

States Code: *Provided*, That the Director of the Federal Bureau of Investigation or the Administrator of the Drug Enforcement Administration, or their designees, in advance or as soon as practicable thereafter, make a written determination that such a use would further the investigation: *And provided further*, That the financial audit requirements of paragraphs (5) and (6) shall apply in each investigation where such a determination has been made.

“(3) As soon as the proceeds from an undercover investigative operation with respect to which an action is authorized and carried out under subparagraphs (C) and (D) of paragraph (1), or under paragraph (2) are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited in the Treasury of the United States as miscellaneous receipts.

“(4) If a corporation or business entity established or acquired as part of an undercover operation under subparagraph (B) of paragraph (1) with a net value of over \$50,000 is to be liquidated, sold, or otherwise disposed of, the Federal Bureau of Investigation or the Drug Enforcement Administration, as much in advance as the Director or the Administrator, or the designee of the Director or the Administrator, determines is practicable, shall report the circumstances to the Attorney General and the Comptroller General. The proceeds of the liquidation, sale, or other disposition, after obligations are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.

“(5)(A) The Federal Bureau of Investigation or the Drug Enforcement Administration, as the case may be, shall conduct a detailed financial audit of each undercover investigative operation which is closed in fiscal year 1996—

“(i) submit the results of such audit in writing to the Attorney General, and

“(ii) not later than 180 days after such undercover operation is closed, submit a report to the Congress concerning such audit.

“(B) The Federal Bureau of Investigation and the Drug Enforcement Administration shall each also submit a report annually to the Congress specifying as to their respective undercover investigative operations—

“(i) the number, by programs, of undercover investigative operations pending as of the end of the one-year period for which such report is submitted,

“(ii) the number, by programs, of undercover investigative operations commenced in the one-year period preceding the period for which such report is submitted, and

“(iii) the number, by programs, of undercover investigative operations closed in the one-year period preceding the period for which such report is submitted and, with respect to each such closed undercover operation, the results obtained. With respect to each such closed undercover operation which involves any of the sensitive circumstances specified in the Attorney General's Guidelines on Federal Bureau of Investigation Undercover Operations, such report shall contain a detailed description of the operation and related matters, including information pertaining to—

“(I) the results,

“(II) any civil claims, and

“(III) identification of such sensitive circumstances involved, that arose at any time during the course of such undercover operation.

“(6) For purposes of paragraph (5)—

“(A) the term ‘closed’ refers to the earliest point in time at which—

“(i) all criminal proceedings (other than appeals) are concluded, or

“(ii) covert activities are concluded, whichever occurs later,

“(B) the term ‘employees’ means employees, as defined in section 2105 of title 5 of the United States Code, of the Federal Bureau of Investigation, and

“(C) the terms ‘undercover investigative operations’ and ‘undercover operation’ mean any under-

cover investigative operation of the Federal Bureau of Investigation or the Drug Enforcement Administration (other than a foreign counterintelligence undercover investigative operation)—

“(i) in which—

“(I) the gross receipts (excluding interest earned) exceed \$50,000, or

“(II) expenditures (other than expenditures for salaries of employees) exceed \$150,000, and

“(ii) which is exempt from section 3302 or 9102 of title 31 of the United States Code, except that clauses (i) and (ii) shall not apply with respect to the report required under subparagraph (B) of such paragraph.”

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 102-140, title I, § 102(b)(4), (5), Oct. 28, 1991, 105 Stat. 793.

Pub. L. 101-515, title II, § 202(b)(4), (5), Nov. 5, 1990, 104 Stat. 2118.

Pub. L. 101-162, title II, § 204(b)(4), (5), Nov. 21, 1989, 103 Stat. 1004.

Pub. L. 100-459, title II, § 204(b)(4), (5), Oct. 1, 1988, 102 Stat. 2200, 2201, as amended by Pub. L. 101-650, title III, § 325(c)(2), Dec. 1, 1990, 104 Stat. 5121.

Pub. L. 100-202, § 101(a) [title II, § 204(b)(4), (5)], Dec. 22, 1987, 101 Stat. 1329, 1329-16.

Pub. L. 99-500, § 101(b) [title II, § 204(b)(4), (5)], Oct. 18, 1986, 100 Stat. 1783-39, 1783-52, 1783-53, and Pub. L. 99-591, § 101(b) [title II, § 204(b)(4), (5)], Oct. 30, 1986, 100 Stat. 3341-39, 3341-52, 3341-53.

Pub. L. 99-180, title II, § 204(b)(4), (5), Dec. 13, 1985, 99 Stat. 1148.

Pub. L. 98-411, title II, § 203(b)(4), (5), Aug. 30, 1984, 98 Stat. 1560.

Pub. L. 98-166, title II, § 205(b)(4), (5), Nov. 28, 1983, 97 Stat. 1087.

Pub. L. 96-132, § 7(d), Nov. 30, 1979, 93 Stat. 1046, provided that:

“(1) The Federal Bureau of Investigation shall conduct detailed financial audits of undercover operations closed on or after October 1, 1979, and—

“(A) report the results of each audit in writing to the Department of Justice, and

“(B) report annually to the Congress concerning these audits.

“(2) For the purposes of paragraph (1), ‘undercover operation’ means any undercover operation of the Federal Bureau of Investigation, other than a foreign counterintelligence undercover operation—

“(A) in which the gross receipts exceed \$50,000, and

“(B) which is exempted from section 3617 of the Revised Statutes (31 U.S.C. 484) [31 U.S.C. 3302(b)] or section 304(a) of the Government Corporation Control Act (31 U.S.C. 869(a)) [31 U.S.C. 9102].”

§ 534. Acquisition, preservation, and exchange of identification records and information; appointment of officials

(a) The Attorney General shall—

(1) acquire, collect, classify, and preserve identification, criminal identification, crime, and other records;

(2) acquire, collect, classify, and preserve any information which would assist in the identification of any deceased individual who has not been identified after the discovery of such deceased individual;

(3) acquire, collect, classify, and preserve any information which would assist in the location of any missing person (including an unemancipated person as defined by the laws of the place of residence of such person) and provide confirmation as to any entry for such a person to the parent, legal guardian, or next of kin of that person (and the Attorney General

may acquire, collect, classify, and preserve such information from such parent, guardian, or next of kin); and

(4) exchange such records and information with, and for the official use of, authorized officials of the Federal Government, including the United States Sentencing Commission, the States, including State sentencing commissions, Indian tribes, cities, and penal and other institutions.

(b) The exchange of records and information authorized by subsection (a)(4) of this section is subject to cancellation if dissemination is made outside the receiving departments or related agencies.

(c) The Attorney General may appoint officials to perform the functions authorized by this section.

(d) INDIAN LAW ENFORCEMENT AGENCIES.—The Attorney General shall permit tribal and Bureau of Indian Affairs law enforcement agencies—

(1) to access and enter information into Federal criminal information databases; and

(2) to obtain information from the databases.

(e) For purposes of this section, the term “other institutions” includes—

(1) railroad police departments which perform the administration of criminal justice and have arrest powers pursuant to a State statute, which allocate a substantial part of their annual budget to the administration of criminal justice, and which meet training requirements established by law or ordinance for law enforcement officers; and

(2) police departments of private colleges or universities which perform the administration of criminal justice and have arrest powers pursuant to a State statute, which allocate a substantial part of their annual budget to the administration of criminal justice, and which meet training requirements established by law or ordinance for law enforcement officers.

(f)(1) Information from national crime information databases consisting of identification records, criminal history records, protection orders, and wanted person records may be disseminated to civil or criminal courts for use in domestic violence or stalking cases. Nothing in this subsection shall be construed to permit access to such records for any other purpose.

(2) Federal, tribal, and State criminal justice agencies authorized to enter information into criminal information databases may include—

(A) arrests, convictions, and arrest warrants for stalking or domestic violence or for violations of protection orders for the protection of parties from stalking or domestic violence; and

(B) protection orders for the protection of persons from stalking or domestic violence, provided such orders are subject to periodic verification.

(3) As used in this subsection—

(A) the term “national crime information databases” means the National Crime Information Center and its incorporated criminal history databases, including the Interstate Identification Index; and

(B) the term “protection order” includes—

(i) any injunction, restraining order, or any other order issued by a civil or criminal court for the purpose of preventing violent or threatening acts or harassment against, sexual violence or contact or communication with or physical proximity to, another person, including any temporary or final orders issued by civil or criminal courts whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil order was issued in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection; and

(ii) any support, child custody or visitation provisions, orders, remedies, or relief issued as part of a protection order, restraining order, or stay away injunction pursuant to State, tribal, territorial, or local law authorizing the issuance of protection orders, restraining orders, or injunctions for the protection of victims of domestic violence, dating violence, sexual assault, or stalking.

(Added Pub. L. 89-554, § 4(c), Sept. 6, 1966, 80 Stat. 616; amended Pub. L. 97-292, § 2, 3(a), Oct. 12, 1982, 96 Stat. 1259; Pub. L. 100-690, title VII, § 7333, Nov. 18, 1988, 102 Stat. 4469; Pub. L. 103-322, title IV, § 40601(a), Sept. 13, 1994, 108 Stat. 1950; Pub. L. 107-273, div. A, title II, § 204(c), div. B, title IV, § 4003(b)(4), div. C, title I, § 11004, Nov. 2, 2002, 116 Stat. 1776, 1811, 1816; Pub. L. 109-162, title I, § 118, title IX, § 905(a), Jan. 5, 2006, 119 Stat. 2989, 3079; Pub. L. 109-248, title I, § 153(i), July 27, 2006, 120 Stat. 611; Pub. L. 111-211, title II, § 233(a), July 29, 2010, 124 Stat. 2279; Pub. L. 111-369, § 2, Jan. 4, 2011, 124 Stat. 4068.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 300 (as applicable to acquisition etc. of identification and other records).	Aug. 31, 1964, Pub. L. 88-527, § 201 (1st 105 words of 1st par. under “Federal Bureau of Investigation”, as applicable to acquisition etc. of identification and other records), 78 Stat. 717.
.....	5 U.S.C. 340.	June 11, 1930, ch. 455, 46 Stat. 554.

The sections are combined and reorganized for clarity. Former section 300 of title 5 was from the Department of Justice Appropriation Act, 1965. Similar provisions were contained in each appropriation Act for the Department of Justice running back to 1921, which Acts are identified in a note under former section 300 of title 5, U.S.C. 1964 ed.

In subsection (a), the word “shall” is substituted for “has the duty” as a more direct expression. The function of acquiring, collecting, classifying, etc., referred to in former section 340 of title 5 was transferred to the Attorney General by 1950 Reorg., Plan No. 2, § 1, eff. May 24, 1950, 64 Stat. 1261, which is codified in section 509 of this title. Accordingly, the first 29 words and last 30 words of former section 340 are omitted as unnecessary.

In subsection (c), the authority to appoint officials for the cited purposes is implied.

AMENDMENTS

2011—Subsec. (a)(4). Pub. L. 111-369 inserted “, including State sentencing commissions” after “, the States”.

2010—Subsec. (a)(4). Pub. L. 111-211, § 233(a)(1), inserted “Indian tribes,” after “the States,”.

Subsec. (d). Pub. L. 111-211, §233(a)(2), added subsec. (d) and struck out former subsec. (d). Prior to amendment, text read as follows: "The Attorney General shall permit Indian law enforcement agencies, in cases of domestic violence, dating violence, sexual assault, and stalking, to enter information into Federal criminal information databases and to obtain information from the databases."

Subsec. (e). Pub. L. 111-211, §233(a)(3), which directed redesignation of "the second subsection (e)" as (f), could not be executed because only one subsec. (e) appeared subsequent to amendment by Pub. L. 109-248. See 2006 Amendment note below.

Subsec. (f)(2). Pub. L. 111-211, §233(a)(4), which directed amendment of par. (2) of subsec. (f) as redesignated by Pub. L. 111-211 by inserting ", tribal," after "Federal" in introductory provisions, was executed by making the insertion in par. (2) of subsec. (f) as redesignated by Pub. L. 109-248, to reflect the probable intent of Congress.

2006—Subsec. (d). Pub. L. 109-162, §905(a)(2), added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 109-248 redesignated subsec. (e), relating to information from national crime information databases, as (f).

Pub. L. 109-162, §905(a)(1), redesignated subsec. (d), relating to the term "other institutions", as (e).

Subsec. (e)(3)(B). Pub. L. 109-162, §118, added subpar. (B) and struck out former subpar. (B) which read as follows: "the term 'protection order' includes an injunction or any other order issued for the purpose of preventing violent or threatening acts or harassment against, or contact or communication with or physical proximity to, another person, including temporary and final orders issued by civil or criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil order was issued in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection."

Subsec. (f). Pub. L. 109-248 redesignated subsec. (e), relating to information from national crime information databases, as (f).

2002—Subsec. (a)(3). Pub. L. 107-273, §§204(c) and 4003(b)(4), amended par. (3) identically, inserting "and" at end.

Subsec. (a)(4). Pub. L. 107-273, §11004, added par. (4) and struck out former par. (4) which read as follows: "exchange such records and information with, and for the official use of, authorized officials of the Federal Government, the States, cities, and penal and other institutions."

1994—Subsec. (e). Pub. L. 103-322 added subsec. (e).

1988—Subsec. (d). Pub. L. 100-690 added subsec. (d).

1982—Pub. L. 97-292, §3(a), inserted "and information" after "identification records" in section catchline.

Subsec. (a). Pub. L. 97-292, §2(a), added pars. (2) and (3), redesignated former par. (2) as (4), and substituted "exchange such records and information" for "exchange these records" in par. (4).

Subsec. (b). Pub. L. 97-292, §2(b), substituted "exchange of records and information authorized by subsection (a)(4)" for "exchange of records authorized by subsection (a)(2)".

REGULATIONS

Pub. L. 103-322, title IV, §40601(b), Sept. 13, 1994, 108 Stat. 1951, provided that: "The Attorney General may make rules to carry out the subsection added to section 534 of title 28, United States Code, by subsection (a), after consultation with the officials charged with managing the National Crime Information Center and the Criminal Justice Information Services Advisory Policy Board."

IMPROVING DEPARTMENT OF JUSTICE DATA COLLECTION ON MENTAL ILLNESS INVOLVED IN CRIME

Pub. L. 114-255, div. B, title XIV, §14015, Dec. 13, 2016, 130 Stat. 1306, which requires inclusion of data with re-

spect to the involvement of mental illness in incidences of certain crimes in data prepared by or submitted to the Attorney General or the FBI Director, was editorially reclassified as section 41311 of Title 34, Crime Control and Law Enforcement.

ACCESS TO NATIONAL CRIME INFORMATION DATABASES

Pub. L. 111-211, title II, §233(b), July 29, 2010, 124 Stat. 2279, which requires the Attorney General to ensure that tribal law enforcement officials that meet applicable Federal or State requirements be permitted access to national crime information databases, was editorially reclassified as section 41107 of Title 34, Crime Control and Law Enforcement.

ADDITIONAL REPORTING ON CRIME

Pub. L. 110-457, title II, §237(a), (b), Dec. 23, 2008, 122 Stat. 5083, which relates to reporting on human trafficking, was editorially reclassified as section 41309 of Title 34, Crime Control and Law Enforcement.

TRIBAL REGISTRY

Pub. L. 109-162, title IX, §905(b), Jan. 5, 2006, 119 Stat. 3080, as amended by Pub. L. 113-4, title IX, §907(b), Mar. 7, 2013, 127 Stat. 125, which directed the Attorney General to establish and maintain a national tribal sex offender registry along with interested tribal organizations, was editorially reclassified as section 20903 of Title 34, Crime Control and Law Enforcement.

NATIONAL GANG INTELLIGENCE CENTER

Pub. L. 109-162, title XI, §1107, Jan. 5, 2006, 119 Stat. 3093, as amended by Pub. L. 111-211, title II, §251(a), July 29, 2010, 124 Stat. 2297, providing for the establishment of the National Gang Intelligence Center, was editorially reclassified as section 41507 of Title 34, Crime Control and Law Enforcement.

REVIEWS OF CRIMINAL RECORDS OF APPLICANTS FOR PRIVATE SECURITY OFFICER EMPLOYMENT

Pub. L. 108-458, title VI, §6402, Dec. 17, 2004, 118 Stat. 3755, known as the Private Security Officer Employment Authorization Act of 2004, was editorially reclassified as section 41106 of Title 34, Crime Control and Law Enforcement.

CRIMINAL BACKGROUND CHECKS FOR APPLICANTS FOR EMPLOYMENT IN NURSING FACILITIES AND HOME HEALTH CARE AGENCIES

Pub. L. 105-277, div. A, §101(b) [title I, §124], Oct. 21, 1998, 112 Stat. 2681-50, 2681-73, which authorizes a nursing facility or home health care agency to submit a request to the Attorney General to conduct a search and exchange of criminal history records regarding an applicant for employment if the employment position is involved in direct patient care, was editorially reclassified as section 41105 of Title 34, Crime Control and Law Enforcement.

COMPILATION OF STATISTICS RELATING TO INTIMIDATION OF GOVERNMENT EMPLOYEES

Pub. L. 104-132, title VIII, §808, Apr. 24, 1996, 110 Stat. 1310, which required Attorney General to collect data for the calendar year 1990 and each succeeding calendar year, relating to crimes and incidents of threats of violence and acts of violence against Federal, State, and local government employees and their families in the performance of their lawful duties, and to annually publish a summary of the data collected to be used only for research and statistical purposes, was repealed by Pub. L. 107-273, div. A, title III, §311(a), Nov. 2, 2002, 116 Stat. 1786.

NATIONAL CRIME INFORMATION CENTER PROJECT 2000

Pub. L. 101-647, title VI, subtitle B, Nov. 29, 1990, 104 Stat. 4823, provided that:

"SEC. 611. SHORT TITLE.

"This section [subtitle] may be cited as the 'National Law Enforcement Cooperation Act of 1990'.

“SEC. 612. FINDINGS.

“The Congress finds that—

“(1) cooperation among Federal, State and local law enforcement agencies is critical to an effective national response to the problems of violent crime and drug trafficking in the United States;

“(2) the National Crime Information Center, which links more than 16,000 Federal, State and local law enforcement agencies, is the single most important avenue of cooperation among law enforcement agencies;

“(3) major improvements to the National Crime Information Center are needed because the current system is more than twenty years old; carries much greater volumes of enforcement information; and at this time is unable to incorporate technological advances that would significantly improve its performance; and

“(4) the Federal Bureau of Investigation, working with State and local law enforcement agencies and private organizations, has developed a promising plan, ‘NCIC 2000’, to make the necessary upgrades to the National Crime Information Center that should meet the needs of United States law enforcement agencies into the next century.

“SEC. 613. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated the following sums to implement the ‘NCIC 2000’ project:

“(1) \$17,000,000 for fiscal year 1991;

“(2) \$25,000,000 for fiscal year 1992;

“(3) \$22,000,000 for fiscal year 1993;

“(4) \$9,000,000 for fiscal year 1994; and

“(5) such sums as may be necessary for fiscal year 1995.

“SEC. 614. REPORT.

“By February 1 of each fiscal year for which funds for NCIC 2000 are requested, the Director of the Federal Bureau of Investigation shall submit a report to the Committees on the Judiciary of the Senate and House of Representatives that details the progress that has been made in implementing NCIC 2000 and a complete justification for the funds requested in the following fiscal year for NCIC 2000.”

FBI FEES TO PROCESS FINGERPRINT IDENTIFICATION RECORDS AND NAME CHECKS

Pub. L. 101-515, title II, Nov. 5, 1990, 104 Stat. 2112, as amended by section 113 of H.R. 2076, One Hundred Fourth Congress, as passed by the House of Representatives on Dec. 6, 1995, and as enacted into law by Pub. L. 104-91, title I, §101(a), Jan. 6, 1996, 110 Stat. 11, as amended by Pub. L. 104-99, title II, §211, Jan. 26, 1996, 110 Stat. 37, which authorized the FBI Director to establish and collect fees to process fingerprint identification records and name checks for non-criminal justice, non-law enforcement employment and licensing purposes and for certain employees of private sector contractors with classified Government contracts, was editorially reclassified as section 41104 of Title 34, Crime Control and Law Enforcement.

HATE CRIME STATISTICS

Pub. L. 101-275, Apr. 23, 1990, 104 Stat. 140, as amended by Pub. L. 103-322, title XXXII, §320926, Sept. 13, 1994, 108 Stat. 2131; Pub. L. 104-155, §7, July 3, 1996, 110 Stat. 1394; Pub. L. 111-84, div. E, §4708, Oct. 28, 2009, 123 Stat. 2841, known as the Hate Crimes Statistics Act, consisting of sections 1 and 2, was editorially reclassified to Title 34, Crime Control and Law Enforcement. Section 1 was editorially reclassified as section 41305 of Title 34. Section 2 was editorially reclassified as a note under section 41305 of Title 34.

UNIFORM FEDERAL CRIME REPORTING ACT OF 1988

Pub. L. 100-690, title VII, §7332, Nov. 18, 1988, 102 Stat. 4468, known as the Uniform Federal Crime Reporting Act of 1988, was editorially reclassified as section 41303 of Title 34, Crime Control and Law Enforcement.

FAMILY AND DOMESTIC VIOLENCE; DATA COLLECTION AND REPORTING

Pub. L. 100-690, title VII, §7609, Nov. 18, 1988, 102 Stat. 4517, which required inclusion of certain data relating to the victim in uniform crime reports by the Attorney General and publication of domestic violence data by the Director of the Bureau of Justice Statistics, was editorially reclassified as section 41304 of Title 34, Crime Control and Law Enforcement.

PARIMUTUEL LICENSING SIMPLIFICATION

Pub. L. 100-413, Aug. 22, 1988, 102 Stat. 1101, known as the Parimutuel Licensing Simplification Act of 1988, consisting of sections 1 to 3, was editorially reclassified to Title 34, Crime Control and Law Enforcement. Section 1 was editorially reclassified as a Short Title of 1988 Act note under section 10101 of Title 34. Section 2 was editorially reclassified as section 41102 of Title 34. Section 3 was editorially reclassified as an Effective Date note under section 41102 of Title 34.

FUNDS FOR EXCHANGE OF IDENTIFICATION RECORDS

Pub. L. 92-544, title II, Oct. 25, 1972, 86 Stat. 1115, which provided funds for the exchange of identification records, was editorially reclassified as section 41101 of Title 34, Crime Control and Law Enforcement.

§ 535. Investigation of crimes involving Government officers and employees; limitations

(a) The Attorney General and the Federal Bureau of Investigation may investigate any violation of Federal criminal law involving Government officers and employees—

(1) notwithstanding any other provision of law; and

(2) without limiting the authority to investigate any matter which is conferred on them or on a department or agency of the Government.

(b) Any information, allegation, matter, or complaint witnessed, discovered, or received in a department or agency of the executive branch of the Government relating to violations of Federal criminal law involving Government officers and employees shall be expeditiously reported to the Attorney General by the head of the department or agency, or the witness, discoverer, or recipient, as appropriate, unless—

(1) the responsibility to perform an investigation with respect thereto is specifically assigned otherwise by another provision of law; or

(2) as to any department or agency of the Government, the Attorney General directs otherwise with respect to a specified class of information, allegation, or complaint.

(c) This section does not limit—

(1) the authority of the military departments to investigate persons or offenses over which the armed forces have jurisdiction under the Uniform Code of Military Justice (chapter 47 of title 10); or

(2) the primary authority of the Postmaster General to investigate postal offenses.

(Added Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 616; amended Pub. L. 107-273, div. A, title II, §206, Nov. 2, 2002, 116 Stat. 1779.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 311a.	Aug. 31, 1954, ch. 1143, §1, 68 Stat. 998.