



OFFICE OF SPECIAL INVESTIGATIONS

WE ARE THE FEDERAL LAW ENFORCEMENT & COUNTERINTELLIGENCE AGENCY
FOR THE UNITED STATES AIR FORCE & UNITED STATES SPACE FORCE

CRIMINAL INDEXING & EXPUNGEMENTS

The Department of the Air Force is directed by federal law, Department of Defense policy, and Air Force policy to submit information into four criminal databases: the Defense Criminal Index of Investigations (DCII); the Interstate Identification Index (III); the Combined Deoxyribonucleic Acid Index System (CODIS); and the National Instant Criminal Background Check System (NICS). Individuals who believe their Criminal History Record Information (CHRI), firearms privileges or DNA should no longer be catalogued in these databases may request their records be expunged. Air Force Manual 71-102, *Air Force Criminal Indexing*, describes the requirements and procedures for criminal indexing into these databases, as well as how to request expungement of entries in them.

Defense Central Index of Investigations (DCII):

- The purpose of the DCII is to ensure that information from criminal investigations is retrievable for law enforcement or security purposes in the future.
- DoD Components authorized to conduct criminal investigations, as outlined in DoD Instruction 5505.16, will title and index subjects of criminal investigations as soon as the investigation determines there is credible information that the subject committed a criminal offense. (*DoDI 5505.07: 1.2 Policy, para a, pg 3*)
- Credible information is defined as information disclosed or obtained by a criminal investigator that, considering the source and nature of the information and the totality of the circumstances, is sufficiently believable to lead a trained criminal investigator to presume the fact or facts in question are true. (*DoDI 5505.07: 1.2 Policy, para a, pg 3*)
- Indexing in the DCII may be delayed until the conclusion of the investigation due to operational security. (*DoDI 5505.07: 1.2 Policy, para a, pg 3*)
- Titling and indexing [in DCII] are administrative procedures and shall not connote any degree of guilt or innocence. (*DoDI 5505.07: G.2. Definitions, pg 6*)
- Once indexed in the DCII, the subject's name will remain in the DCII, even if the subject is found not guilty, unless there was a case of mistaken identity or it is later determined that, at the time of indexing, there was no credible information indicating that the subject committed a crime. Judicial or adverse administrative actions will not be taken based solely on the existence of a titling or indexing record in a criminal investigation. (*DoDI 5505.07: 1.2 Policy, para d, pg 3*)
- *All information above originated in AFMAN 71-102, Air Force Criminal Indexing and DoDI 5505.07, Titling and Indexing in Criminal Investigations*

Interstate Identification Index (III):

- Defense criminal investigative organizations (DCIOs) and other DoD law enforcement activities (LEAs) will collect fingerprints and criminal history record information upon determination of probable cause and will electronically submit to the CJIS Division of the FBI for all: (*DoDI 5505.11: 1.2 Policy, pg 3*)
 - o Service members who are investigated for all offenses punishable by imprisonment listed in the punitive articles of Chapter 47 of Title 10, U.S.C., also known and referred to in this issuance as the “Uniform Code of Military Justice (UCMJ),” or elsewhere in the U.S.C. Prior to 31 October 2019, criminal offenses that qualified for indexing were enumerated in an enclosure to the version of DoDI 5505.11, *Fingerprint Reporting Requirements*, in effect at the time of indexing.
 - o Civilians investigated by DCIOs and other DoD LEA with civilian arrest authority for U.S.C. offenses punishable by imprisonment.
 - o Service members and their dependents, DoD employees, and DoD contractor employees investigated by foreign law enforcement organizations for offenses punishable by imprisonment equivalent to those listed in the punitive articles of the UCMJ or elsewhere in the U.S.C., if available to the DCIOs or other DoD LEAs.
 - o Non-serious offenses, such as drunkenness, vagrancy, disturbing the peace, violating curfew, loitering, and traffic violations (except vehicular manslaughter, DUI, and hit and run) are not subject to indexing.
- Probable cause is defined as a 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. (*AFMAN 71-102: pg 54*)
- CHRI is defined as 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 (*DoDI 5505.11: G.2. Definitions, pg 8*)
- *All information above originated in AFMAN 71-102, Air Force Criminal Indexing and DoDI 5505.11, Fingerprint Reporting Requirements*

Combined Deoxyribonucleic Acid Index System (CODIS):

- The purposes for DNA collection are similar to those for taking fingerprints. They include making positive identification and providing or generating evidence to solve crimes through database searches of potentially matching samples. (*DoDI 5505.14: Enclosure 4, pg 13*)
- The DCIOs, other DoD law enforcement organizations, DoD correctional facilities, Coast Guard Investigative Service (CGIS) and commanders will collect DNA samples from Service members and expeditiously forward them to United States Army Criminal Investigation Laboratory (USACIL). (*DoDI 5505.14: Enclosure 4, pg 13*)
 - o In connection with an investigation, for offenses identified in Uniform Code Of Military Justice (UCMJ) Offenses, ...conducted by a DCIO or other DoD law enforcement organization...in which the investigator concludes there is probable cause to believe that the subject has committed the offense under investigation. The investigator must consult with a judge advocate before making a probable cause determination.
 - o Court-martial charges are preferred in accordance with Rule for Courts-Martial 307 of Manual for Courts-Martial for an offense referenced in Uniform Code Of Military Justice (UCMJ) Offenses if a DNA sample has not already been submitted.
 - o When a Service member is ordered into pre-trial confinement for an offense referenced in Uniform Code Of Military Justice (UCMJ) Offenses by a competent military authority after the

completion of the commander's 72-hour memorandum required by Rule for Courts-Martial 305(h)(2)(C) of Manual for Courts-Martial if a DNA sample has not already been submitted.

- When a Service member 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 referenced in Uniform Code Of Military Justice (UCMJ) Offenses. This also applies to those instances where a Service member does not receive confinement as a result of any general or special court-martial conviction for an offense identified in Uniform Code Of Military Justice (UCMJ) Offenses.
- When a commander conducts or directs a command-level investigation or inquiry when no criminal investigation was conducted by a DCIO, other DoD law enforcement agency, . . . nor processed through DoD corrections authorities . . . for all offenses identified in Enclosure 3.
- Only civilian OSI agents with civilian arrest authority may collect DNA samples from civilians. (AFMAN 71-102: 5.2.2, pg 40)
- Current and former service members who were not convicted of any offense by general or special court-martial, or if former service members who can provide a certified copy of a final court order documenting the charge has been dismissed or resulted in an acquittal, may request their DNA records be expunged. (DoDI 5505.14: pg 14-15)
 - The process for requesting expungements can be found in Chapter 9 of AFMAN 71-102.
 - Templates for expungement requests are included as attachments 2 and 3 in AFMAN 71-102.
- *All information above originated in AFMAN 71-102, Air Force Criminal Indexing and DoDI 5505.14, Deoxyribonucleic Acid (DNA) Collection Requirements for Criminal Investigations, Law Enforcement, Corrections, and Commanders*

National Instant Criminal Background Check System (NICS):

- The NICS is a national system that checks available records in the National Crime Information Center (NCIC), the III, and the NICS Indices to determine if prospective transferees are disqualified from receiving firearms.
- The NICS Indices contains information provided by local, state, tribal, and federal agencies of persons prohibited from receiving firearms under federal or state law. The NICS Indices contains prohibiting information which may not be found in the NCIC or the III.
- Title 18 of the United States Code, Section 922 (the Gun Control Act) prohibits certain persons from shipping or transporting any firearm in interstate or foreign commerce, or receiving any firearm which has been shipped or transported in interstate or foreign commerce, or possessing any firearm in or affecting commerce. These prohibitions apply to any person who:
 - 18 U.S.C. §922 (g) (1) Has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year.
 - 18 U.S.C. §922 (g) (2) Is a fugitive from justice.
 - 18 U.S.C. §922 (g) (3) Is an unlawful user of or addicted to any controlled substance (prohibition limited to one year).
 - 18 U.S.C. §922 (g) (4) Has been adjudicated as a mental defective or committed to a mental institution.
 - 18 U.S.C. §922 (g) (5) Is an alien illegally or unlawfully in the United States or who has been admitted to the United States under a nonimmigrant visa.
 - 18 U.S.C. §922 (g) (6) Has been discharged from the Armed Forces under dishonorable conditions.
 - 18 U.S.C. §922 (g) (7) Having been a citizen of the United States, has renounced U.S. citizenship.

- 18 U.S.C. §922 (g) (8) Is subject to a court order that restrains the person from harassing, stalking, or threatening an intimate partner or child of such intimate partner.
- 18 U.S.C. §922 (g) (9) Has been convicted in any court of a misdemeanor crime of domestic violence.
- 18 U.S.C. §922 (n) Is under indictment for a crime punishable by imprisonment for a term exceeding one year.
- *All information above originated in the FBI NICS brochure: <https://ucr.fbi.gov/nics/general-information/nics-index-brochure>*
- Chapter 4 of Air Force Manual (AFMAN) 71-102, *Air Force Criminal Indexing*, addresses NICS.
- All Air Force entries into NICS are completed by the Department of the Air Force – Criminal Justice Information Cell (DAF-CJIC) and are carefully reviewed to ensure all entries meet federal criteria prescribed in 18 U.S.C. § 922.

Expungements:

- Individuals whose information is entered into DCII, III, NCIC, CODIS, and NICS, may request expungement or correction of the information entered by the Air Force.
- Individuals requesting expungement will complete and submit the appropriate expungement request template found in AFMAN 71-102, attachments 2 and 3, to the DAF-CJIC at HQ AFOSI/XIC, 27130 Telegraph Rd, RKB, Quantico, VA 22134, or by email to daf.cjic@us.af.mil.
- The process for requesting expungements can be found in Chapter 9 of AFMAN 71-102.
- Even if a person requests expungement from one database, the Air Force may review all criminal indexing records pertaining to the requestor, which may result in the creation and deletion of a record or the addition, deletion or amendment of charges and dispositions set forth in those records.
- The DAF-CJIC will review expungement requests and consult with the DAF-CJIC legal advisor on required action. If any changes are required, DAF-CJIC will execute corrective actions. DAF-CJIC will notify the requestor of the outcome of the review in writing.
- Requestors may appeal the DAF-CJIC decision in writing to HQ AFOSI/XIC, 27130 Telegraph Rd, RKB, Quantico, VA 22134, or by email to daf.cjic@us.af.mil.
- DAF-CJIC will notify the requestor of the outcome of the appeal in writing
- *All information above originated in AFMAN 71-102: https://static.e-publishing.af.mil/production/1/saf_ig/publication/afman71-102/afman71-102.pdf*

References:

- DoDI 5505.07: <https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodi/550507p.pdf?ver=2018-02-28-125025-997>
- DoDI 5505.11: <https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodi/550511p.pdf> DoDI 5505.14: <https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodi/550514p.pdf?ver=2019-08-12-134611-547>
- AFMAN 71-102: https://static.e-publishing.af.mil/production/1/saf_ig/publication/afman71-102/afman71-102.pdf
- FBI NICS Index Brochure: <https://ucr.fbi.gov/nics/general-information/nics-index-brochure>