



Department of Defense

INSTRUCTION

NUMBER 1304.23

October 7, 2005

USD(P&R)

SUBJECT: Acquisition and Use of Criminal History Record Information for Military Recruiting Purposes

- References:
- (a) Sections 503 and 504 of title 10, United States Code
 - (b) DoD Directive 1304.23, subject as above, February 15, 1984 (hereby canceled)
 - (c) Deputy Secretary of Defense Memorandum, "DoD Directives Review – Phase II," July 13, 2005
 - (d) DoD Directive 5200.2, "DoD Personnel Security Program," April 9, 1999
 - (e) DoD 5200.2-R, "DoD Personnel Security Program," January 1, 1987

1. REISSUANCE AND PURPOSE

This Instruction:

- 1.1. Implements reference (a) and reissues reference (b) as a DoD Instruction according to the guidance in reference (c).
- 1.2. Identifies policy and guidance concerning the acquisition of criminal history record information used to determine an applicant's suitability for enlistment and participation in special access programs requiring a determination of trustworthiness according to reference (d).

2. APPLICABILITY

This Instruction applies to the Office of the Secretary of Defense, the Military Departments (including their Reserve components and the Coast Guard by agreement with the Department of Homeland Security when it is not operating as a Service in the Navy), and the Chairman of the Joint Chiefs of Staff. The term "Military Services," as used herein, refers to the Army, the Navy, the Air Force, and the Marine Corps (including their respective Reserve components), and the Coast Guard.

3. DEFINITIONS

3.1. Criminal History Record Information (regarding juvenile or adult arrest, citation, or conviction). The offense involved; name, social security number, and age of the person involved; dates of arrest, citation, or conviction, if any; place of the alleged offense; place of arrest and assigned court; and disposition of the case.

3.2. Criminal Justice System. Federal, State, county, and local government law enforcement agencies; courts and clerks of courts; prosecuting attorneys (e.g., district attorneys, U.S. attorneys); and other Government Agencies authorized to collect, maintain, and disseminate criminal history record information.

3.3. Special Access Programs. Military Services programs that, because of their sensitivity or access to classified information, require the Office of Personnel Management (OPM) to perform the investigations specified in reference (d).

4. POLICY

4.1. Section 503 of title 10, United States Code (U.S.C.) (reference (a)), requires the Secretaries concerned to conduct intensive recruiting campaigns to obtain enlistments. It is DoD policy that the Military Services review the background of applicants for enlistment and participation in special access programs to identify individuals:

4.1.1. Whose backgrounds pose questions as to qualification for service (10 U.S.C. 504, reference (a)) or suitability for participation in special access programs (reference (d)).

4.1.2. Whose backgrounds indicate they may pose a threat to national security or have links to terrorist or criminal organizations.

4.1.3. Who may not enlist in the Military Services unless an exception is authorized (10 U.S.C. 504, reference (a)).

4.1.4. Who try to enlist fraudulently.

4.2. Further policy guidance is identified in enclosure 1.

5. RESPONSIBILITIES

5.1. The Under Secretary of Defense for Personnel and Readiness shall:

5.1.1. Submit the implementing Military Service regulations to the Senate and House Committees on Armed Services to ensure reasonable uniformity.

5.1.2. Provide oversight of criminal history record information processing to the Military Services through the United States Military Entrance Processing Command.

5.2. The Secretaries of the Military Departments and the Commandant of the Coast Guard shall:

5.2.1. Develop and prepare uniform implementing regulations concerning the recruiting element's acquisition, review, and safeguarding of criminal history record information to ensure conformity with existing laws or DoD regulatory documents and policies stated herein; and include in the regulations procedures to ensure protection of the privacy of the enlistment applicant on whom the record exists.

5.2.2. Obtain criminal history record information for applicant processing through the applicant's self-disclosure during pre-accession interviews, from the criminal justice system, and from the OPM for enlistment applicant processing as part of Entrance National Agency Checks (ENTNACs). A background check through the criminal justice system will be initiated as early as practicable in the accession process. This information is used to determine whether applicants are acceptable for military service and consideration of assignment to special access programs.

5.2.3. Ensure the confidentiality of criminal history record information obtained for recruiting purposes. Personnel who have access may not disclose this information except for the purposes for which it is obtained.

5.3. The United States Military Entrance Processing Command will assist the OPM in providing the results of background checks to the Military Services to determine the suitability of applicants for military service. The background information shall be provided by ENTNACs, National Agency Checks with Law and Credit, Single Scope Background Investigations, and other investigations, as directed by DoD 5200.2-R (reference (e)).

6. EFFECTIVE DATE

This Instruction is effective immediately.



David S. C. Chu
Under Secretary of Defense
(Personnel and Readiness)

Enclosures – 1

**E1. Policy Guidance on the Acquisition and Use of Criminal History Record Information by the
Military Services**

E1. ENCLOSURE 1

POLICY GUIDANCE ON THE ACQUISITION AND USE OF CRIMINAL HISTORY
RECORD INFORMATION BY THE MILITARY SERVICES

E1.1.1. The Military Services shall obtain criminal history record information from the criminal justice system and from the OPM for enlistment applicant processing as part of Entrance National Agency Checks (ENTNACs). A background check through the criminal justice system shall be initiated as early as practicable in the accession process. This information is used to determine whether applicants are acceptable for military service and for consideration of assignment to special access programs.

E1.1.2. The Military Services shall ensure the confidentiality of criminal history record information obtained for recruiting purposes. Personnel who have access to this information may not disclose it except for the purposes for which it is obtained.

E1.1.2.1 The USMEPCOM shall assist the OPM in providing the results of background checks to the Military Services to determine the suitability of applicants for military service.

E1.1.2.2 The OPM shall provide National Agency Checks with Law and Credit (NACLCS) and Single Scope Background Investigations (SSBIs) to the Central Adjudication Facilities to make security clearance eligibility determinations for access to sensitive and/or classified information and for participation in special access programs.

E1.1.3. The background information shall be provided by ENTNACs, NACLCS, SSBIs, and other investigations, as directed by DoD 5200.2-R (reference (e)).