policy and provide guidance with respect to all DoD activities relating to criminal investigative programs. Accordingly, subjects of criminal investigations shall be titled and indexed in accordance with the procedures below.

5. RESPONSIBILITIES

5.1. The Inspector General of the Department of Defense shall monitor compliance with this Instruction under, "The Inspector General Act of 1978" (Appendix 3 of 5 U.S.C.), and DoD Directive 5106.1 (references (b) and (c)).

5.2. The Heads of the DoD Components shall:

5.2.1. Ensure that this Instruction, particularly the review process described in paragraph 6.3., below, is known and understood by organizations that may provide assistance to employees and Service members on criminal investigative matters.

5.2.2. Designate the investigative officials who shall have final responsibility for the decision to title an individual or entity.

6. PROCEDURES

6.1. Organizations engaged in the conduct of criminal investigations shall place the names and identifying information pertaining to subjects of criminal investigations in title blocks of investigative reports. All names of individual subjects of criminal investigations by DoD organizations shall be listed in the DCII. (This Instruction does not preclude the titling and indexing of victims or "incidentals" associated with criminal investigations.) Titling and indexing in the DCII shall be done as early in the investigation as it is determined that credible information exists that the subject committed a criminal offense.

6.2. The purpose of listing an individual or entity as the subject of a criminal investigation in the DCII is to ensure that information in a report of investigation may be retrieved at some future time for law enforcement or security purposes. The purpose of titling the report of a criminal investigation is to identify the subject for the accuracy and efficiency of the investigative effort.

6.3. The DoD standard that shall be applied when titling and indexing subjects of criminal investigations is a determination that credible information exists indicating that the subject committed a criminal offense.

6.4. Responsibility for titling investigative reports and indexing shall rest with the investigative officials designated to do so by the Heads of the DoD Components.

6.5. Titling an individual or entity is an operational rather than a legal decision. The acts of titling and indexing are administrative procedures and shall not connote any degree of guilt or innocence.

6.5.1. The listing of a subject's name and other identifying information in the DCII indicates only that a report of investigation concerning that person or entity has been created.

6.5.2. Judicial or adverse administrative actions shall not be taken against individuals or entities based solely on the fact that they have been titled or indexed due to a criminal investigation.

6.6. Once the subject of a criminal investigation is indexed, the name shall remain in the DCII, even if a later finding is made that the subject did not commit the offense under investigation, subject to the following exceptions:

6.6.1. Identifying information about the subject of a criminal investigation shall be removed from the title block of a report of investigation and the DCII in the

case of mistaken identity; i.e., the wrong person's name was placed in the report of investigation as a subject or entered into the DCII.

6.6.2. Identifying information about the subject of a criminal investigation shall be removed from the title block of a report of investigation and the DCII if it is later determined a mistake was made at the time the titling and/or indexing occurred in that credible information indicating that the subject committed a crime did not exist.

6.7. If a determination is made that a subject's identifying information requires removal or correction, investigating organizations shall remove such information as soon as possible, and shall make appropriate corrections to all reports of investigation and the DCII, which shall include, if appropriate, entering the correct name on the reports and in the DCII.

6.8. An individual or a business entity seeking access to an investigative file must request the file from the organization that has custody of the file.

6.9. When reviewing the appropriateness of a titling/indexing decision, the reviewing official shall consider the investigative information available at the time the initial titling/indexing decision was made to determine whether the decision was made in accordance with the standard stated in paragraph 6.3.

6.10. An individual (or representative of a business entity) who believes he or she (or the business entity represented) was titled or indexed wrongly may appeal to the head of the investigating organization to obtain a review of the decision.

6.11. Organizations engaged in the conduct of criminal investigations shall establish a written process, as further described below, whereby individuals or entities who have been titled or indexed may obtain a review of such decisions. A copy of that procedure shall be provided to the Deputy Assistant Inspector General, Criminal Investigative Policy and Oversight, Office of the Inspector General of the Department of Defense, as well as any subsequent revisions of the policy.

6.11.1. The review process must include the requirement that an individual seeking a review of a titling and indexing decision submit a written request to the head of the investigating organization giving reasons for the reversal of the determination.

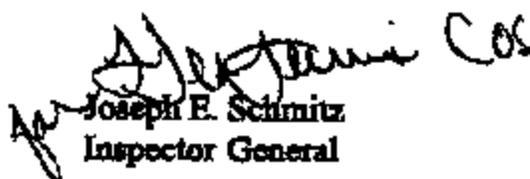
6.11.2. Heads of investigating organizations shall then solicit and consider written input from their applicable line and staff functions and obtain a legal review before deciding whether or not to reverse the previous titling or indexing decision.

6.11.3. The head of the investigating organization shall notify the requestor of the decision and provide information on other applicable agency channels from which to seek relief (e.g., boards for the correction of military records).

6.11.4. Decisions on whether or not to reverse the decision shall be documented and appropriately filed.

7. EFFECTIVE DATE

This Instruction is effective immediately.

 Joseph E. Schmitz
Inspector General

Enclosures - 1

E1. Definitions

E1. ENCLOSURE 1

DEFINITIONS

E1.1.1. Credible Information. Information disclosed or obtained by an investigator that, considering the source and nature of the information and the totality of the circumstances, is sufficiently believable to lead a trained investigator to presume that the fact or facts in question are true.

E1.1.2. Criminal Investigation. Investigation into alleged or apparent violations of law undertaken for purposes which include the collection of evidence in support of potential criminal prosecution.

E1.1.3. Defense Clearance and Investigations Index (DCII). A centralized database, organized in a searchable format, of selected unique identifying information and security clearance data utilized by security and investigative agencies in the Department of Defense, as well as selected other Federal agencies, to determine security clearance status and the existence/physical location of criminal and personnel security investigative files. The DCII database is physically maintained by the Defense Security Service; however, the data it contains is the responsibility of the contributing agencies.

E1.1.4. Incidental. Any person or entity associated with a matter under investigation whose identity may be of subsequent value for law enforcement or security purposes.

E1.1.5. Indexing. Refers to the procedure whereby an organization responsible for conducting criminal investigations submits identifying information concerning subjects, victims, or incidentals of investigations for addition to the Defense Clearance and Investigations Index (DCII).

E1.1.6. Subject. A person, corporation, or other legal entity about which credible information exists that would cause a trained investigator to presume that the person, corporation, or other legal entity committed a criminal offense.

E1.1.7. Title Block. Portion of an investigative report used to identify the persons, entities, or activities on which the investigation focuses.

E1.1.8. Titling. Placing the name(s) of a person(s), corporation(s), other legal entity, organization(s), or occurrence(s) in the title block of a criminal investigative report.