

“(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 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

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), 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, provided that:

“(a) IN GENERAL.—Notwithstanding any other provision of law, on or after the date that is 90 days after the date on which the Attorney General promulgates regulations under subsection (b), any data prepared by, or submitted to, the Attorney General or the Director of the Federal Bureau of Investigation with respect to the incidences of homicides, law enforcement officers killed, seriously injured, and assaulted, or individuals killed or seriously injured by law enforcement officers shall include data with respect to the involvement of mental illness in such incidences, if any.

“(b) REGULATIONS.—Not later than 90 days after the date of the enactment of this Act [Dec. 13, 2016], the Attorney General shall promulgate or revise regulations as necessary to carry out subsection (a).”

ACCESS TO NATIONAL CRIME INFORMATION DATABASES

Pub. L. 111-211, title II, §233(b), July 29, 2010, 124 Stat. 2279, provided that:

“(1) IN GENERAL.—The Attorney General shall ensure that tribal law enforcement officials that meet applicable Federal or State requirements be permitted access to national crime information databases.

“(2) SANCTIONS.—For purpose of sanctions for non-compliance with requirements of, or misuse of, national crime information databases and information obtained from those databases, a tribal law enforcement agency or official shall be treated as Federal law enforcement agency or official.

“(3) NCIC.—Each tribal justice official serving an Indian tribe with criminal jurisdiction over Indian country shall be considered to be an authorized law enforcement official for purposes of access to the National Crime Information Center of the Federal Bureau of Investigation.”

[For definitions of “Indian tribe” and “Indian country” used in section 233(b) of Pub. L. 111-211, set out above, see section 203(a) of Pub. L. 111-211, set out as a note under section 2801 of Title 25, Indians.]

ADDITIONAL REPORTING ON CRIME

Pub. L. 110-457, title II, §237(a), (b), Dec. 23, 2008, 122 Stat. 5083, provided that:

“(a) TRAFFICKING OFFENSE CLASSIFICATION.—The Director of the Federal Bureau of Investigation shall—

“(1) classify the offense of human trafficking as a Part I crime in the Uniform Crime Reports;

“(2) to the extent feasible, establish subcategories for State sex crimes that involve—

“(A) a person who is younger than 18 years of age;

“(B) the use of force, fraud or coercion; or

“(C) neither of the elements described in subparagraphs (A) and (B); and

“(3) classify the offense of human trafficking as a Group A offense for purpose of the National Incident-Based Reporting System.

“(b) ADDITIONAL INFORMATION.—The Director of the Federal Bureau of Investigation shall revise the Uniform Crime Reporting System [probably should be “Program”] and the National Incident-Based Reporting System to distinguish between reports of—

“(1) incidents of assisting or promoting prostitution, which shall include crimes committed by persons who—

“(A) do not directly engage in commercial sex acts; and

“(B) direct, manage, or profit from such acts, such as State pimping and pandering crimes;

“(2) incidents of purchasing prostitution, which shall include crimes committed by persons who pur-

chase or attempt to purchase or trade anything of value for commercial sex acts; and

“(3) incidents of prostitution, which shall include crimes committed by persons providing or attempting to provide commercial sex acts.”

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, provided that:

“(1) ESTABLISHMENT.—The Attorney General shall contract with any interested Indian tribe, tribal organization, or tribal nonprofit organization to develop and maintain—

“(A) a national tribal sex offender registry; and

“(B) a tribal protection order registry containing civil and criminal orders of protection issued by Indian tribes and participating jurisdictions.

“(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section [amending this section] \$1,000,000 for each of fiscal years 2014 through 2018, to remain available until expended.”

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, provided that:

“(a) ESTABLISHMENT.—The Attorney General shall establish a National Gang Intelligence Center and gang information database to be housed at and administered by the Federal Bureau of Investigation to collect, analyze, and disseminate gang activity information from—

“(1) the Federal Bureau of Investigation;

“(2) the Bureau of Alcohol, Tobacco, Firearms, and Explosives;

“(3) the Drug Enforcement Administration;

“(4) the Bureau of Prisons;

“(5) the United States Marshals Service;

“(6) the Directorate of Border and Transportation Security of the Department of Homeland Security;

“(7) the Department of Housing and Urban Development;

“(8) the Office of Justice Services of the Bureau of Indian Affairs;

“(9) tribal, State, and local law enforcement;

“(10) Federal, tribal, State, and local prosecutors;

“(11) Federal, tribal, State, and local probation and parole offices;

“(12) Federal, tribal, State, and local prisons and jails; and

“(13) any other entity as appropriate.

“(b) INFORMATION.—The Center established under subsection (a) shall make available the information referred to in subsection (a) to—

“(1) Federal, tribal, State, and local law enforcement agencies;

“(2) Federal, tribal, State, and local corrections agencies and penal institutions;

“(3) Federal, tribal, State, and local prosecutorial agencies; and

“(4) any other entity as appropriate.

“(c) ANNUAL REPORT.—The Center established under subsection (a) shall annually submit to Congress a report on gang activity.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$10,000,000 for fiscal year 2006 and for each fiscal year thereafter.”

REVIEWS OF CRIMINAL RECORDS OF APPLICANTS FOR PRIVATE SECURITY OFFICER EMPLOYMENT

Pub. L. 108-458, title VI, §6402, Dec. 17, 2004, 118 Stat. 3755, provided that:

“(a) SHORT TITLE.—This section may be cited as the ‘Private Security Officer Employment Authorization Act of 2004’.

“(b) FINDINGS.—Congress finds that—

“(1) employment of private security officers in the United States is growing rapidly;

“(2) private security officers function as an adjunct to, but not a replacement for, public law enforcement by helping to reduce and prevent crime;

“(3) such private security officers protect individuals, property, and proprietary information, and provide protection to such diverse operations as banks, hospitals, research and development centers, manufacturing facilities, defense and aerospace contractors, high technology businesses, nuclear power plants, chemical companies, oil and gas refineries, airports, communication facilities and operations, office complexes, schools, residential properties, apartment complexes, gated communities, and others;

“(4) sworn law enforcement officers provide significant services to the citizens of the United States in its public areas, and are supplemented by private security officers;

“(5) the threat of additional terrorist attacks requires cooperation between public and private sectors and demands professional, reliable, and responsible security officers for the protection of people, facilities, and institutions;

“(6) the trend in the Nation toward growth in such security services has accelerated rapidly;

“(7) such growth makes available more public sector law enforcement officers to combat serious and violent crimes, including terrorism;

“(8) the American public deserves the employment of qualified, well-trained private security personnel as an adjunct to sworn law enforcement officers; and

“(9) private security officers and applicants for private security officer positions should be thoroughly screened and trained.

“(c) DEFINITIONS.—In this section:

“(1) EMPLOYEE.—The term ‘employee’ includes both a current employee and an applicant for employment as a private security officer.

“(2) AUTHORIZED EMPLOYER.—The term ‘authorized employer’ means any person that—

“(A) employs private security officers; and

“(B) is authorized by regulations promulgated by the Attorney General to request a criminal history record information search of an employee through a State identification bureau pursuant to this section.

“(3) PRIVATE SECURITY OFFICER.—The term ‘private security officer’—

“(A) means an individual other than an employee of a Federal, State, or local government, whose primary duty is to perform security services, full or part time, for consideration, whether armed or unarmed and in uniform or plain clothes (except for services excluded from coverage under this Act [this section] if the Attorney General determines by regulation that such exclusion would serve the public interest); but

“(B) does not include—

“(i) employees whose duties are primarily internal audit or credit functions;

“(ii) employees of electronic security system companies acting as technicians or monitors; or

“(iii) employees whose duties primarily involve the secure movement of prisoners.

“(4) SECURITY SERVICES.—The term ‘security services’ means acts to protect people or property as defined by regulations promulgated by the Attorney General.

“(5) STATE IDENTIFICATION BUREAU.—The term ‘State identification bureau’ means the State entity designated by the Attorney General for the submission and receipt of criminal history record information.

“(d) CRIMINAL HISTORY RECORD INFORMATION SEARCH.—

“(1) IN GENERAL.—

“(A) SUBMISSION OF FINGERPRINTS.—An authorized employer may submit to the State identification bureau of a participating State, fingerprints or other means of positive identification, as determined by the Attorney General, of an employee of

such employer for purposes of a criminal history record information search pursuant to this Act [this section].

“(B) EMPLOYEE RIGHTS.—

“(i) PERMISSION.—An authorized employer shall obtain written consent from an employee to submit to the State identification bureau of the participating State the request to search the criminal history record information of the employee under this Act [this section].

“(ii) ACCESS.—An authorized employer shall provide to the employee confidential access to any information relating to the employee received by the authorized employer pursuant to this Act [this section].

“(C) PROVIDING INFORMATION TO THE STATE IDENTIFICATION BUREAU.—Upon receipt of a request for a criminal history record information search from an authorized employer pursuant to this Act [this section], submitted through the State identification bureau of a participating State, the Attorney General shall—

“(i) search the appropriate records of the Criminal Justice Information Services Division of the Federal Bureau of Investigation; and

“(ii) promptly provide any resulting identification and criminal history record information to the submitting State identification bureau requesting the information.

“(D) USE OF INFORMATION.—

“(i) IN GENERAL.—Upon receipt of the criminal history record information from the Attorney General by the State identification bureau, the information shall be used only as provided in clause (ii).

“(ii) TERMS.—In the case of—

“(I) a participating State that has no State standards for qualification to be a private security officer, the State shall notify an authorized employer as to the fact of whether an employee has been—

“(aa) convicted of a felony, an offense involving dishonesty or a false statement if the conviction occurred during the previous 10 years, or an offense involving the use or attempted use of physical force against the person of another if the conviction occurred during the previous 10 years; or

“(bb) charged with a criminal felony for which there has been no resolution during the preceding 365 days; or

“(II) a participating State that has State standards for qualification to be a private security officer, the State shall use the information received pursuant to this Act [this section] in applying the State standards and shall only notify the employer of the results of the application of the State standards.

“(E) FREQUENCY OF REQUESTS.—An authorized employer may request a criminal history record information search for an employee only once every 12 months of continuous employment by that employee unless the authorized employer has good cause to submit additional requests.

“(2) REGULATIONS.—Not later than 180 days after the date of enactment of this Act [Dec. 17, 2004], the Attorney General shall issue such final or interim final regulations as may be necessary to carry out this Act [this section], including—

“(A) measures relating to the security, confidentiality, accuracy, use, submission, dissemination, destruction of information and audits, and record keeping;

“(B) standards for qualification as an authorized employer; and

“(C) the imposition of reasonable fees necessary for conducting the background checks.

“(3) CRIMINAL PENALTIES FOR USE OF INFORMATION.—Whoever knowingly and intentionally uses any information obtained pursuant to this Act [this section]

other than for the purpose of determining the suitability of an individual for employment as a private security officer shall be fined under title 18, United States Code, or imprisoned for not more than 2 years, or both.

“(4) USER FEES.—

“(A) IN GENERAL.—The Director of the Federal Bureau of Investigation may—

“(i) collect fees to process background checks provided for by this Act [this section]; and

“(ii) establish such fees at a level to include an additional amount to defray expenses for the automation of fingerprint identification and criminal justice information services and associated costs.

“(B) LIMITATIONS.—Any fee collected under this subsection—

“(i) shall, consistent with Public Law 101-515 [see Tables for classification] and Public Law 104-99 [see Tables for classification], be credited to the appropriation to be used for salaries and other expenses incurred through providing the services described in such Public Laws and in subparagraph (A);

“(ii) shall be available for expenditure only to pay the costs of such activities and services; and

“(iii) shall remain available until expended.

“(C) STATE COSTS.—Nothing in this Act [this section] shall be construed as restricting the right of a State to assess a reasonable fee on an authorized employer for the costs to the State of administering this Act [this section].

“(5) STATE OPT OUT.—A State may decline to participate in the background check system authorized by this Act [this section] by enacting a law or issuing an order by the Governor (if consistent with State law) providing that the State is declining to participate pursuant to this subsection.”

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, provided that:

“(a)(1) A nursing facility or home health care agency may submit a request to the Attorney General to conduct a search and exchange of records described in subsection (b) regarding an applicant for employment if the employment position is involved in direct patient care.

“(2) A nursing facility or home health care agency requesting a search and exchange of records under this section shall submit to the Attorney General through the appropriate State agency or agency designated by the Attorney General a copy of an employment applicant's fingerprints, a statement signed by the applicant authorizing the nursing facility or home health care agency to request the search and exchange of records, and any other identification information not more than 7 days (excluding Saturdays, Sundays, and legal public holidays under section 6103(a) of title 5, United States Code) after acquiring the fingerprints, signed statement, and information.

“(b) Pursuant to any submission that complies with the requirements of subsection (a), the Attorney General shall search the records of the Criminal Justice Information Services Division of the Federal Bureau of Investigation for any criminal history records corresponding to the fingerprints or other identification information submitted. The Attorney General shall provide any corresponding information resulting from the search to the appropriate State agency or agency designated by the Attorney General to receive such information.

“(c) Information regarding an applicant for employment in a nursing facility or home health care agency obtained pursuant to this section may be used only by the facility or agency requesting the information and only for the purpose of determining the suitability of the applicant for employment by the facility or agency in a position involved in direct patient care.

“(d) The Attorney General may charge a reasonable fee, not to exceed \$50 per request, to any nursing facility or home health care agency requesting a search and exchange of records pursuant to this section.

“(e) Not later than 2 years after the date of enactment of this Act [Oct. 21, 1998], the Attorney General shall submit a report to Congress on the number of requests for searches and exchanges of records made under this section by nursing facilities and home health care agencies and the disposition of such requests.

“(f) Whoever knowingly uses any information obtained pursuant to this section for a purpose other than as authorized under subsection (c) shall be fined in accordance with title 18, United States Code, imprisoned for not more than 2 years, or both.

“(g) A nursing facility or home health care agency that, in denying employment for an applicant, reasonably relies upon information provided by the Attorney General pursuant to this section shall not be liable in any action brought by the applicant based on the employment determination resulting from the incompleteness or inaccuracy of the information.

“(h) The Attorney General may promulgate such regulations as are necessary to carry out this section, including regulations regarding the security, confidentiality, accuracy, use, destruction, and dissemination of information, audits and recordkeeping, the imposition of fees, and any necessary modifications to the definitions contained in subsection (i).

“(i) In this section:

“(1) The term ‘home health care agency’ means an agency that provides home health care or personal care services on a visiting basis in a place of residence.

“(2) The term ‘nursing facility’ means a facility or institution (or a distinct part of an institution) that is primarily engaged in providing to residents of the facility or institution nursing care, including skilled nursing care, and related services for individuals who require medical or nursing care.

“(j) This section shall apply without fiscal year limitation.”

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, provided in part that: “for fiscal year 1991 and hereafter the Director of the Federal Bureau of Investigation may 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, and notwithstanding the provisions of 31 U.S.C. 3302, credit such fees to this appropriation to be used for salaries and other expenses incurred in providing these services, and that the Director of the Federal Bureau of Investigation may establish such fees at a level to include an additional amount to establish a fund to remain available until expended to defray expenses for the automation of fingerprint identification and criminal justice information services and associated costs”.

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, provided: “That (a) this Act may be cited as the ‘Hate Crime Statistics Act’.

“(b)(1) Under the authority of section 534 of title 28, United States Code, the Attorney General shall acquire data, for each calendar year, about crimes that manifest evidence of prejudice based on race, gender and gender identity, religion, disability, sexual orientation, or ethnicity, including where appropriate the crimes of murder, non-negligent manslaughter; forcible rape; aggravated assault, simple assault, intimidation; arson; and destruction, damage or vandalism of property.

“(2) The Attorney General shall establish guidelines for the collection of such data including the necessary evidence and criteria that must be present for a finding of manifest prejudice and procedures for carrying out the purposes of this section.

“(3) Nothing in this section creates a cause of action or a right to bring an action, including an action based

on discrimination due to sexual orientation. As used in this section, the term ‘sexual orientation’ means consensual homosexuality or heterosexuality. This subsection does not limit any existing cause of action or right to bring an action, including any action under the Administrative Procedure Act [5 U.S.C. 551 et seq., 701 et seq.] or the All Writs Act [see 28 U.S.C. 1651].

“(4) Data acquired under this section shall be used only for research or statistical purposes and may not contain any information that may reveal the identity of an individual victim of a crime.

“(5) The Attorney General shall publish an annual summary of the data acquired under this section, including data about crimes committed by, and crimes directed against, juveniles.

“(c) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section through fiscal year 2002.

“SEC. 2. (a) Congress finds that—

“(1) the American family life is the foundation of American Society,

“(2) Federal policy should encourage the well-being, financial security, and health of the American family,

“(3) schools should not de-emphasize the critical value of American family life.

“(b) Nothing in this Act shall be construed, nor shall any funds appropriated to carry out the purpose of the Act be used, to promote or encourage homosexuality.”

UNIFORM FEDERAL CRIME REPORTING ACT OF 1988

Pub. L. 100-690, title VII, §7332, Nov. 18, 1988, 102 Stat. 4468, provided that:

“(a) SHORT TITLE.—This section may be cited as the ‘Uniform Federal Crime Reporting Act of 1988’.

“(b) DEFINITIONS.—For purposes of this section, the term ‘Uniform Crime Reports’ means the reports authorized under section 534 of title 28, United States Code, and administered by the Federal Bureau of Investigation which compiles nationwide criminal statistics for use in law enforcement administration, operation, and management and to assess the nature and type of crime in the United States.

“(c) ESTABLISHMENT OF SYSTEM.—

“(1) IN GENERAL.—The Attorney General shall acquire, collect, classify, and preserve national data on Federal criminal offenses as part of the Uniform Crime Reports.

“(2) REPORTING BY FEDERAL AGENCIES.—All departments and agencies within the Federal government (including the Department of Defense) which routinely investigate complaints of criminal activity, shall report details about crime within their respective jurisdiction to the Attorney General in a uniform manner and on a form prescribed by the Attorney General. The reporting required by this subsection shall be limited to the reporting of those crimes comprising the Uniform Crime Reports.

“(3) DISTRIBUTION OF DATA.—The Attorney General shall distribute data received pursuant to paragraph (2), in the form of annual Uniform Crime Reports for the United States, to the President, Members of the Congress, State governments, and officials of localities and penal and other institutions participating in the Uniform Crime Reports program.

“(d) ROLE OF FEDERAL BUREAU OF INVESTIGATION.—The Attorney General may designate the Federal Bureau of Investigation as the lead agency for purposes of performing the functions authorized by this section and may appoint or establish such advisory and oversight boards as may be necessary to assist the Bureau in ensuring uniformity, quality, and maximum use of the data collected.

“(e) INCLUSION OF OFFENSES INVOLVING ILLEGAL DRUGS.—The Director of the Federal Bureau of Investigation is authorized to classify offenses involving illegal drugs and drug trafficking as a part I crime in the Uniform Crime Reports.

“(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$350,000 for fiscal year

1989 and such sums as may be necessary to carry out the provisions of this section after fiscal year 1989.

“(g) EFFECTIVE DATE.—The provisions of this section shall be effective on January 1, 1989.”

FAMILY AND DOMESTIC VIOLENCE; DATA COLLECTION AND REPORTING

Pub. L. 100-690, title VII, §7609, Nov. 18, 1988, 102 Stat. 4517, provided that:

“(a) FAMILY VIOLENCE REPORTING.—Under the authority of section 534 of title 28, United States Code, the Attorney General shall require, and include in uniform crime reports, data that indicate—

“(1) the age of the victim; and

“(2) the relationship of the victim to the offender, for crimes of murder, aggravated assault, simple assault, rape, sexual offenses, and offenses against children.

“(b) NATIONAL CRIME SURVEY.—The Director of the Bureau of Justice Statistics, through the annual National Crime Survey, shall collect and publish data that more accurately measures the extent of domestic violence in America, especially the physical and sexual abuse of children and the elderly.

“(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated in fiscal years 1989, 1990, 1991, and 1992, such sums as are necessary to carry out the purposes of this section.”

PARIMUTUEL LICENSING SIMPLIFICATION

Pub. L. 100-413, Aug. 22, 1988, 102 Stat. 1101, provided that:

“SECTION 1. SHORT TITLE.

“This Act may be cited as the ‘Parimutuel Licensing Simplification Act of 1988’.

“SEC. 2. SUBMISSION BY ASSOCIATION OF STATE REGULATORY OFFICIALS.

“(a) IN GENERAL.—An association of State officials regulating parimutuel wagering, designated for the purpose of this section by the Attorney General, may submit fingerprints to the Attorney General on behalf of any applicant for State license to participate in parimutuel wagering. In response to such a submission, the Attorney General may, to the extent provided by law, exchange, for licensing and employment purposes, identification and criminal history records with the State governmental bodies to which such applicant has applied.

“(b) DEFINITION.—As used in this section, the term ‘State’ means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

“SEC. 3. EFFECTIVE DATE.

“This Act shall take effect on July 1, 1989.”

FUNDS FOR EXCHANGE OF IDENTIFICATION RECORDS

Pub. L. 92-544, title II, §201, Oct. 25, 1972, 86 Stat. 1115, provided that: “The funds provided for Salaries and Expenses, Federal Bureau of Investigation, may be used hereafter, in addition to those uses authorized thereunder, for the exchange of identification records with officials or federally chartered or insured banking institutions to promote or maintain the security of those institutions, and, if authorized by State statute and approved by the Attorney General, to officials of State and local governments for purposes of employment and licensing, any such exchange to be made only for the official use of any such official and subject to the same restriction with respect to dissemination as that provided for under the aforementioned appropriation.”

§ 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

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

The section is reorganized for clarity and continuity.

In subsection (a), the word “may” is substituted for “shall have authority”. The word “is” is substituted for “may have been or may hereafter be”.

In subsection (c), the words “This section does not limit” are substituted for “that the provisions of this section shall not limit, in any way”. The words “(chapter 47 of title 10)” are added after “Uniform Code of Military Justice” to reflect the codification of that Code in title 10, United States Code.

AMENDMENTS

2002—Subsec. (a). Pub. L. 107-273 substituted “Federal criminal law” for “title 18” in introductory provisions.

Subsec. (b). Pub. L. 107-273, in introductory provisions, substituted “matter, or complaint witnessed, discovered, or” for “or complaint” and “Federal criminal law” for “title 18” and inserted “or the witness, discoverer, or recipient, as appropriate,” after “agency,”.

TRANSFER OF FUNCTIONS

Office of Postmaster General of Post Office Department abolished and all functions, powers, and duties of Postmaster General transferred to United States Postal Service by Pub. L. 91-375, §4(a), Aug. 12, 1970, 84 Stat. 773, set out as a note under section 201 of Title 39, Postal Service.

§ 536. Positions in excepted service

All positions in the Federal Bureau of Investigation are excepted from the competitive serv-