

REQUESTS FOR AMENDMENT OF USACIDC RECORDS

In July 1992, DODI 5505.7 changed the criteria for reporting a person as the subject of a ROI and MPR from applying the **probable cause standard** to **credible information**. Today the probable cause standard is retained to determine whether the offense reported is founded or unfounded (CIDR 195-1, para d).

-----ROI COMPLETED PRIOR TO JUL 92

AMENDMENT CRITERIA

The ROI responsive to your request was completed prior to July 1992. At the time the ROI was completed, the criteria for reporting an individual in the subject block was based upon probable cause to believe that the individual committed the offense.

Requests for amendment of such records are processed under the provisions of Army Regulation (AR) 195-1, paragraph d.1, current at that time, which provided in part; requests to amend USACIDC reports will be granted only if the individual submits new, relevant, and material facts that are determined to warrant revision of the report. The burden of proof rests with the individual to substantiate the request. Requests to delete a person's name from the subject block will be granted if it is determined that probable cause did not exist to believe that the individual committed the offense for which listed as a subject.

You may request amendment of the ROI; however, it is emphasized that the conclusion reflected in the investigative summary is an investigative determination that is independent of whether judicial, non-judicial or administrative action was taken against the subject, or the results of such action (AR 195-2, paragraph 4-4(b)). Please be aware that "new and relevant" information we need to bring your request for a formal review must meet the attached criteria. Information about career goals, exemplary changes in life, and similar justifications are not part of the criteria and these are not considered.

No action will be taken to review the ROI for amendment at this time. You should submit a request for amendment, along with new and relevant information (if available) to: Director, U.S. Army Crime Records Center, Attention: Freedom of Information/Privacy Act Division, 27130 Telegraph Road, Quantico, Virginia 22134.

-----ROI COMPLETED AFTER JUL 92

AMENDMENT CRITERIA

The ROI responsive to your request was completed after July 1992. At the time the ROI was completed, the legal standard for titling and indexing an individual as the subject of a criminal investigation was established by Department of Defense Instruction 5505.7, paragraph 6-1, which provides:

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 [Defense Clearance and Investigations Index] DCII...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.

Credible information is 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. 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. The listing of a subject's name and other indentifying information in the DCII indicates only that a report of investigation concerning that person or entity has been created. Judicial or adverse administrative actions shall not be taken against individuals or entities based solely on that fact that they have been titled or indexed due to a criminal investigation.

Once a person is properly titled and indexed in the DCII, that person's name will only be removed 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 or 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 (DODI 5505.7, paragraphs 6.6.1 and 6.6.2.). However, you have the right to challenge the investigative findings of the report of investigation pursuant to Army Regulation 195-2, paragraph 4-4b, which provides, in part:

Requests to amend...USACIDC ROIs will be granted only if the individual submits new relevant and material facts that are determined to warrant revision of the report. The burden of proof to substantiate the request rests with the individual. Requests to delete a person's name from the title block will be granted if it is determined that credible information did not exist to believe that the individual committed the offense for which titled as a subject... Within these parameters, the decision to make any changes in the report rests within the sole discretion of the Commanding General, USACIDC.

You may request amendment of the ROI; however, it is emphasized that the conclusion reflected in the investigative summary is an investigative determination that is independent of whether judicial, non-judicial or administrative action was taken against the subject, or the results of such action. Please be aware that "new and relevant" information we need to bring your request for a formal review must meet the attached criteria. Information about career goals, exemplary changes in life, and similar justifications are not part of the criteria and these are not considered.

No action will be taken to review the ROI for amendment at this time. You should submit a request for amendment, along with new and relevant information (if available) to: Director, U.S. Army Crime Records Center, Attention: Freedom of Information/Privacy Act Division, 27130 Telegraph Road, Quantico, Virginia 22134.

-----MPR COMPLETED PRIOR TO JUL 92

AMENDMENT CRITERIA

The MPR responsive to your request was completed prior to July 1992. At the time the MPR was completed, the criteria for reporting an individual in the subject block was based upon probable cause to believe that the individual committed the offense.

Request for amendment of such records are processed under the provisions of paragraph 3-6a, Army Regulation 190-45, current at that time, which provides, in part that amendment procedures are not intended to permit the challenging of an event that actually occurred. For example, a request to remove a person's name from an MPR would be proper providing evidence was presented to substantiate that a criminal offense was not committed as reported. On the other hand, a request to expunge a subject's name from a record because a commander took no action or the prosecutor elected to dismiss the charges, would be improper, unless further evidence existed to prove that the event was incorrectly reported.

An amendment of record is appropriate under the provisions of Army Regulation 340-21, paragraph 2-10(a), when such records are established as being "inaccurate, as a matter of fact rather than judgment, irrelevant, untimely, or incomplete." It is emphasized that the investigative finds are independent of whether judicial, non-judicial or administrative action is taken against the subject, or results of such action.

No action will be taken to review the MPR for amendment at this time. You should submit a request for amendment, along with new and relevant information (if available) to: Director, U.S. Army Crime Records Center, Attention: Freedom of Information/Privacy Act Division, 27130 Telegraph Road, Quantico, Virginia 22134.

-----MPR COMPLETED AFTER JUL 92

AMENDMENT CRITERIA

The MPR responsive to your request was completed after July 1992. At the time the MPR was completed, the criteria for reporting an individual in the subject block was based upon credible information to believe the individual committed the offense. Request for amendment of such records are processed under the provisions of paragraph 3-6a, Army Regulation 190-45, which provides, in part:

An amendment of record is appropriate when such records are established as being inaccurate, irrelevant, untimely, or incomplete. Amendment procedures are not intended to permit challenging an event that actually occurred. For example, a request to remove an individual's name as the subject of an MPR would be proper providing credible evidence was presented to substantiate that a criminal offense was not committed or did not occur as reported. Expungement of a subject's name from a record because the commander took no action or the prosecutor elected not to prosecute...will not be approved. In compliance with DOD policy [DODI 5505.7, paragraph 6], an individual will still remain entered in the Defense Clearance and Investigations Index (DCII) to track all reports of investigations.

You may request an amendment to the MPR under the provisions of Army Regulation 340-21, paragraph 2-10, when such records are established as being inaccurate, as a matter of fact rather than judgment. It is emphasized that the conclusion reflected in the investigative summary is an investigative determination that is independent of whether judicial, non-judicial or administrative action was taken against the subject, or the results of such action.

No action will be taken to review the MPR for amendment at this time. You should submit a request for amendment, along with new and relevant information (if available) to: Director, U.S. Army Crime Records Center, Attention: Freedom of Information/Privacy Act Division, 27130 Telegraph Road, Quantico, Virginia 22134.