



DoD INSTRUCTION 5505.14

DNA COLLECTION AND SUBMISSION REQUIREMENTS FOR LAW ENFORCEMENT

Originating Component: Office of Inspector General of the Department of Defense

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Approved by: Sean O'Donnell, Acting Inspector General of the Department of Defense

Purpose: In accordance with the authority in DoD Directive 5106.01 and the guidance in Sections 12592 and 40702(a)(1)(A) of Title 34, United States Code (U.S.C.), and Part 28.12(b) of Title 28, Code of Federal Regulations, this issuance establishes policy, assigns responsibilities, and prescribes procedures for DNA sample collection and submission requirements for the purpose of inclusion in the Combined DNA Index System (CODIS).

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SECTION 1: GENERAL ISSUANCE INFORMATION

1.1. APPLICABILITY.

a. This issuance applies to OSD, the Military Departments (including the Coast Guard at all times, including when it is a Service in the Department of Homeland Security by agreement with that Department), 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. This issuance does not regulate:

(1) DNA or other biometric data collected from non-U.S. persons who are detained or held by DoD or the United States Coast Guard during combat or operational activities.

(2) DNA or other biometric data collected pursuant to DoD Directive 8521.01E and Public Law 108-458.

(3) DNA samples maintained for identification of human remains, referred to in Section 1565a of Title 10, U.S.C., and DoD Instructions (DoDIs) 5154.30, 3020.41, and 6025.19.

1.2. POLICY.

a. The requirements of this issuance do not eliminate other legal or policy requirements to provide DNA, fingerprints or criminal history record information, including submissions to the Defense Incident-Based Reporting System pursuant to DoDI 7730.47.

b. The United States Army Criminal Investigation Laboratory (USACIL), a directorate of the Defense Forensic Science Center, serves as the DoD’s CODIS participating laboratory.

c. Defense Criminal Investigative Organizations (DCIOs), other DoD law enforcement agencies (LEAs), DoD correctional facilities, the Coast Guard Investigative Service (CGIS), and commanders will collect and submit DNA samples from:

(1) Service members and civilians when their fingerprints are collected pursuant to DoDI 5505.11.

(2) Service members against whom court-martial charges are preferred in accordance with Rule for Courts-Martial 307 of the Manual for Courts-Martial, if a DNA sample has not already been submitted.

(3) Service members ordered into pre-trial confinement after the completion of the commander’s 72-hour memorandum required by Rule for Courts-Martial 305(h)(2)(C) of the Manual for Courts-Martial, if a DNA sample has not already been submitted.

(4) Service members convicted by general or special court-martial, if a DNA sample has not already been submitted.

d. DoD Records created or received during DNA collection and sharing will be managed in accordance with DoDI 5015.02.

1.3. INFORMATION COLLECTIONS.

This DNA collection does not require licensing with a report control symbol in accordance with Paragraph 2.b.(1) of Volume 1 of DoD Manual 8910.01.

SECTION 2: RESPONSIBILITIES

2.1. IG DOD.

The IG DoD:

- a. Establishes policy for and provides guidance to DoD Component implementation of this issuance.
- b. Oversees and evaluates compliance with this issuance.

2.2. DOD COMPONENT HEADS.

The DoD Component heads:

- a. Issue procedures to implement and comply with this issuance.
- b. Require that:
 - (1) Commanders coordinate closely with the appropriate DCIOs, other DoD LEAs, DoD correctional facilities, CGIS, or servicing legal office to ensure DNA samples are collected and processed pursuant to Paragraph 1.2.c.
 - (2) DCIOs, other DoD LEAs, DoD correctional facilities, and CGIS will provide appropriate Privacy Act statements pursuant to DoD 5400.11-R to persons from whom DNA samples are collected.
 - (3) DCIOs, other DoD LEAs, DoD correctional facilities, and CGIS develop expungement procedures and provide instructions concerning expungement rights and procedures to all persons from whom DNA samples are collected as outlined in Section 4.
- c. Direct commanders to coordinate with the DoD Component's Criminal Justice Information Services (CJIS) systems officer on all DNA reporting protocols and procedures to ensure proper reporting to CJIS. DoD Component CJIS systems officers can be located by contacting their Military Criminal Investigative Organization.
- d. Have funding responsibility for the collection of DNA samples pursuant to Title 28, Code of Federal Regulations, and Title 34, U.S.C.
- e. Ensure the DoD Component record management program includes DNA-collection related records in accordance with DoDI 5015.02.

2.3. SECRETARY OF THE ARMY.

In addition to the responsibilities in Paragraph 2.2. and through the Director, Defense Forensic Science Center, the Secretary of the Army:

- a. Designates the Director, USACIL, to serve as the CODIS program manager for the DoD. USACIL will be responsible for conducting DNA analyses and submitting the results to the Federal Bureau of Investigation (FBI) for entry into CODIS.
- b. Requires a DNA collection kit to be developed and provided to locations designated by the DoD Components with law enforcement organizations and correctional facilities.
- c. Analyzes all DNA samples submitted in accordance with this issuance and forwards the results to the FBI for inclusion in CODIS.
- d. Expunges profiles and destroys samples as required by this issuance.
- e. Provides annual funding requirements to the DoD Component heads for the implementation requirements in this issuance.

SECTION 3: GENERAL PROVISIONS

3.1. DCIOs, other DoD LEAs, and CGIS will collect and submit DNA samples from Service members and civilians in accordance with Paragraph 1.2.c.

3.2. DoD correctional facilities will collect a DNA sample from a Service member who is confined to a military correctional facility or temporarily housed in civilian facilities as a result of any general or special court-martial conviction for an offense, if a DNA sample has not already been submitted to USACIL in accordance with DoDI 1325.07. Commands will collect and submit a DNA sample from a Service member who does not receive confinement as a result of any general or special court-martial conviction if a DNA sample has not already been submitted.

3.3. DCIOs, other DoD LEAs, DoD correctional facilities, CGIS, and commands will submit DNA samples to USACIL at the time of collection. DCIOs, other DoD LEAs, DoD correctional facilities, and CGIS will document the submission of DNA samples in investigative case file or system.

3.4. DCIOs, other DoD LEAs, and CGIS will take DNA samples from civilians whom they detain or hold and who remain within their control when it is determined there is probable cause to believe the civilian has committed an offense that results in the collection of fingerprints. DNA samples may also be taken by civilian law enforcement organizations; however, an individual DNA sample does not need to be taken more than once. This issuance does not require DCIOs, other DoD LEAs, or CGIS to take samples from a civilian not in their control at the point when a probable-cause determination is made.

3.5. DCIOs, other DoD LEAs, and CGIS will forward DNA samples taken by their agencies to USACIL. They are not required to forward DNA samples collected by civilian or Federal law enforcement organizations to USACIL. DCIOs, other DoD LEAs, DoD correctional facilities, and CGIS will:

- a. Document the collection of DNA samples in investigative case files or system.
- b. Validate that a DNA sample was submitted to USACIL using the DNA kit number through USACIL CODIS website at:
<https://army.deps.mil/army/cmds/DFSC/home/CODIS/SitePages/Home.aspx>.
- c. Document the results in the investigative case file or system.

3.6. DCIOs, other DoD LEAs, and CGIS will document in the investigative case file when civilian or Federal law enforcement organizations handle any aspect of the DNA processing and whether the submitting law enforcement organization forwarded the DNA sample to the FBI Laboratory for entry into CODIS. DCIOs, other DoD LEAs, and CGIS will validate that a DNA sample was submitted to the FBI by the civilian or Federal law enforcement organization by completing and submitting the FBI's Federal DNA Database Unit Convicted Offender Sample Status Form, <https://forms.fbi.gov/fddu-fco-sample-status>, or calling (703) 632-7529, 60 days after conviction, and document the results in the investigative case file or system.

3.7. DNA collection kits or the status of a DNA submission may be requested from USACIL through:

USACIL CODIS Branch

DSN 797-7258

(404) 469-7258

usarmy.gillem.dfsc.mbx.codis@mail.mil

<https://army.deps.mil/army/cmds/DFSC/home/CODIS/SitePages/Home.aspx> (This website is only accessible to authorized users (i.e., common access card holders)).

SECTION 4: REQUESTS FOR EXPUNGEMENT

4.1. Current Service members from whom samples were collected and processed pursuant to Paragraph 1.2.c. may request in writing that their DNA records be expunged in accordance with the procedures in this section if they are not convicted of any offense by general or special court-martial. This includes action generally inconsistent with such a conviction, such as:

- a. Administration of non-judicial punishment;
- b. Administrative separation; or
- c. Referral to a summary court-martial.

4.2. Service members will forward requests for expungement through the first commanding officer in the grade of major or lieutenant commander or higher in the Service member's chain of command. Such requests will include adequate proof that the charges:

- a. Have been dismissed, withdrawn, or disposed of in a manner not resulting in preferral of charges pursuant to Rule for Courts-Martial 307 of the Manual for Courts-Martial; or

- b. Otherwise have not and will not result in a conviction of any offense, including proof of any action by a general or special court-martial convening authority that has the effect of a full acquittal.

4.3. The first commanding officer in the grade of major or lieutenant commander or higher will review and confirm the information and then submit, after consultation with the appropriate legal advisor, the request through the relevant DCIOs, other DoD LEAs, or CGIS. The DCIOs, other DoD LEAs, or CGIS will then validate that the Service member has no convictions that would prohibit expungement.

4.4. If the first commanding officer in the grade of major or lieutenant commander or higher, after consulting with a legal advisor, determines that expungement is not authorized, such commanding officer shall notify the requestor of the expungement declination in writing with a copy furnished to the servicing DCIO, other appropriate DoD LEAs, or CGIS. If the Service member has no convictions that would prohibit expungement, the commanding officer will coordinate with a legal advisor and may authorize expungement.

4.5. The DCIOs, other DoD LEAs, and CGIS will send appropriate requests for expungement to USACIL. The DCIOs, other DoD LEAs, and CGIS shall maintain a copy of all requests in the investigative case file, including those requests not forwarded to USACIL because expungement was not authorized. Requests will:

- a. Be on letterhead and bear the title, signature, and telephone number of the special agent, law enforcement officer, or CJIS system officer forwarding the request.

- b. Clearly state that the Service member concerned is entitled to expungement and list the Service member's full name, Social Security number, and mailing address.

c. Include all documents submitted by the Service member along with any additional relevant documents in the possession of the commander or official receiving the request.

4.6. USACIL will review requests for expungement to ensure they contain all of the required information. Incomplete requests will be returned to the submitter. When a request for expungement that is complete and complies with the criteria in Paragraph 4.5. is received, USACIL will expunge the DNA records, destroy the submitted sample, notify the Service member of its actions, and maintain documentation of that notice.

4.7. Former or retired Service members from whom samples were taken but who were not convicted of any offense by a general or special court-martial, or can provide a certified copy of a final court order documenting the charge has been dismissed or resulted in an acquittal, may request in writing that their DNA records be expunged in accordance with the procedures in this section.

a. Former or retired Service members will submit requests for expungement to the Clerk of Court of the Military Department's Court of Criminal Appeals.

(1) Requests will include:

(a) All reasonably available proof showing that none of the offenses giving rise to the collection of DNA resulted in a conviction at a general or special court-martial (including a final court order establishing that such a conviction was overturned, or establishing action by the convening authority that has the effect of a full acquittal). A court order is not final if time remains for an appeal or application for discretionary review with respect to the order.

(b) The former or retired Service member's name, Social Security number, current address and contact information, date of alleged offense, and contact information of the unit that the former Service member belonged to when the sample was taken.

(2) Requests that do not provide adequate information to identify the alleged offense or to confirm that the alleged offense did not result in a conviction will be returned by "return receipt requested" with an explanation of the deficiency.

b. The Clerk of Court of the appropriate Military Department's Court of Criminal Appeals will search their records for any conviction pertaining to the former or retired Service member and determine whether the former or retired Service member is entitled to expungement. The Clerk of Court of the Military Department's Court of Criminal Appeals will send appropriate requests for expungement by former or retired Service members to USACIL. Requests will:

(1) Be on letterhead and bear the title, signature, and telephone number of the Military Department Clerk of Court (or similar appropriate official) forwarding the request.

(2) Clearly state that the former or retired Service member concerned is entitled to expungement and list the Service member's full name, Social Security number, and mailing address.

(3) Include all documents submitted by the former or retired Service member along with any additional relevant documents in the possession of the official receiving the request.

c. USACIL will review all requests for expungement that it receives to ensure they contain all the required information. Incomplete requests will be returned to the submitter. Only such requests that are deemed meritorious, USACIL will expunge the DNA records, destroy the submitted sample, notify the individual of its actions, and maintain documentation of that notice.

d. Civilians whose samples are taken and forwarded pursuant to Paragraph 1.2.c., but who are not convicted of any offense, or provide a certified final court order documenting the conviction has been overturned, may request in writing that their DNA sample be expunged.

(1) To request expungement of DNA records for civilians pursuant to Section 12592 of Title 34, U.S.C., the requestor or legal representative must submit a written request to:

USACIL
ATTN: CODIS Branch
4930 N. 31st Street
Forest Park, GA 30297

(2) If the request is for expungement of DNA records resulting from an arrest pursuant to U.S. authority, the requester must include, for each charge for which the DNA record was or could have been included in the national DNA index, a certified copy of a final court order establishing that:

- (a) Such charge has been dismissed or resulted in an acquittal; or
- (b) No charge was filed within the applicable time period.

(3) The copy of the court order must:

(a) Contain a certification that it is a true and accurate copy of the original court order and be signed and dated by an appropriate court official, such as a court clerk.

(b) Be signed by a judge and dated.

(c) Include sufficient identifying information (at a minimum the person's full name, Social Security number, or date of birth) to determine the identity of the person and that the conviction offense was overturned, the charge was dismissed, the charge resulted in an acquittal, or no charges were filed within the applicable time period.

4.8. Expungement is not authorized under any of the conditions in Paragraph 4.7. if the individual seeking expungement has a Federal conviction for a separate offense that should have resulted but did not result in the collection and forwarding of DNA to USACIL in accordance with this issuance.

4.9. Civilians whose samples are taken and forwarded to CODIS by civilian or Federal law enforcement organization because of an arrest or a conviction may request in writing that their

DNA sample be expunged in accordance with the guidance provided at the FBI CODIS Website if they meet any of the following conditions:

- a. Charges were not filed or were dismissed.
- b. They were acquitted at trial.
- c. Their conviction was overturned upon appeal.

GLOSSARY

G.1. ACRONYMS.

| ACRONYM | MEANING |
|---------|--|
| CGIS | Coast Guard Investigative Service |
| CJIS | Criminal Justice Information Service |
| CODIS | Combined Deoxyribonucleic Acid Index System |
| DCIO | Defense Criminal Investigative Organization |
| DNA | deoxyribonucleic acid |
| DoDI | DoD instruction |
| FBI | Federal Bureau of Investigation |
| IG DoD | Inspector General of the Department of Defense |
| LEA | law enforcement agency |
| USACIL | United States Army Criminal Investigation Laboratory |
| U.S.C. | United States Code |

G.2. DEFINITIONS.

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

| TERM | DEFINITION |
|--|--|
| CJIS system officer | Defined in DoDI 5505.11. |
| commanding officer | A commissioned or warrant officer who, by virtue of rank and assignment, exercises primary command authority over a DoD organization. All references to “commanding officer” in this issuance also include the civilian heads of DoD organizations. |
| criminal history record information | 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 from them, including acquittal, sentencing, correctional supervision, and release. The term does not include identification information such as fingerprint records if such information does not indicate the individual’s involvement with the criminal justice system. |

| TERM | DEFINITION |
|--------------------------------|---|
| DCIO | U.S. Army Criminal Investigation Command, Naval Criminal Investigative Service, Air Force Office of Special Investigations, and Defense Criminal Investigative Service. |
| DoD LEA | Defined in DoDI 5505.17. |
| non-judicial punishment | Disciplinary punishment, as listed in Section 815 of Title 10, U.S.C., imposed by a commander or other authorized officer for minor offenses without the intervention of a court-martial. |
| probable cause | Defined in DoDI 5505.11. |

REFERENCES

- Code of Federal Regulations, Title 28
- 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 Directive 8521.01E, “DoD Biometrics,” January 13, 2016, as amended
- DoD Instruction 1325.07, “Administration of Military Correctional Facilities and Clemency and Parole Authority,” March 11, 2013, as amended
- DoD Instruction 3020.41, “Operational Contract Support (OCS),” December 20, 2011, as amended
- DoD Instruction 5015.02, “DoD Records Management Program,” February 24, 2015, as amended
- DoD Instruction 5154.30, “Armed Forces Medical Examiner System (AFMES) Operations,” December 29, 2015, 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
- DoD Instruction 6025.19, “Individual Medical Readiness (IMR),” June 9, 2014, as amended
- DoD Instruction 7730.47, “Defense Incident-Based Reporting System (DIBRS),” January 23, 2014, as amended
- DoD Manual 8910.01, Volume 1, “DoD Information Collections Manual: Procedures for DoD Internal Information Collections,” June 30, 2014, as amended
- Federal Bureau of Investigation Website, “Combined DNA Index System (CODIS),” <https://www.fbi.gov/services/laboratory/biometric-analysis/codis>
- Manual for Courts-Martial, United States, current edition
- Public Law 108-458, “Intelligence Reform and Terrorism Prevention Act of 2004,” December 17, 2004
- United States Code, Title 10
- United States Code, Title 34