

“(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 undercover 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 commis-

Pt. 20

(3) Inserted in any envelope and/or publication the contents of which may be construed to be inappropriate for association with the Missing Children Penalty Mail Program.

(e) Each component shall provide the General Services Staff, Justice Management Division, with the name(s), telephone number(s) and mailing address(es) of each designated Missing Children Program Coordinator within 30 days of the effective date of this regulation.

(f) Each component shall submit a quarterly report to the General Services Staff, Justice Management Division, within 5 days after the close of each Fiscal Year quarter providing the specific information identified in §19.5 concerning implementation and participation in the program.

**PART 20—CRIMINAL JUSTICE
INFORMATION SYSTEMS**

Subpart A—General Provisions

- Sec.
- 20.1 Purpose.
- 20.2 Authority.
- 20.3 Definitions.

**Subpart B—State and Local Criminal
History Record Information Systems**

- 20.20 Applicability.
- 20.21 Preparation and submission of a Criminal History Record Information Plan.
- 20.22 Certification of compliance.
- 20.23 Documentation: Approval by OJARS.
- 20.24 State laws on privacy and security.
- 20.25 Penalties.

**Subpart C—Federal Systems and Ex-
change of Criminal History Record In-
formation**

- 20.30 Applicability.
- 20.31 Responsibilities.
- 20.32 Includable offenses.
- 20.33 Dissemination of criminal history record information.
- 20.34 Individual's right to access criminal history record information.
- 20.35 Criminal Justice Information Services Advisory Policy Board.
- 20.36 Participation in the Interstate Identification Index System.
- 20.37 Responsibility for accuracy, completeness, currency, and integrity.
- 20.38 Sanction for noncompliance.

28 CFR Ch. I (7–1–10 Edition)

**APPENDIX TO PART 20—COMMENTARY ON SE-
LECTED SECTIONS OF THE REGULATIONS ON
CRIMINAL HISTORY RECORD INFORMATION
SYSTEMS**

AUTHORITY: 28 U.S.C. 534; Pub. L. 92-544, 86 Stat. 1115; 42 U.S.C. 3711, *et seq.*, Pub. L. 99-169, 99 Stat. 1002, 1008-1011, as amended by Pub. L. 99-569, 100 Stat. 3190, 3196; Pub. L. 101-515, as amended by Pub. L. 104-99, set out in the notes to 28 U.S.C. 534.

SOURCE: Order No. 601-75, 40 FR 22114, May 20, 1975, unless otherwise noted.

Subpart A—General Provisions

SOURCE: 41 FR 11714, Mar. 19, 1976, unless otherwise noted.

§ 20.1 Purpose.

It is the purpose of these regulations to assure that criminal history record information wherever it appears is collected, stored, and disseminated in a manner to ensure the accuracy, completeness, currency, integrity, and security of such information and to protect individual privacy.

[Order No. 2258-99, 64 FR 52226, Sept. 28, 1999]

§ 20.2 Authority.

These regulations are issued pursuant to sections 501 and 524(b) of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by the Crime Control Act of 1973, Public Law 93-83, 87 Stat. 197, 42 U.S.C. 3701, *et seq.* (Act), 28 U.S.C. 534, and Public Law 92-544, 86 Stat. 1115.

§ 20.3 Definitions.

As used in these regulations:
(a) *Act* means the Omnibus Crime Control and Safe Streets Act, 42 U.S.C. 3701, *et seq.*, as amended.

(b) *Administration of criminal justice* means performance of any of the following activities: Detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. The administration of criminal justice shall include criminal identification activities and the collection, storage, and dissemination of criminal history record information.

(c) *Control Terminal Agency* means a duly authorized state, foreign, or international criminal justice agency with

sions, 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 or-

ders 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

Derivation	U.S. Code	Revised Statutes and Statutes at Large
.....	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),