

IN THE CASE OF: [REDACTED]

BOARD DATE: 20 June 2025

DOCKET NUMBER: AR20240004548

APPLICANT REQUESTS:

- removal of his name from the title block of the U.S. Army Criminal Investigation Command (CID) Law Enforcement Report (LER), 29 July 2021 with all allied documents and associated derogatory information
- a personal appearance hearing before the Board

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:

- Two DD Forms 149 (Application for Correction of Military Record)
- Three Legal Briefs in Support of Removal of CID Titling
- Copy of Military Identification Card
- Commander's Memorandum to U.S. Army Human Resources Command (HRC), with –
 - Two DA Forms 4856 (Developmental Counseling Forms)
 - Four DA Forms 268 (Report to Suspend Favorable Personnel Actions (FLAG))
 - Two Enlisted Record Briefs (ERB)
- CID Release of Information Response, with –
 - LER – Final
 - DD Form 4833 (Commander's Report of Disciplinary or Administrative Action)
- Applicant's Memorandum to CID
- CID Denial, 3 August 2022
- CID Legal Review
- CID Denial, 5 March 2024

FACTS:

1. Counsel states in three undated legal briefs that CID did not properly review the applicant's request for removal of the titling decision and did not use current laws.

- The applicant was never convicted and is entitled to removal of the titling under new National Defense Authorization Act rules
- The applicant is innocent of these offenses, all allegations were dropped, and the case was dismissed
- He has since been promoted and reenlisted
- The CID investigation is in material error and his appeal is based on the following three errors:
 - the underlying basis of the titling is procedurally and materially defective at the time of the Report of Investigation
 - the chain of command found the charges legally insufficient
 - the legal provisions for the titling removal were not properly followed by the U.S. Army CID Records Center when they denied his appeal and reconsideration

2. The applicant provides through counsel:

- a commander's memorandum to HRC on 14 April 2022 requesting removal of the flagging action started on 8 March 2021, Code M (Law Enforcement Investigation), with –
 - two DA Forms 4856 showing a FLAG was initiated with Code L (Commander's Investigation) on 23 November 2020 and removed on 9 December 2020
 - four DA Forms 268 showing a FLAG was initiated with Code L (Commander's Investigation) on 23 November 2020 and removed on 9 December 2020, and removal of a FLAG with Code M (Law Enforcement Investigation) on 11 April 2022
 - two ERBs showing he was flagged on 8 March 2021
- The CID letter from the Chief, Freedom of Information Act/Privacy Act Division CID responded to the applicant's request for release of information from CID files on 8 June 2022 with the following documents forwarded to the applicant –
 - Redacted LER - Final - 00013-2021-CID016-000317-5U3/ 5C2, shows he was serving in the rank/grade of staff sergeant (SSG)/E-6 when he became the subject of an investigation on 5 January 2021 for stalking and simple assault between 16 November 2020 and 18 November 2020
 - DD Form 4833, 14 April 2022, lists the applicant as the offender for the offenses of stalking and simple assault, Block 10a (Commander's Remarks) states: "SM [service member] did not receive punitive action due to the

investigation reporting there was not a preponderance of evidence, in line with these results [they] did not pursue any punishment"

- Applicant's Memorandum to CID requesting removal of his titling action
- CID denial of his request for removal of the titling information in LER 00013-2021-CID016-000317-5U on 3 August 2022, stating his request did not constitute as new or relevant information to amend the report
- CID memorandum for legal review of the applicant's request for amendment of his record on 16 January 2024, showing there was probable cause to believe he committed the offenses for which he was titled
- CID denial of his request for removal of the titling information in LER 00013-2021-CID016-000317-5U on 5 March 2024

3. A review of the applicant's service record shows the following:

- on 19 August 2009, he enlisted in the Regular Army
- on 1 November 2021, he was promoted to sergeant first class (SFC)/E-7
- Orders Number 0010572533.01, shows the applicant is currently serving at Fort Gregg-Adams and due to change stations on or about 10 August 2025

4. On 9 April 2025, the Chief, Freedom of Information Act/Privacy Act Division provided redacted CID/ Military Police reports for applicant's titling.

5. On 16 April 2025, the Army Review Boards Agency Case Management Division provided the applicant's counsel with a copy of the CID LER via email to allow him the opportunity to submit comments within 10 days. There has been no response to date.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the applicant's military records, the Board found that relief was warranted. The Board carefully considered counsel's contentions, the applicant's military records, and regulatory guidance. The applicant was titled as a subject for the offense of stalking and simple assault and upon review of the investigation, the applicant's commander noted, "SM [service member] did not receive punitive action due to the investigation reporting there was not a preponderance of evidence, in line with these results [they] did not pursue any punishment." The Board determined that the greater weight of the evidence reflects that probable cause did not exist to believe the applicant committed the offenses.

2. The Board agreed the applicant was improperly titled and should be removed from the U.S. Army Criminal Investigation Command (CID) Report of Investigation (ROI)

(Final), 29 July 2021, and all associated documents to remove the applicant’s name from the "title" and/or "subject" blocks and any residual and/or affiliated titling actions. After due consideration of the case, the Board determined the evidence presented sufficient to warrant a recommendation for relief. Therefore, the Board granted relief.

3. The applicant’s request for a personal appearance hearing was carefully considered. In this case, the evidence of record was sufficient to render a fair and equitable decision. As a result, a personal appearance hearing is not necessary to serve the interest of equity and justice in this case.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

■	■	■	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The Board determined that the evidence was sufficient to warrant a recommendation for relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by removing the applicant's name from the title and subject blocks of U.S. Army Criminal Investigation Command (CID) Law Enforcement Report (LER), 29 July 2021 and removing his name from all federal crime databases, to include the Department of Defense Central Index of Investigation, Department of Justice and any other federal agency databases, and removing from his record all allied documents and associated derogatory information.

X 
CHAIRPERSON

I certify that herein is recorded the true and complete record of the proceedings of the Army Board for Correction of Military Records in this case.

REFERENCES:

1. Army Regulation 15-185 (Army Board for Correction of Military Records) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. The regulation provides that the ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant has the burden of proving an error or injustice by a preponderance of the evidence. It is not an investigative body. The ABCMR may, in its discretion, hold a hearing. Applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.
2. Title 10, U.S. Code, section 1556 (Ex Parte Communications Prohibited) requires the Secretary of the Army to ensure that an applicant seeking corrective action by the Army Review Boards Agency (ARBA) be provided with a copy of any correspondence and communications (including summaries of verbal communications) to or from the Agency with anyone outside the Agency that directly pertains to or has material effect on the applicant's case, except as authorized by statute.
3. DOD Instruction 5505.07 (Titling and Indexing by DOD LEAs), 8 August 2023, establishes policy, assigns responsibilities, and prescribes uniform standard procedures

for titling persons, corporations, and other legal entities in DOD LEA reports and indexing them in the DCII.

a. Public Law 106-398, section 552, and Public Law 116-283, section 545, codified as a note in Title 10, U.S. Code, section 1552, establish procedures for DOD personnel through which:

(1) covered persons titled in DOD LEA reports or indexed in the DCII may request a review of the titling or indexing decision; and

(2) covered persons titled in DOD LEA reports or indexed in the DCII may request their information be corrected in, expunged, or otherwise removed from DOD LEA reports, DCII, and related records systems, databases, or repositories maintained by, or on behalf of, DOD LEAs.

b. DOD LEAs will title subjects of criminal investigations in DOD LEA reports and index them in the DCII as soon as there is credible information that they committed a criminal offense. When there is an investigative operations security concern, indexing the subject in the DCII may be delayed until the conclusion of the investigation.

c. Titling and indexing are administrative procedures and will not imply any degree of guilt or innocence. Judicial or adverse administrative actions will not be taken based solely on the existence of a DOD LEA titling or indexing record.

d. Once the subject of a criminal investigation is indexed in the DCII, the information will remain in the DCII, even if they are found not guilty, unless the DOD LEA head or designated expungement official grants expungement in accordance with section 3.

e. Basis for Correction or Expungement. A covered person who was titled in a DOD LEA report or indexed in the DCII may submit a written request to the responsible DOD LEA head or designated expungement officials to review the inclusion of their information in the DOD LEA report; DCII; and other related records systems, databases, or repositories in accordance with Public Law 116-283, section 545.

f. Considerations.

(1) When reviewing a covered person's titling and indexing review request, the expungement official will consider the investigation information and direct that the covered person's information be corrected, expunged, or otherwise removed from the DOD LEA report, DCII, and any other record maintained in connection with the DOD LEA report when:

(a) probable cause did not or does not exist to believe that the offense for which the covered person was titled and indexed occurred, or insufficient evidence existed or exists to determine whether such offense occurred;

(b) probable cause did not or does not exist to believe that the covered person committed the offense for which they were titled and indexed, or insufficient evidence existed or exists to determine whether they committed such offense; and

(c) such other circumstances as the DoD LEA head or expungement official determines would be in the interest of justice, which may not be inconsistent with the circumstances and basis in paragraphs 3.2.a.(1) and (2).

(2) In accordance with Public Law 116-283, section 545, when determining whether such circumstances or basis applies to a covered person when correcting, expunging, or removing the information, the DOD LEA head or designated expungement official will also consider:

(a) the extent or lack of corroborating evidence against the covered person with respect to the offense;

(b) whether adverse administrative, disciplinary, judicial, or other such action was initiated against the covered person for the offense; and

(c) the type, nature, and outcome of any adverse administrative, disciplinary, judicial, or other such action taken against the covered person for the offense.

//NOTHING FOLLOWS//