

Office of the Secretary of Defense

§ 96.6

§ 96.1 Purpose.

Under title 10 U.S. Code, sections 503, 504, 505 and 520a, this part establishes policy guidance concerning the acquisition of criminal history record information for use in determining an enlistment applicant's suitability for entry and for participation in special programs that require a determination of trustworthiness (part 156 of this title), assigns responsibilities, and prescribes procedures.

§ 96.2 Applicability.

This part applies to the Office of the Secretary of Defense, the Military Departments, and the Defense Investigative Service (DIS). The term "Military Services," as used herein, refers to the Army, Navy, Air Force, and Marine Corps.

§ 96.3 Definitions.

(a) *Criminal history record information* (with respect to any juvenile or adult arrest, citation, or conviction). The offense involved; 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.

(b) *Criminal justice system*. State, county, and local government law enforcement agencies; courts and clerks of courts; and other government agencies authorized to collect, maintain, and disseminate criminal history record information.

(c) *Special programs*. Military Services' programs that, because of their sensitivity or access to classified information, require the DIS to perform the investigations specified in chapter III of DoD 5200.2-R.

§ 96.4 Policy.

Section 503 of title 10 U.S. Code requires the Secretaries of the Military Departments to conduct intensive recruiting campaigns to obtain enlistments. It is the policy of the Department of Defense that the Military Services review the background of applicants for enlistment and for participation in special programs to identify:

(a) Those whose backgrounds pose serious questions as to fitness for service (10 U.S.C. 504 and 505) or suitability for

participation in special programs (part 156 of this title).

(b) Those who may not be enlisted in the Military Services unless a waiver is granted (section 504 of title 10, United States Code).

(c) Those who may try to enlist fraudulently.

§ 96.5 Responsibilities.

(a) *The Assistant Secretary of Defense (Manpower, Installations, and Logistics)* shall submit the implementing Military Service regulations to the Senate and House Committees on Armed Services, in accordance with section 520a of title 10 U.S. Code.

(b) *The Secretaries of the Military Departments* shall develop and prepare uniform implementing regulations concerning acquisition, review, and safeguarding of criminal history record information by recruiting elements to conform with section 520a of title 10 U.S. Code, policies stated herein and shall include in the regulations procedures on obtaining and reviewing criminal history record information for recruitment purposes and for assignment of personnel to special programs.

(c) *The Director, Defense Investigative Service*, shall ensure that the acquisition of all available criminal history record information, or criminal history record information provided to the DIS by other government agencies, is safeguarded in accordance with existing laws or DoD regulatory documents to ensure protection of the privacy of the enlistment applicant on whom the record exists.

§ 96.6 Procedures.

(a) Under section 520a of title 10 U.S. Code, recruiters are authorized to request and receive criminal history record information from the criminal justice system.

(b) The Military Services shall obtain criminal history record information on enlistment applicants from the criminal justice system and from the DIS and shall review this information to determine whether applicants are acceptable for enlistment and for assignment to special programs. Recruiters shall request such information in each instance by addressing their requests to the criminal justice system not