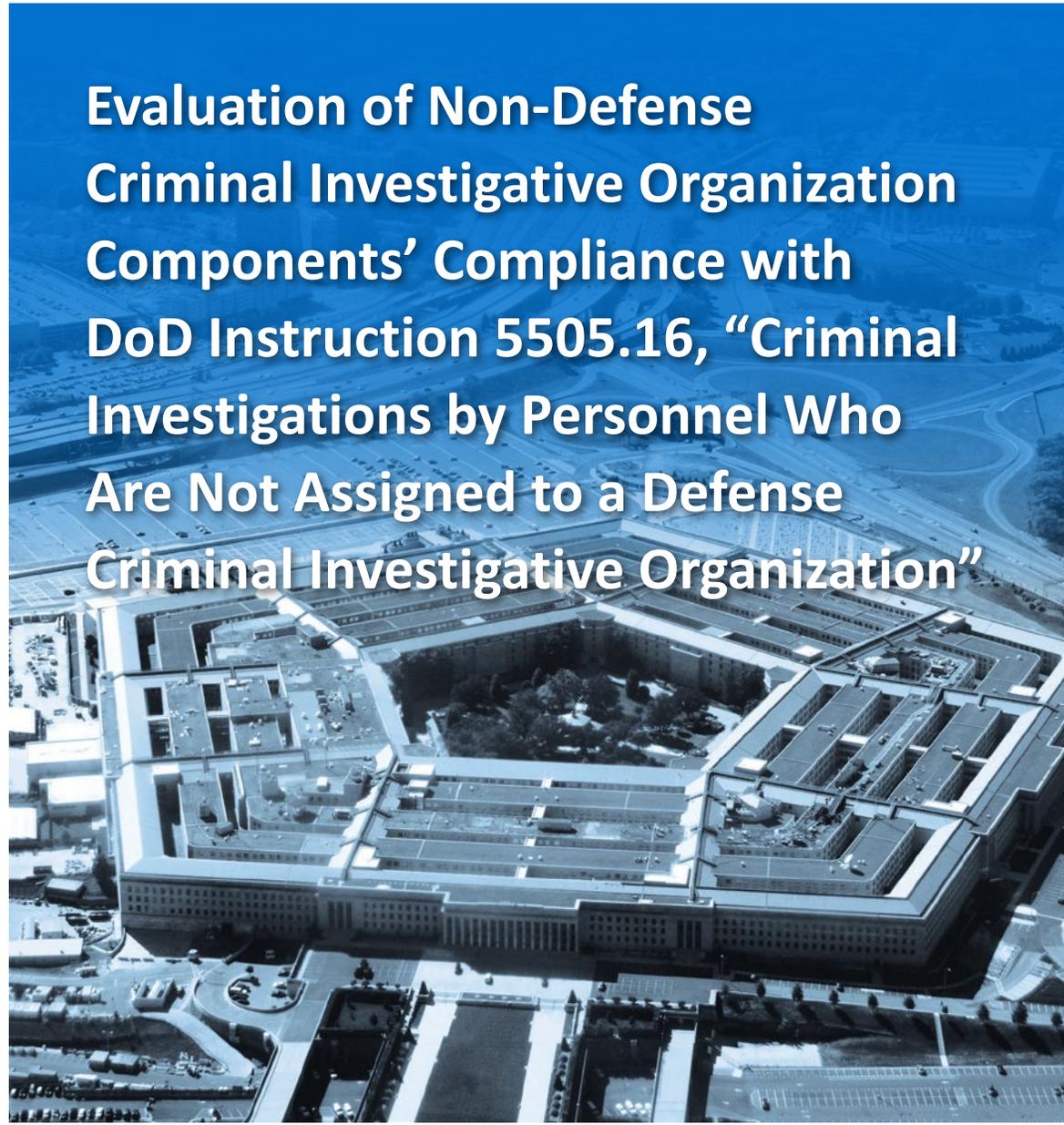




INSPECTOR GENERAL

U.S. Department of Defense

DECEMBER 22, 2016



Evaluation of Non-Defense Criminal Investigative Organization Components' Compliance with DoD Instruction 5505.16, "Criminal Investigations by Personnel Who Are Not Assigned to a Defense Criminal Investigative Organization"

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Results in Brief

Evaluation of Non-Defense Criminal Investigative Organization Components' Compliance with DoD Instruction 5505.16, "Criminal Investigations by Personnel Who Are Not Assigned to a Defense Criminal Investigative Organization"

December 22, 2016

Objective

We evaluated the non-Defense Criminal Investigative Organization (non-DCIO)¹ Components to determine whether they complied with DoD Instruction (DoDI) 5505.16, "Criminal Investigations by Personnel Who Are Not Assigned to a Defense Criminal Investigative Organization [DCIO],"² May 7, 2012, when conducting criminal investigations.

Our evaluation covered the Defense Logistics Agency (DLA), Defense Contract Audit Agency (DCAA), Defense Commissary Agency (DeCA), Defense Finance and Accounting Service (DFAS), Defense Contract Management Agency (DCMA), Defense Health Agency (DHA), Department of Defense Education Activity (DoDEA), and Washington Headquarters Services (WHS), hereafter referred to as non-DCIO Components.

We examined the non-DCIO Components' investigative data and determined that DLA and DFAS were the only two Components that conducted criminal investigations and were subject to DoDI 5505.16 requirements.

We further determined DCAA, DeCA, DCMA, DHA, DoDEA, and WHS did not conduct criminal investigations. These non-DCIO Components, pursuant to their standard operating procedures reported criminal allegations to a DCIO or other law enforcement agency (LEA) or conducted administrative investigations for management action.

¹ DoD Components are identified in DoDI 5505.16 and multiple DoD instructions. We refer to the Components that employ general or criminal investigators, but are not a Defense Criminal Investigative Organization, as non-DCIO Components. We evaluated 8 of the 18 non-DCIO Components that employ general or criminal investigators.

² The DCIOs are the Defense Criminal Investigative Service (DCIS), U.S. Army Criminal Investigation Command, Naval Criminal Investigation Service, and Air Force Office of Special Investigations.

Objective (cont'd)

Specifically, we determined whether DLA and DFAS:

- notified the appropriate DCIO at the onset of all investigations as required; and
- reported allegations of misconduct made against senior officials to the DoD Office of Inspector General (OIG).

We also determined whether DCAA, DeCA, DCMA, DoDEA, WHS, DHA, the non-DCIO Components that conducted only administrative investigations:

- reported criminal allegations to a DCIO or other law enforcement agency (LEA) and
- reported allegations of misconduct made against senior officials to the DoD OIG.

Findings

- A. DLA and DFAS, the only two non-DCIO Components that conducted criminal investigations, complied with DoDI 5505.16 in 44 of 47 (94 percent) cases when they notified a DCIO at the onset of their criminal investigation.³
- DLA notified a DCIO when they initiated a criminal investigation in 39 of 42 (93 percent) criminal investigations. DLA said it did not notify a DCIO for three cases because a DCIO or law enforcement agency had declined similar cases due to lack of investigative merit, lack of investigative threshold, or because the case lacked sufficient military connection. We determined DLA should have notified a DCIO in these three cases.
 - DFAS notified a DCIO when they initiated a criminal investigation in 5 of 5 (100 percent) criminal investigations.
- B. Although DoDI 5505.16 requires non-DCIO Components that conduct criminal investigations to notify a DCIO at the onset of an investigation, the Instruction does not require non-DCIO Components that do not conduct criminal investigations to make similar notifications. However, the following agencies told us they made notifications when they received criminal allegations.

³ When a non-DCIO Component initiates a criminal investigation, it is required to notify a DCIO at the onset of the investigation.



Results in Brief

Evaluation of Non-Defense Criminal Investigative Organization Components' Compliance with DoD Instruction 5505.16, "Criminal Investigations by Personnel Who Are Not Assigned to a Defense Criminal Investigative Organization"

Findings (cont'd)

DCAA, DeCA, DCMA, and DoDEA reported 17 of 17 criminal allegations they received to a DCIO or other law enforcement agency.

- DCAA told us the agency reported one criminal allegation to a DCIO. We confirmed the DCIO received the allegation.
- DeCA officials told us the agency reported three criminal allegations to DCIOs. DCIO officials told us they had no record of two reports; another LEA told us they received the other report. DeCA made a record of their notifications, including the person's name and telephone number to whom they reported the allegations. The DCIO officials confirmed that the named persons worked for their agency at the time of the report.
- DCMA officials told us their agency reported 11 criminal allegations to a DCIO or other law enforcement agency. However, the agencies told us they received only 9 of 11 criminal allegations reported by DCMA. DCMA made a record of their notifications to include the person's name and telephone number to whom they reported the allegations. The DCIO officials confirmed that the named persons worked for their agency at the time of the report.
- DoDEA told us the agency reported two criminal allegations to a DCIO or other LEA. We confirmed the DCIO or LEA received both allegations.
- WHS officials told us the agency reported criminal allegations to the Pentagon Force Protection Agency (PFPA), but because WHS did not maintain records of those reports, we could only verify with PFPA that WHS reports criminal allegations to their agency.
- DHA reported it did not receive any criminal allegations during the period reviewed.

- C. DLA, DCAA, DeCA, DFAS, DCMA, and DoDEA complied with DoDI 5505.16 in 20 of 20 cases (100 percent) when they notified the DoD OIG of allegations of senior official misconduct. WHS and DHA officials reported that their agencies did not receive any allegations of senior official misconduct during the period reviewed.

Recommendations

We recommend that the Director, Defense Logistics Agency, ensure that investigators notify Defense Criminal Investigative Organizations at the onset of all criminal investigations initiated on Military service members, DoD civilians, or DoD contractor personnel who are identified as suspects or victims of criminal activity.

We recommend that the Directors, Defense Commissary Agency and Defense Contract Management Agency notify the Defense Criminal Investigative Organizations or other law enforcement agencies on the four cases that the receiving agency could not confirm.

We recommend that the Director, Washington Headquarters Services document notifications of criminal allegations made to a DCIO or other LEA and that the receiving agency confirms receipt of the report, as is now required in accordance with DoD Directive 5106.04, E2.3.q.

Management Comments and Our Response

The Chief of Staff, Defense Logistics Agency; the Deputy Director, Defense Commissary Agency; and the Director, Defense Contract Management Agency agreed with the recommendation to ensure that DCIO or law enforcement notifications are made, documented, and confirmed.



Results in Brief

Evaluation of Non-Defense Criminal Investigative Organization Components' Compliance with DoD Instruction 5505.16, "Criminal Investigations by Personnel Who Are Not Assigned to a Defense Criminal Investigative Organization"

Management Comments (cont'd)

The Director, Washington Headquarters Services, disagreed with our recommendation that WHS document notifications to a DCIO or other law enforcement agency and that the receiving agency confirm receipt of the report. The Director responded that while WHS does report criminal allegations, DoDD 5106.04 does not require documentation or receipt confirmation of criminal allegation notifications.

We disagree with the comments from the Director, Washington Headquarters Services. Although DoDD 5106.04 is silent concerning a requirement that DoD Components document their notification of criminal allegations made to a DCIO, we believe that documenting notifications and confirming the DCIO or LEA received them is a necessary part of an effective internal control system. Documenting and retaining this information, which is practiced by other non-DCIO Components we evaluated, ensures that the Component can demonstrate its staff took appropriate action in reporting criminal allegations and allows us to validate that all criminal allegations were reported. The revised DoDI 5505.16 will require all DoD Components to document criminal allegations reported to law enforcement and confirm that the law enforcement agency received the report.

The Director, Washington Headquarters Services also disagreed with WHS' inclusion in our evaluation, stating that WHS does not conduct criminal investigations and therefore is not subject to DoDI 5505.16.

We disagree with the Director's comment. Our evaluation determined compliance by the non-DCIO Components that conducted criminal investigations, as well as how the non-DCIO Components that did not conduct criminal investigations processed criminal allegations brought to its attention. In addition, WHS is subject to senior official misconduct reporting requirements, which are also detailed in DoDI 5505.16.

We request from the Director, Washington Headquarters Services, additional comments that discuss, in light of our comments, whether and when the agency will institute procedures to document its reporting of criminal allegations to a DCIO or other law enforcement agency. Please see the Recommendations Table on the next page.

Recommendations Table

Management	Recommendations Requiring Comment	No Additional Comments Required
Director, Defense Logistics Agency		A
Directors, Defense Commissary Agency and Defense Contract Management Agency		B.1
Director, Washington Headquarters Services	B.2	

Please provide Management Comments by January 31, 2017.



**INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
4800 MARK CENTER DRIVE
ALEXANDRIA, VIRGINIA 22350-1500**

December 22, 2016

MEMORANDUM FOR DISTRIBUTION

SUBJECT: Evaluation of Non-Defense Criminal Investigative Organization Components' Compliance with DoD Instruction 5505.16, "Criminal Investigations by Personnel Who Are Not Assigned to a Defense Criminal Investigative Organization" (Report No. DODIG-2017-036)

We are providing this report for review and comment. We evaluated whether criminal investigations conducted by non-Defense Criminal Investigative Organization personnel between June 1, 2012, and May 30, 2014, complied with DoD Instruction 5505.16, "Criminal Investigations by Personnel Who Are Not Assigned to a Defense Criminal Investigative Organization," May 7, 2012. We conducted this evaluation in accordance with the "Quality Standards for Inspection and Evaluation," published by the Council of the Inspectors General on Integrity and Efficiency.

Our evaluation covered the Defense Logistics Agency (DLA), Defense Contract Audit Agency (DCAA), Defense Commissary Agency (DeCA), Defense Finance and Accounting Service (DFAS), Defense Contract Management Agency (DCMA), Defense Health Agency (DHA), Department of Defense Education Activity (DoDEA), and Washington Headquarters Services (WHS).

We determined that DLA notified a DCIO when it initiated a criminal investigation in 39 of 42 (93 percent) criminal investigations; DFAS notified a DCIO when it initiated a criminal investigation in 5 of 5 (100 percent) criminal investigations; and DCAA, DeCA, DCMA, and DoDEA reported 17 of 17 criminal allegations they received to a DCIO or other law enforcement agency. However, we could not confirm DCIOs received two DeCA and two DCMA criminal allegations. WHS officials told us the agency reported criminal allegations to the Pentagon Force Protection Agency (PFPA), but because WHS did not maintain records of those reports, we could only verify with PFPA that WHS reports criminal allegations to its agency. DHA reported it did not receive any criminal allegations during the period reviewed.

We also determined that DLA, DCAA, DeCA, DFAS, DCMA, and DoDEA complied with DoDI 5505.16 in 20 of 20 cases (100 percent) when they notified the DoD Office of Inspector General of allegations of senior official misconduct. WHS and DHA officials reported that their agencies did not receive any allegations of senior official misconduct during the period reviewed.

We considered management comments on the draft of this report when preparing the final report. DoD Instruction 7650.03 requires that all recommendations be resolved promptly. Comments from the Chief of Staff, Defense Logistics Agency; Deputy Director, Defense Commissary Agency; and Director, Defense Contract Management Agency, addressed the specifics of our recommendations, and no further comments are required.

The Director, Washington Headquarters Services, disagreed with our recommendation that WHS document notifications to a DCIO or other law enforcement agency (LEA) and that the receiving DCIO or LEA confirm receipt of the report. The Director responded that while WHS does report criminal allegations, DoDD 5106.04 does not require documentation or receipt confirmation of criminal allegation notifications.

We disagreed with the Director's comments and responded that although DoDD 5106.04 is silent concerning a requirement that DoD Components document their notification of criminal allegations made to a DCIO, we believe that documenting notifications and confirming the DCIO or LEA received them is a necessary part of an effective internal control system. Documenting and retaining this information, which is practiced by other non-DCIO Components we evaluated, ensures that the Component can demonstrate its staff took appropriate action in reporting criminal allegations and allows us to validate that all criminal allegations were reported. The revised DoDI 5505.16 will require all DoD Components to document criminal allegations reported to law enforcement and confirm that the law enforcement agency received the report.

We request the Director reconsider her position and provide additional comments on this final report by January 31, 2017, that discuss, in light of our comments, whether and when the agency will institute procedures to document its reporting of criminal allegations to a DCIO or other law enforcement agency.

Please send a PDF file containing your comments to melvina.coakley@dodig.mil. Copies of your comments must have the actual signature of the authorizing official for your organization. We cannot accept the /Signed/ symbol in place of the actual signature. If you arrange to send classified comments electronically, you must send them over the SECRET Internet Protocol Router Network (SIPRNET).

We appreciate the courtesies extended to our staff during the evaluation. Please direct questions to Ms. Melvina Coakley at (703) 604-8622 (DSN 664-8622). If you desire, we will provide a formal briefing on the results.



Randolph R. Stone
Deputy Inspector General
Policy and Oversight

Distribution:

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Introduction

Objective

We evaluated the non-Defense Criminal Investigative Organization (non-DCIO) Components⁴ to determine whether they complied with DoD Instruction (DoDI) 5505.16, “Criminal Investigations by Personnel Who Are Not Assigned to a Defense Criminal Investigative Organization [DCIO],” May 7, 2012, when conducting criminal investigations.

Our evaluation covered the Defense Logistics Agency (DLA), Defense Contract Audit Agency (DCAA), Defense Commissary Agency (DeCA), Defense Finance and Accounting Service (DFAS), Defense Contract Management Agency (DCMA), Defense Health Agency (DHA), Department of Defense Education Activity (DoDEA), and Washington Headquarters Services (WHS), hereafter referred to as non-DCIO Components.

Specifically, we determined whether DLA and DFAS, the only two non-DCIO Components that conducted criminal investigations:

- notified a DCIO at the onset of all investigations initiated on Military Service members, DoD civilians, or DoD contractors who are identified as suspects or victims of criminal activity (DoDI 5505.16 paragraph 4.a.); and
- reported allegations of misconduct made against senior officials to the DoD Office of Inspector General (OIG) pursuant to DoDI 5505.16 (Enclosure 2, paragraph 6), as implemented by DoD Directive (DoDD) 5505.06, “Investigations of Allegations Against Senior Officials of the Department of Defense,” April 10, 2006 and “Investigations of Allegations Against Senior DoD Officials,” June 6, 2013.

We also determined whether DCAA, DeCA, DCMA, DHA, DoDEA, and WHS, the non-DCIO Components that conducted only administrative investigations:

- reported criminal allegations to a DCIO or other law enforcement agency (LEA); and
- reported allegations of misconduct made against senior officials to the DoD OIG pursuant to DoDD 5505.06.

⁴ Components are identified in DoDI 5505.16 as the Office of the Secretary of Defense, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the DoD OIG, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the DoD. Non-DCIO Components are those DoD Components that employ general or criminal investigators but are not DCIOs. We evaluated 8 of the 18 non-DCIO Components.

Background

The DoD employs more than 3,800 special agents and investigators who conduct criminal and administrative investigations. These special agents and investigators may be employed by an agency whose primary mission is to conduct criminal investigations and who have statutory arrest authority. Pursuant to the DoD OIG's oversight responsibility,⁵ we designed this review to ensure that those agencies that receive criminal allegations conduct investigations in accordance with DoD guidance or appropriately report the allegation to a DCIO or other law enforcement agency as required by DoDI 5505.16, "Criminal Investigations by Personnel Who Are Not Assigned to a Defense Criminal Investigative Organization," May 7, 2012.

The DoD also has more than 2,000 senior officials. To ensure transparency and public trust in the Department's senior leadership, the DoD has promulgated specific rules on how investigations of allegations of senior official misconduct are to be conducted. The rules are outlined in DoD Directive 5505.06. Accordingly, DoDI 5505.16 requires non-DCIO Components to promptly notify the DoD OIG of allegations of senior official misconduct.

Applicable DoD Policy

Criminal investigations require multiple administrative tasks. DoDI 5505.16 requires the non-DCIO Components that conduct criminal investigations (DLA and DFAS) to complete the following:

- promptly notify a DCIO at the onset of all investigations initiated on Military Service members, DoD civilians, or DoD contractors who are identified as suspects or victims of criminal activity;
- ensure deoxyribonucleic acid (DNA) collection is completed pursuant to DoDI 5505.14, "Deoxyribonucleic Acid (DNA) Collection Requirements for Criminal Investigations," May 27, 2010;
- ensure fingerprint and offender criminal history data are reported pursuant to DoDI 5505.11, "Fingerprint Card and Final Disposition Report Submission Requirements," July 9, 2010;
- regularly report Defense Incident-Based Reporting System (DIBRS) data pursuant to DoDD 7730.47, "Defense Incident-Based Reporting System (DIBRS)," October 15, 1996, (certified current as of December 1, 2003, canceled by DoDI 7730.47, January 23, 2014);

⁵ The DoD Inspector General (IG) has statutory authority in accordance with the Inspector General Act of 1978 for policy, oversight, and performance evaluation with respect to all DoD activities relating to criminal investigation programs. This authority is embodied in DoDD 5106.01, "Inspector General of the Department of Defense (IG DoD)," April 20, 2012, (Incorporating Change 1, August 19, 2014) and DoDI 5505.03, "Initiation of Investigations by Defense Criminal Investigative Organizations," March 24, 2011, (Incorporating Change 1, December 22, 2015).

- ensure subjects of criminal investigations are titled and indexed pursuant to DoDI 5505.07, “Titling and Indexing Subjects of Criminal Investigations in the Department of Defense,” January 27, 2012;
- report allegations of misconduct made against senior officials of the reporting DoD Component or other Components to the DoD OIG within 5 workdays of receipt pursuant to DoDD 5505.06, “Investigations of Allegations Against Senior Officials of the Department of Defense,” June 6, 2013;
- promptly and regularly report sexual assault investigation data to the appropriate Military Criminal Investigative Organization (MCIO) for incorporation into the Service’s annual report of sexual assaults involving service members pursuant to DoDD 6495.01, “Sexual Assault Prevention and Response (SAPR) Program,” January 23, 2012; and
- prescribe policy implementing the requirements set forth in DoDI 5505.16.

While the non-DCIO Components that conduct criminal investigations may be required by DoDI 5505.16 to accomplish the preceding tasks, they lack the authority to do the following requirements.⁶

DNA Collection and Submission – DoDI 5505.14

DoDI 5505.14 lists the organizations authorized to collect and submit DNA samples to the U.S. Army Criminal Investigation Laboratory. DNA is collected when fingerprints are taken in connection with an investigation conducted by a DCIO, other DoD LEA, DoD corrections authorities, or the Coast Guard Investigative Service; and when the investigator concludes there is probable cause to believe that the subject has committed the offense under investigation. The investigator must consult with a legal advisor prior to making a probable cause determination. The instruction does not have a provision for collecting and submitting DNA by organizations or agencies other than the DCIOs and LEAs.

Fingerprint Collection and Submission – DoDI 5505.11

DoDI 5505.11 states that fingerprints and criminal history data are collected from military subjects and submitted to the Federal Bureau of Investigation (FBI) when investigated by a DCIO or other DoD law enforcement organization, and an agent or law enforcement official determines, following coordination with the a legal advisor if necessary (in no case earlier than apprehension or the subject interview), that probable cause exists to believe that the person has committed an offense listed

⁶ While 5505.16 requires these actions, it is understood the DCIO or law enforcement agency receiving the referral and conducting the investigation, and not the non-DCIO, will accomplish these requirements. In the event the non-DCIO case proceeds to administrative action, these requirements are not necessary.

in Enclosure 2 of that Instruction. The instruction does not have a provision for collecting and submitting fingerprints by organizations or agencies other than the DCIOs and LEAs.

DIBRS Reporting – DoDD 7730.47

DoDD 7730.47 assigns responsibility to DoD Components with assigned law enforcement agencies or activities for monthly reporting criminal incidents to DIBRS. DIBRS is DoD's centralized reporting system to the FBI's National Incident-Based Reporting System. The Director, Law Enforcement Policy and Support, Office of the Under Secretary of Defense for Personnel and Readiness, who is the Instruction proponent, stated that only DCIOs and DoD LEAs are required to submit DIBRS information. The instruction does not have a provision for collecting and reporting criminal history data by organizations or agencies other than the DCIOs and LEAs.

Subject Titling and Indexing – DoDI 5505.07

DoDI 5505.07 requires only DCIOs and other DoD LEAs to title and index subjects of criminal investigations in the Defense Clearance and Investigations Index (DCII, now known as the Defense Central Index of Investigations) as soon as the investigation determines that credible information exists that the subject committed a criminal offense. According to this instruction, non-DCIO Components are not considered a DoD LEA and are not required to collect and submit information in the DCII. The instruction does not have a provision to title and index subjects of criminal investigations by organizations or agencies other than the DCIOs and LEAs.

Sexual Assault Data Reporting – DoDD 6495.01

DoDD 6495.01 requires only the Secretaries of the Military Departments to report sexual assault data for incorporation into the Service's annual report of sexual assaults involving Service members. This requirement does not apply to non-DCIOs.

We determined policy requirements pertaining to DNA and fingerprint collection and submission, DIBRS data reporting, subject titling and indexing in DCII, and submission of sexual assault investigation data were only applicable to criminal investigations conducted by DCIOs, other DoD LEA or the Military Departments and not to the non-DCIO Components. We referred this policy deficiency to our Investigative Policy and Oversight Division for revision of DoDI 5505.16.

The DoDI 5505.16 revision to address this deficiency is currently in coordination with an expected update to be issued in the near future. The revision will:

- restrict the ability to conduct criminal investigations to only those Components with law enforcement authority established by statute in the United States Code, or with Inspector General authority, as prescribed by the Inspector General Act of 1978, as amended;
- establish a process for Components to report potential criminal allegations to a DCIO or other law enforcement agency;
- require the Components to maintain records of all reports, full contact information to whom and the agency to which the criminal allegation is reported; and
- require that if a DCIO or other law enforcement agency does not accept a criminal allegation referral for investigation then the Component will conduct an administrative (not criminal) investigation.

Conclusion

DoDI 5505.16 requires multiple administrative activities during criminal investigations, such as DNA and fingerprint collection and submission, DIBRS criminal incident data reporting, subject titling and indexing in DCII, and submission of sexual assault investigation data. These administrative tasks are only required when a DCIO or other law enforcement agency conducts the criminal investigation.

Additionally, DNA and fingerprints are only collected and submitted when a DCIO or other DoD law enforcement official and the appropriate legal advisor determine there is probable cause to believe a person committed an offense in violation of Articles 77 – 134 of the Uniform Code of Military Justice or equivalent civilian law violations.

Therefore, we conclude that while DoDI 5505.16 assigns the responsibility for completing the administrative tasks, the non-DCIO Components lack the authority to accomplish the tasks.

The DoD OIG is revising DoDI 5505.16 to address this deficiency. The revision will:

- restrict the ability to conduct criminal investigations to only those Components with law enforcement authority established by statute in the United States Code, or with Inspector General authority, as prescribed by the Inspector General Act of 1978, as amended;
- establish a process for Components to report potential criminal allegations to a DCIO or other law enforcement agency;

- require the Components to maintain records of all reports, full contact information to whom and the agency to which the criminal allegation is reported; and
- require that if a DCIO or other law enforcement agency does not accept a criminal allegation referral for investigation then the Component will conduct an administrative (not criminal) investigation.

In the interim, should a non-DCIO Component conduct a criminal investigation requiring these activities, a DCIO or other law enforcement agency would need to be consulted and assume this administrative responsibility.

Finding A

Defense Logistics Agency (DLA) and Defense Finance and Accounting Service (DFAS), the Only Two Non-DCIOs That Conducted Criminal Investigations, Notified a DCIO of Ongoing Criminal Investigations in 44 of 47 Cases (94 Percent)

DoDI 5505.16 requires non-DCIO Components that conduct criminal investigations to prescribe Component procedures implementing the requirements of the instruction. We determined both DLA and DFAS implemented policies in accordance with DoDI 5505.16 to promptly notify their servicing DCIO at the onset of all investigations initiated on Military Service members, DoD civilians, or DoD contractors who are identified as suspects or victims of criminal activity.

We reviewed investigative records for 86 investigations; 56 for DLA and 30 for DFAS. We determined 39 investigations (14 for DLA and 25 for DFAS) did not require notification to a DCIO in accordance with already established Investigative Responsibility Memorandums of Understanding (MOU) the agencies had with DCIS; each MOU contains a list of offenses that do not require DCIS notification.

We determined that DLA notified a DCIO in 39 of 42 (93 percent) criminal investigations that required notification, and DFAS notified a DCIO in 5 of 5 (100 percent) criminal investigations that required notification.

DLA and DFAS Internal Guidance

DLA Instruction 5106, "Conduct of Investigations by DLA Investigators and Special Agents," April 13, 2009, modified September 10, 2009, (certified current May 16, 2013), states:

OIG, ID [Office of the Inspector General Investigations Division] also provides investigative capability for matters of interest to the Director, not suitable for referral to a DoD criminal investigative organization, not within mutually agreed investigative guidelines of the DoD investigative organizations, or declined for investigative responsibility by a DoD investigative organization.

The “DFAS Internal Review Investigations Manual,” August 30, 2013, states:

Based on direction of the IR (Internal Review) Director and Deputy Director for Investigations and Cleveland Performance (referred to as “IR Deputy Director” for rest of Manual), DICIB [DFAS Internal Review Criminal Investigations Branch] will initiate investigations when there are sufficient facts or circumstances that “reasonably indicate” that a violation of Federal law or DoD or DFAS regulation involving DFAS funds, personnel or other assets has occurred, is occurring or will occur. The IR Director, through the IR Deputy Director, delegated the responsibility for initiating investigations, assigning resources and providing general supervision and oversight of investigations to the DICIB, Chief, Criminal Investigations (CCI).

Case Review

We reviewed investigative case logs that DLA and DFAS provided and developed a case review protocol to document information in investigative case files. The review protocols addressed investigative steps required to comply with DoDI 5505.16 to include whether investigators notified a DCIO at the onset of a criminal investigation. DLA provided us digital copies of its reports of investigation and file chronologies downloaded from its report writing system. We visited the DFAS’ criminal investigation office in Columbus, Ohio, and reviewed its case files. We then eliminated certain investigation case files.⁷

DLA

DLA Instruction 5106 states that the DLA OIG ID conducts general, administrative, and criminal investigations for DLA matters “not suitable for referral to a DoD criminal investigative organization,” or when the DCIO has declined investigative authority.

We reviewed 56 DLA OIG ID criminal investigations initiated between June 1, 2012, and May 30, 2014, for compliance with DoDI 5505.16 policy for criminal investigations conducted by non-DCIO investigators. These investigations included theft, false statement, and indecent assault allegations.

⁷ Those case files included criminal investigations listed more than once on the case log, criminal investigations that were still open, administrative (not criminal) cases, civilian police arrests, and requests for assistance.

Notification to a DCIO

DLA OIG ID published the “DLA Office of Inspector General Investigations Division Standard Operating Procedure,” March 29, 2014, (DLA OIG ID SOP), which provides guidance for notifying its servicing DCIO at the onset of all investigations. The DLA OIG ID SOP discusses coordination with DCIS, MCIOs, or other law enforcement agencies depending on which has criminal investigative jurisdiction over the subject or victim. The DLA OIG ID SOP meets the DoDI 5505.16 requirement to prescribe Component procedures implementing notification requirements.

Of the 56 DLA OIG ID criminal investigations we reviewed, 42 investigations required DLA OIG ID to notify a DCIO. DLA OIG ID notified DCIOs in 39 of the 42 investigations, leaving 3 in which DCIOs were not notified. DCIOs confirmed they were notified of the 39 investigations. We reviewed the three investigations.

- A DoD contractor possessed cocaine and marijuana during a traffic stop. He pled guilty in a federal court; the U.S. Marshal Service was responsible for DNA and fingerprint collection and submission.
- A supervisor allegedly used racial slurs and grabbed the arm (assault) of a subordinate when he didn’t respond to her questions. The criminal allegation of assault was unsubstantiated.
- A male security specialist allegedly slapped the buttocks of a female police officer at a unit picnic. The investigation substantiated assault and sexual harassment occurred; the report was sent to management for administrative action.

DLA OIG ID concurred that it did not notify a DCIO for three cases, because similar cases in the past were declined by the DCIO or law enforcement agency due to lack of investigative merit, lack of investigative threshold, or because the case lacked a sufficient military connection. Therefore, in DLA’s opinion, the three cases would be declined again. DCIS officials told us that if they had been notified of the three DLA investigations, they would have declined the investigations because they were below DCIS’s investigative threshold. We concluded that although these investigations may be of the type that have historically been deferred by DCIS to DLA, and DCIS acknowledged it would have deferred the investigations, in accordance with DoDI 5505.16 and DLA’s MOU with DCIS, DLA was required to make the notifications to DCIS and should have made the notifications.

The remaining 14 criminal investigations we reviewed did not require DCIO notification because DLA has an “Investigative Responsibility” MOU with DCIS, July 15, 2008. The MOU contains a list of “matters where DCIS as a matter of routine has deferred to DLA;”⁸ therefore, DLA was authorized to investigate without notifying DCIS.

DFAS

DICIB conducts investigations for DFAS. According to the “DFAS Internal Investigations Review Manual,” August 30, 2013, the DICIB initiates:

investigations when there are sufficient facts or circumstances that ‘reasonably indicate’ that a violation of Federal law or DoD or DFAS regulations involving DFAS funds, personnel or other assets has occurred, is occurring or will occur.

We reviewed 30 DFAS DICIB criminal investigations initiated between June 1, 2012 and May 30, 2014 for compliance with DoDI 5505.16 policy for criminal investigations conducted by non-DCIO investigators. These investigations included theft of public funds, false statement, and workers’ compensation fraud.

Notification to a DCIO

DFAS DICIB published “DFAS Internal Review Investigations Manual,” August 30, 2013, and DICIB Policy Memorandum, “Allegation Reporting Policy,” October 4, 2010, which provide guidance for notifying DCIS of possible criminal violations. The manual and memorandum meet the DoDI 5505.16 requirement to prescribe Component procedures implementing its notification requirements.

Of the 30 DFAS DICIB criminal investigations we reviewed, five investigations required DFAS DICIB to notify a DCIO. DFAS DICIB indicated that they notified DCIS in all five investigations; this was confirmed by DCIS. The remaining 25 criminal investigations we reviewed did not require DCIO notification because DFAS DICIB has an “Investigative Responsibility” MOU with DCIS, January 26, 2009. The MOU contains a list of “matters where DCIS as a matter of routine has deferred to DFAS;” therefore, DFAS DICIB was authorized to investigate without notifying DCIS.

⁸ DCIS defers to DLA offenses, “such as workers’ compensation matters, minor travel, or Permanent Change of Station frauds where the estimated loss is less than \$20,000, Standards of Conduct matters, misuse of Government equipment (vehicles, phones, copiers, etc.), falsifying applications for employment, threatening or disruptive behavior in the workplace, thefts of Government property valued at less than \$10,000, and time and attendance matters.”

Conclusion

DLA OIG ID notified a DCIO in 39 of 42 (93 percent) criminal investigations initiated on Military Service members, DoD civilians, or DoD contractors who were identified as suspects or victims of criminal activity. DLA OIG ID concurred that it did not notify a DCIO for three cases, because similar cases in the past were declined by the DCIO or law enforcement agency due to lack of investigative merit, lack of investigative threshold, or because the case lacked a sufficient military connection. Therefore, in DLA's opinion, the three cases would be declined again. We reviewed DoDI 5505.16 and the MOU that DCIS executed with DLA and determined DLA should have notified DCIS of the allegations. We concluded that although these investigations are of the type that, historically, may have been deferred by DCIS to DLA, DLA failed to comply with DoDI 5505.16 when they did not notify a DCIO at the onset of in these investigations. Additionally, DLA OIG ID created agency policy to notify the servicing DCIO at the onset of all investigations.

DFAS DICIB complied with requirements to notify a DCIO or other law enforcement agency. DFAS DICIB notified a DCIO in all five criminal investigations initiated on Military Service members, DoD civilians, or DoD contractor personnel who were identified as suspects or victims of criminal activity. Additionally, DFAS DICIB created agency policy to notify the servicing DCIO at the onset of all investigations.

Recommendation, Management Comments, and Our Response

Recommendation A

We recommend that the Director, Defense Logistics Agency, ensure that investigators notify servicing Defense Criminal Investigative Organizations at the onset of all investigations initiated on Military service members, DoD civilians, or DoD contractor personnel who are identified as suspects or victims of criminal activity.

Chief of Staff, Defense Logistics Agency, Comments

The Chief of Staff, Defense Logistics Agency, agreed with our recommendation to notify a DCIO when initiating a criminal investigation and stated that DLA has subsequently revised its Standard Operating Procedures to reflect this requirement.

Our Response

Comments from the Chief of Staff, Defense Logistics Agency, addressed all specifics of our recommendation, and no further comments are required.

Finding B

DCAA, DeCA, DCMA, and DoDEA Reported 17 of 17 Criminal Allegations They Received to a DCIO or Other LEA

Although DoDI 5505.16 requires non-DCIO Components that conduct criminal investigations to notify a DCIO at the onset of an investigation, the Instruction does not require non-DCIO Components that do not conduct criminal investigations to make similar notifications or make a record of the notifications when they receive criminal allegations. However, these agencies told us they made notifications when they received criminal allegations.

DCAA, DeCA, DCMA, and DoDEA officials, collectively, told us they reported 17 criminal allegations to a DCIO or other LEA. We confirmed they reported 17 allegations to a DCIO or other LEA. Although non-DCIO Component records reflected the notifications were made, DCIOs told us they did not have a record of being notified of four allegations. DCIOs did not confirm that DeCA reported two allegations or that DCMA reported two allegations. However, both agencies made a record of their notifications to include the person's name and telephone number to whom they reported the allegations. Based on this information, we believe the notifications were, in fact, made.

WHS told us they reported criminal allegations they received to the Pentagon Force Protection Agency (PFPA); however the WHS officials did not document criminal allegation reports. We confirmed with the PFPA that it received criminal allegation reports from WHS during the period reviewed.

DHA told us they did not receive any criminal allegations during the period reviewed.

Reporting Criminal Allegations

DCAA, DeCA, DCMA, DoDEA, WHS, and DHA told us they conduct only administrative investigations, they do not conduct criminal investigations. Although DoDI 5505.16 requires non-DCIO Components that conduct criminal investigations to notify a DCIO at the onset of an investigation, the Instruction does not specifically require non-DCIO Components that do not conduct criminal investigations to make similar notifications or make a record of the notifications when they receive criminal allegations. However, in accordance with these agencies' standard operating procedures, they do make notifications when they

receive criminal allegations. We determined these agencies made notifications in the following instances. Additionally, DoDD 5106.04, "Defense Inspectors General," May 22, 2014, now requires Component heads and Defense IGs to promptly report all allegations of criminal activity to the responsible DCIO.

DCAA

- The DCAA Inspector General reported that the DCAA OIG performs administrative investigations, and all allegations of criminal activity are promptly reported to the responsible DCIO.
- DCIS and DCAA have an MOU, "Memorandum of Understanding between Defense Contract Audit Agency (DCAA) Inspector General (IG) and Defense Criminal Investigative Service (DCIS) Regarding Investigative Responsibility," December 14, 2015. According to the MOU, "DCAA OIG will notify DCIS within 48 hours of any criminal activity or event."
- DCAA officials told us they reported one criminal allegation to DCIS. DCIS confirmed they were notified of the allegation.

DeCA

- The DeCA Inspector General reported the OIG only conducts administrative investigations and, if criminal activity is uncovered during the course of an administrative investigation, it is referred to the appropriate criminal investigative agency.
- DeCA officials told us they received three criminal allegations that they reported to law enforcement.
 - DeCA told us they reported two criminal allegations to DCIS; however, DCIS told us they had no record of the notifications.
 - DeCA also said they made one report to AFOSI; however, AFOSI told us they had no record of the notification. Air Force Security Forces (AF SF) told us they received the notification.
- DeCA made a record of their notifications to include the person's name and telephone number to whom they reported the allegations. DCIS and AF SF confirmed that the named person worked for their agency at the time of the report.

DCMA

- The Executive Director, Office of Independent Assessment, DCMA, reported his agency "regularly conducts investigations that are administrative in nature."
- DCMA officials reported they received and reported 11 allegations of criminal activity to law enforcement.

- DCMA officials told us they reported nine criminal allegations to DCIS. DCIS told us they received notification of eight allegations; however, they did not have a record of the other notification.
- DCMA officials also told us they reported one criminal allegation to the United States Army Criminal Investigation Command (USACIDC). USACIDC told us they did not have a record of the notification.
- Finally, DCMA officials told us they reported one criminal allegation to the U.S. Secret Service (USSS). The USSS confirmed the notification of the one allegation.
- DCMA made a record of their notifications to include the person's name and telephone number to whom they reported the allegations. DCIS and USACIDC confirmed that the named person worked for their agency at the time of the report.

DoDEA

- The Chief, Office of Investigations and Internal Review (OI & IR), reported the OI & IR office is “an administrative investigative office and does not initiate or conduct criminal investigations. If in the course of administrative investigations criminal conduct is suspected, identified, or reported to OI & IR a referral is made to the applicable DCIO with jurisdiction over the matter and/or personnel involved.”
- DoDEA officials reported they received two allegations of criminal activity that were reported to DCIS. DCIS confirmed notification of both allegations.

WHS

- WHS officials stated they do not conduct criminal investigations. According to a WHS official, criminal allegations are immediately reported to the Pentagon Force Protection Agency (PFPA), who has the law enforcement responsibility for the Pentagon Reservation and designated DoD facilities.
- WHS did not document reported criminal allegations, as there is no statutory requirement to do so, and could not determine how many occurred during the period reviewed. PFPA officials confirmed they routinely received allegations from WHS.

DHA

- DHA Acting Deputy Director stated, “[the] Defense Health Agency (DHA) does not conduct criminal investigations concerning DHA staff. All potential cases involving possible criminal conduct are referred to the DoD OIG for review and subsequent referral to the DCIS for investigation and adjudication.”
- DHA’s Acting General Counsel reported the agency did not receive or report any criminal allegations during the period reviewed.

Conclusion

DoDI 5505.16 does not require non-DCIO Components that do not conduct criminal investigations to make law enforcement notifications or make a record of the notifications when they receive criminal allegations. However, we found that the agencies were notifying law enforcement when they received criminal allegations.

DCAA, DeCA, DCMA, and DoDEA officials, collectively, told us they reported 17 criminal allegations to a DCIO or other LEA. We confirmed they reported 17 allegations (100 percent) to a DCIO or other LEA. Although DeCA and DCMA told us they reported three and 11 (respectively) criminal allegations to a DCIO or LEA, we could only confirm DeCA made 1 of the 3 notifications and DCMA made 9 of 11 notifications. However, both DeCA and DCMA made a record of their notifications to include the person’s name and telephone number to whom they reported the allegations. The agencies told us that the named person worked for their agency at the time of the report. WHS did not document criminal allegation reports; however, we validated with the PFPA that it received reports from WHS during the period reviewed. DHA did not report any criminal allegations during the period reviewed.

We also note that DoD has issued specific policy in DoDD 5106.04, “Defense Inspectors General”, May 22, 2014, that now requires Component heads and Defense IGs to promptly report all allegations of criminal activity to the responsible DCIO.

Recommendations, Management Comments, and Our Response

Recommendation B.1

We recommend that the Directors, Defense Commissary Agency, and Defense Contract Management Agency, notify the Defense Criminal Investigative Organizations or other law enforcement agencies of the four cases that the receiving agency could not confirm.

Deputy Director, Defense Commissary Agency

The Deputy Director, Defense Commissary Agency, agreed and stated the agency reported both criminal allegations to DCIS.

Our Response

Comments from the Deputy Director, Defense Commissary Agency, addressed all specifics of our recommendation. We confirmed that DCIS received both allegations, and no further comments are required.

Director, Defense Contract Management Agency

The Director, Defense Contract Management Agency, agreed and stated the agency reported the criminal allegations to DCIS and USACIDC.

Our Response

Comments from the Director, Defense Contract Management Agency, addressed all specifics of our recommendation. We confirmed that DCIS and USACIDC received the allegations, and no further comments are required.

Recommendation B.2

We recommend that the Director, Washington Headquarters Services, document notifications of criminal allegations made to a Defense Criminal Investigative Organization or other law enforcement agency and that the receiving agency confirms receipt of the report as is now required in accordance with DoD Directive 5106.04, E2.3.q.

Director, Washington Headquarters Services

The Director, Washington Headquarters Services, disagreed with our recommendation that WHS document notifications to a DCIO or other law enforcement agency and that the receiving agency confirm receipt of the

report. The Director responded that while WHS does report criminal allegations, DoDD 5106.04 does not require documentation or receipt confirmation of criminal allegation notifications. The Director also disagreed with the inclusion of WHS in the evaluation noting that WHS does not conduct criminal investigations and therefore is not subject to DoDI 5505.16.

Our Response

We disagree with the comments from the Director, Washington Headquarters Services. Although DoDD 5106.04 is silent concerning a requirement that DoD Components document their notification of criminal allegations made to a DCIO, we believe that documenting notifications and confirming the DCIO or LEA received them is a necessary part of an effective internal control system. Documenting and retaining this information, which is practiced by other non-DCIO Components we evaluated, ensures that the Component can demonstrate its staff took appropriate action in reporting criminal allegations and allows us to validate that all criminal allegations were reported. The revised DoDI 5505.16 will require all DoD Components to document criminal allegations reported to law enforcement and confirm that the law enforcement agency received the report.

The Director also disagreed with WHS' inclusion in our evaluation noting that WHS does not conduct criminal investigations and therefore is not subject to DoDI 5505.16.

We disagree with the Director's comment. Our evaluation determined compliance by the non-DCIO Components that conducted criminal investigations, as well as how the non-DCIO Components that did not conduct criminal investigations processed criminal allegations brought to its attention. In addition, WHS is subject to senior official misconduct reporting requirements, which is also detailed in DoDI 5505.16.

Therefore, we request the Director reconsider her position and provide additional comments, that discuss, in light of our comments, whether and when the agency will institute procedures to document its reporting of criminal allegations to a DCIO or other law enforcement agency.

Finding C

DLA, DCAA, DeCA, DFAS, DCMA, and DoDEA Complied with DoDI 5505.16 in 20 of 20 Cases (100 Percent) When They Notified the DoD OIG of Allegations of Senior Official Misconduct

DoDI 5505.16 requires that non-DCIO Components shall, “report allegations of misconduct made against senior officials to the IG DoD pursuant to DoDD 5505.06.” DoDD 5505.06 reflects it is DoD policy that allegations of misconduct against senior officials will be reported to the IG DoD.

We evaluated non-DCIO Components’ compliance with the requirement to report senior official allegations to the DoD OIG.

DLA, DCAA, DeCA, DFAS, DCMA, and DoDEA, collectively, told us they reported 20 senior official allegations to the DoD OIG. WHS and DHA told us they did not have any allegations of senior official misconduct during the evaluation period.

We validated that DLA, DCAA, DeCA, DFAS, DCMA, and DoDEA notified the DoD OIG of senior official misconduct in 20 of 20 cases (100 percent) they told us they reported.

Reporting Senior Official Misconduct Allegations

DoDI 5505.16 requires all Components to report senior official misconduct allegations to the DoD OIG pursuant to DoDD 5505.06, “Investigations of Allegations Against Senior Officials of the Department of Defense,” April 10, 2006 and “Investigations of Allegations Against Senior DoD Officials,” June 6, 2013. We evaluated compliance with this requirement. We then verified that the DoD OIG Investigation of Senior Officials (ISO) Directorate received those allegations.

DLA

- DLA reported it notified the DoD OIG on one allegation of misconduct made against a senior official. The DoD OIG ISO confirmed notification of the allegation.

DCAA

- DCAA reported it notified the DoD OIG on 11 allegations of misconduct made against senior officials. The DoD OIG ISO confirmed notification of all 11 allegations.

DeCA

- DeCA reported it notified the DoD OIG on one allegation of misconduct made against a senior official. The DoD OIG ISO confirmed notification of the allegation.

DFAS

- DFAS DICIB reported it notified the DoD OIG on five allegations of misconduct against senior officials. The DoD OIG ISO confirmed notification of the five allegations.

DCMA

- DCMA reported it notified the DoD OIG on one allegation of misconduct made against a senior official. The DoD OIG ISO confirmed notification of the allegation.

DoDEA

- DoDEA reported it notified the DoD OIG on one allegation of misconduct made against a senior official. The DoD OIG ISO confirmed notification of the allegation.

WHS

- WHS reported it had no allegations of misconduct made against senior officials during the evaluation period. The DoD OIG ISO reviewed their records and found no allegations reported to them by WHS.

DHA

- DHA reported it had no allegations of misconduct made against senior officials during the evaluation period. The DoD OIG ISO reviewed their records and found no allegations reported to them by DHA.

Summary

We confirmed with DoD OIG Investigation of Senior Officials Directorate that it was notified in 20 out of 20 cases (100 percent) which non-DCIO Components told us they reported to DoD OIG.

Appendix

Scope and Methodology

We conducted this evaluation from May 2015 to October 2016, in accordance with the Council of the Inspectors General on Integrity and Efficiency (CIGIE), “Quality Standards for Inspection and Evaluation,” January 2012. Based on the objectives of the evaluation, we performed the evaluation to obtain sufficient information to provide a reasonable basis for our observations and conclusions. We used professional judgment in making observations and recommendations.

We evaluated criminal investigations for compliance with DoDI 5505.16, which establishes requirements for DoD Component-employed personnel who are conducting criminal investigations and are not assigned to a DCIO. The Instruction defines criminal investigations as those “investigations into alleged or apparent violations of law undertaken for purposes which include the collection of evidence in support of potential criminal prosecution.”

The scope of this evaluation was limited to investigations initiated between June 1, 2012 and May 30, 2014 (24 months). In addition, Components were selected based on the size of the law enforcement and investigative work force.

Prior to announcing this project, the Director, Law Enforcement Policy and Support Office (USD P&R) provided us a list of DoD Components who employed criminal and general investigators. The list included 15 Components and the number of assigned investigators.⁹ The information did not identify whether the Components conducted criminal investigations.

In determining the scope of our evaluation, we considered the following parameters:

- size of the law enforcement work force,
- other ongoing Investigative Policy and Oversight evaluations, and
- potential difficulties in accessing classified information.

We evaluated the following eight Components during this project:

- Defense Logistics Agency
- Defense Contract Audit Agency
- Defense Commissary Agency
- Defense Finance and Accounting Service

⁹ This list did not include three non-DCIO Components that employ general or criminal investigators because the number of those employees is classified.

- Defense Contract Management Agency
- Defense Health Agency
- Department of Defense Education Activity
- Washington Headquarters Services

DCAA, DeCA, DCMA, DoDEA, DHA, and WHS stated that they conduct only administrative investigations, such as time and attendance abuse or misuse of Government computers, and provide reports to management for administrative action against policy violators.

These Components, pursuant to their standard operating procedures (SOPs) or MOUs with DCIS, report criminal allegations or activity to the appropriate DCIO or local law enforcement agency (LEA).

We verified whether the Components reported criminal allegations to a DCIO or LEA, and then we validated whether those allegations were received.

Accordingly, we evaluated only DLA and DFAS for compliance with DoDI 5505.16 when conducting criminal investigations. We reconciled lists of investigations from both DLA OIG ID and DICIB to identify and evaluate the criminal investigations they conducted.

Use of Computer-Processed Data

DLA generated a list of investigative actions from its DLA Criminal Incident Reporting System. We used a Microsoft Access database developed from a requirements-based protocol. Based on Microsoft Access query results, we copied information to an Excel file for computations.

Prior Coverage

No prior coverage has been conducted on non-DCIO criminal investigations during the last 5 years.

Management Comments

Chief of Staff, Defense Logistics Agency



DEFENSE LOGISTICS AGENCY
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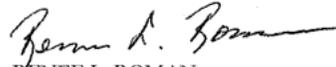
NOV 18 2016

MEMORANDUM FOR INSPECTOR GENERAL, DEPARTMENT OF DEFENSE

SUBJECT: Response for Finding A, Evaluation of Non-Defense Criminal Investigative Organization Components' Compliance with Department of Defense Instruction 5505.16, "Criminal Investigations by Personnel Who Are Not Assigned to a Defense Criminal Investigative Organization dated October 31, 2016

DLA concurs that the Investigations Division, Office of the Inspector General, Defense Logistics Agency (DLA), will ensure that a Defense Criminal Investigation Organization is coordinated with and notified prior to initiation of a criminal investigation.

As noted in the Department of Defense Inspector General report, DLA Investigations Division clarified this requirement in their Standard Operating Procedure dated Mar 29, 2014. Investigative processes were changed to require approval to convert to a criminal investigation at the Deputy Inspector General level, following coordination with the DLA General Counsel. These processes are emphasized in DLA policy, direction, and training. Furthermore, DLA will review our investigations capability with a consideration to reducing the scope and types of investigations that the organization conducts.


RENEE L. ROMAN
Chief of Staff

Deputy Director, Defense Commissary Agency



IN REPLY REFER TO

DEFENSE COMMISSARY AGENCY
HEADQUARTERS
1300 E AVENUE
FORT LEE, VIRGINIA 23801-1800

SOS

November 17, 2016

MEMORANDUM FOR DEPUTY INSPECTOR GENERAL, POLICY AND OVERSIGHT,
DEPARTMENT OF DEFENSE INSPECTOR GENERAL

SUBJECT: Evaluation of Non-Defense Criminal Investigative Organization Components' Compliance with Department of Defense Instruction 5505.16, "Criminal Investigations by Personnel Who Are Not Assigned to a Defense Criminal Investigative Organization" (Project No. 2015C009)

The Defense Commissary Agency (DeCA) agrees with the findings and recommendation pertaining to DeCA in the subject evaluation. During the scope of the evaluation DeCA notified Defense Criminal Investigative Organizations (DCIO), or other law enforcement agencies, of three criminal allegations. The evaluation stated two of the agencies could not confirm receiving notification; however DeCA recorded the notified persons' names and telephone numbers. The evaluation also stated the agencies confirmed the named persons worked for them at the time of report.

The evaluation recommended that DeCA notify the DCIOs, or other law enforcement agencies, of the two cases that the receiving agency could not confirm. DeCA complied with the recommendation on November 10, 2016, by sending both notifications via overnight delivery to the Defense Criminal Investigative Service agent assigned as liaison to DeCA.

If you have any questions, my point of contact for this matter is Mr. [REDACTED], Chief, Investigations Division (Acting), [REDACTED]


Michael J. Dowling
Deputy Director

Director, Defense Contract Management Agency



DEFENSE CONTRACT MANAGEMENT AGENCY

3901 A. AVENUE, BUILDING 10500
FORT LEE, VIRGINIA 23801-1809

NOV 18 2016

MEMORANDUM FOR INSPECTOR GENERAL, DEPARTMENT OF DEFENSE, 4800
MARK CENTER DRIVE, ALEXANDRIA, VIRGINIA 22350-1500

SUBJECT: Evaluation of Non-Defense Criminal Investigative Organization Components
Compliance with Department of Defense Instruction 5505.16, "Criminal Investigations by
Personnel Who Are Not Assigned to a Defense Criminal Investigative Organization" (Project
No. 2015C009)

This memorandum is in response to your draft report, dated October 31, 2016, pertaining to
subject assessment.

Recommendation B.1: We recommend that the Directors, Defense Commissary
Agency and Defense Contract Management Agency notify the DCIOs or other law enforcement
agencies on the four cases that the receiving agency could not confirm.

DCMA Response: DCMA concurs with the requirements set forth in DODI 5505.16.
On November 14 and 15, 2016, DCMA contacted the Defense Criminal Investigative Service
(DCIS) and the United States Army Criminal Investigation Command Division (USACIDC)
about the two cases in question for DCMA. Case file emails from the DCIOs acknowledging
notification are enclosed as supporting documentation. Additionally, we have developed a best
practice for future cases to request written DCIO acknowledgement and declination, and retain
the correspondence.

A handwritten signature in cursive script, reading "Wendy M. MasieLO", is positioned above the typed name.

WENDY M. MASIELO
Lieutenant General, USAF
Defense Contract Management Agency

Enclosures:

1. Email acknowledgement to US Army USACIDC
2. Email acknowledgement to DODIG

Director, Washington Headquarters Services



DEPARTMENT OF DEFENSE
WASHINGTON HEADQUARTERS SERVICES
1155 DEFENSE PENTAGON
WASHINGTON, DC 20301-1155



NOV 18 2016

MEMORANDUM FOR OFFICE OF THE INSPECTOR GENERAL, DEPARTMENT OF DEFENSE
(ATTN: Ms. Melvina Coakley)

SUBJECT: Project Number 2015C009, "Evaluation of Non-Defense Criminal Investigative Organization Components' Compliance with Department of Defense Instruction 5505.16, "Criminal Investigations by Personnel Who Are Not Assigned to a Defense Criminal Investigative Organization"

This is in response to your request for comments regarding the proposed subject report. I do not concur with including Washington Headquarters Services (WHS) in this compliance evaluation. As you correctly determined, WHS does not conduct criminal investigations and is not subject to DoD Instruction 5505.16 requirements.

Within the proposed report, recommendation B.2 states: "We recommend that the Director, Washington Headquarters Service [sic] document notifications of criminal allegations made to a DCIO or other law enforcement agency and that the receiving agency confirms receipt of the report as is now required IAW DoDD 5106.04, E2.3.q." I do not concur with this recommendation. While WHS does refer allegations of potential criminal conduct to the Pentagon Force Protection Agency (PFPA), DoDD 5106.04 does not contain language requiring documentation or receipt confirmation of criminal allegation notifications. As such, WHS is fully compliant with the DoDD.

If you have any questions the WHS POC is Mr. [REDACTED] Director, Security Office, who can be reached at [REDACTED].


Barbara A. Westgate
Director

Acronyms and Abbreviations

DCAA	Defense Contract Audit Agency
DCII	Defense Central Index of Investigations (formerly Defense Clearance and Investigations Index)
DICIB	DFAS Internal Review Criminal Investigations Branch
DCIO	Defense Criminal Investigative Organization
DCIS	Defense Criminal Investigative Service
DCMA	Defense Contract Management Agency
DeCA	Defense Commissary Agency
DFAS	Defense Finance and Accounting Service
DHA	Defense Health Agency
DIBRS	Defense Incident-Based Reporting System
DLA	Defense Logistics Agency
DNA	Deoxyribonucleic Acid
DoDEA	Department of Defense Education Activity
FBI	Federal Bureau of Investigation
ID	Investigations Division
IR	Internal Review
LEA	Law Enforcement Agency
MCIO	Military Criminal Investigative Organization
MOU	Memorandum of Understanding
OIG	Office of Inspector General
SOP	Standard Operating Procedure
USACIDC	United States Criminal Investigation Command
WHS	Washington Headquarters Services

Whistleblower Protection

U.S. DEPARTMENT OF DEFENSE

The Whistleblower Protection Ombudsman's role is to educate agency employees about prohibitions on retaliation and employees' rights and remedies available for reprisal. The DoD Hotline Director is the designated ombudsman. For more information, please visit the Whistleblower webpage at www.dodig.mil/programs/whistleblower.

For more information about DoD IG reports or activities, please contact us:

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