

subsection, the United States Sentencing Commission shall review and, if appropriate, amend its guidelines and its policy statements applicable to persons convicted of an offense under section 1030 of title 18.

**(2) Requirements**

In carrying out this subsection, the Sentencing Commission shall—

(A) ensure that the sentencing guidelines and policy statements reflect the serious nature of the offenses described in paragraph (1), the growing incidence of such offenses, and the need for an effective deterrent and appropriate punishment to prevent such offenses;

(B) consider the following factors and the extent to which the guidelines may or may not account for them—

(i) the potential and actual loss resulting from the offense;

(ii) the level of sophistication and planning involved in the offense;

(iii) whether the offense was committed for purposes of commercial advantage or private financial benefit;

(iv) whether the defendant acted with malicious intent to cause harm in committing the offense;

(v) the extent to which the offense violated the privacy rights of individuals harmed;

(vi) whether the offense involved a computer used by the government in furtherance of national defense, national security, or the administration of justice;

(vii) whether the violation was intended to or had the effect of significantly interfering with or disrupting a critical infrastructure; and

(viii) whether the violation was intended to or had the effect of creating a threat to public health or safety, or injury to any person;

(C) assure reasonable consistency with other relevant directives and with other sentencing guidelines;

(D) account for any additional aggravating or mitigating circumstances that might justify exceptions to the generally applicable sentencing ranges;

(E) make any necessary conforming changes to the sentencing guidelines; and

(F) assure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18.

**(c) Study and report on computer crimes**

Not later than May 1, 2003, the United States Sentencing Commission shall submit a brief report to Congress that explains any actions taken by the Sentencing Commission in response to this section and includes any recommendations the Commission may have regarding statutory penalties for offenses under section 1030 of title 18.

**(d) Emergency disclosure exception**

**(1) Omitted**

**(2) Reporting of disclosures**

A government entity that receives a disclosure under section 2702(b) of title 18 shall file,

not later than 90 days after such disclosure, a report to the Attorney General stating the paragraph of that section under which the disclosure was made, the date of the disclosure, the entity to which the disclosure was made, the number of customers or subscribers to whom the information disclosed pertained, and the number of communications, if any, that were disclosed. The Attorney General shall publish all such reports into a single report to be submitted to Congress 1 year after November 25, 2002.

(Pub. L. 107-296, title II, § 225, Nov. 25, 2002, 116 Stat. 2156.)

CODIFICATION

Section is comprised of section 225 of Pub. L. 107-296. Subsecs. (d)(1) and (e) to (j) of section 225 of Pub. L. 107-296 amended sections 1030, 2511, 2512, 2520, 2701 to 2703, and 3125 of Title 18, Crimes and Criminal Procedure.

PART D—OFFICE OF SCIENCE AND TECHNOLOGY

**§ 161. Establishment of Office; Director**

**(a) Establishment**

**(1) In general**

There is hereby established within the Department of Justice an Office of Science and Technology (hereinafter in this subchapter referred to as the “Office”).

**(2) Authority**

The Office shall be under the general authority of the Assistant Attorney General, Office of Justice Programs, and shall be established within the National Institute of Justice.

**(b) Director**

The Office shall be headed by a Director, who shall be an individual appointed based on approval by the Office of Personnel Management of the executive qualifications of the individual.

(Pub. L. 107-296, title II, § 231, Nov. 25, 2002, 116 Stat. 2159.)

REFERENCES IN TEXT

This subchapter, referred to in subsec. (a)(1), was in the original “this title”, meaning title II of Pub. L. 107-296, Nov. 25, 2002, 116 Stat. 2145, which enacted this subchapter, amended sections 1030, 2511, 2512, 2520, 2701 to 2703, and 3125 of Title 18, Crimes and Criminal Procedure, sections 3712 and 3722 of Title 42, The Public Health and Welfare, and section 401a of Title 50, War and National Defense, and enacted provisions set out as a note under section 101 of this title and listed in a Provisions for Review, Promulgation, or Amendment of Federal Sentencing Guidelines Relating to Specific Offenses table set out under section 994 of Title 28, Judiciary and Judicial Procedure. For complete classification of title II to the Code, see Tables.

**§ 162. Mission of Office; duties**

**(a) Mission**

The mission of the Office shall be—

(1) to serve as the national focal point for work on law enforcement technology; and

(2) to carry out programs that, through the provision of equipment, training, and technical assistance, improve the safety and effectiveness of law enforcement technology and

improve access to such technology by Federal, State, and local law enforcement agencies.

**(b) Duties**

In carrying out its mission, the Office shall have the following duties:

- (1) To provide recommendations and advice to the Attorney General.
- (2) To establish and maintain advisory groups (which shall be exempt from the provisions of the Federal Advisory Committee Act (5 U.S.C. App.)) to assess the law enforcement technology needs of Federal, State, and local law enforcement agencies.
- (3) To establish and maintain performance standards in accordance with the National Technology Transfer and Advancement Act of 1995 (Public Law 104-113) for, and test and evaluate law enforcement technologies that may be used by, Federal, State, and local law enforcement agencies.
- (4) To establish and maintain a program to certify, validate, and mark or otherwise recognize law enforcement technology products that conform to standards established and maintained by the Office in accordance with the National Technology Transfer and Advancement Act of 1995 (Public Law 104-113). The program may, at the discretion of the Office, allow for supplier's declaration of conformity with such standards.
- (5) To work with other entities within the Department of Justice, other Federal agencies, and the executive office of the President to establish a coordinated Federal approach on issues related to law enforcement technology.
- (6) To carry out research, development, testing, evaluation, and cost-benefit analyses in fields that would improve the safety, effectiveness, and efficiency of law enforcement technologies used by Federal, State, and local law enforcement agencies, including, but not limited to—
  - (A) weapons capable of preventing use by unauthorized persons, including personalized guns;
  - (B) protective apparel;
  - (C) bullet-resistant and explosion-resistant glass;
  - (D) monitoring systems and alarm systems capable of providing precise location information;
  - (E) wire and wireless interoperable communication technologies;
  - (F) tools and techniques that facilitate investigative and forensic work, including computer forensics;
  - (G) equipment for particular use in counterterrorism, including devices and technologies to disable terrorist devices;
  - (H) guides to assist State and local law enforcement agencies;
  - (I) DNA identification technologies; and
  - (J) tools and techniques that facilitate investigations of computer crime.
- (7) To administer a program of research, development, testing, and demonstration to improve the interoperability of voice and data public safety communications.
- (8) To serve on the Technical Support Working Group of the Department of Defense, and

on other relevant interagency panels, as requested.

(9) To develop, and disseminate to State and local law enforcement agencies, technical assistance and training materials for law enforcement personnel, including prosecutors.

(10) To operate the regional National Law Enforcement and Corrections Technology Centers and, to the extent necessary, establish additional centers through a competitive process.

(11) To administer a program of acquisition, research, development, and dissemination of advanced investigative analysis and forensic tools to assist State and local law enforcement agencies in combating cybercrime.

(12) To support research fellowships in support of its mission.

(13) To serve as a clearinghouse for information on law enforcement technologies.

(14) To represent the United States and State and local law enforcement agencies, as requested, in international activities concerning law enforcement technology.

(15) To enter into contracts and cooperative agreements and provide grants, which may require in-kind or cash matches from the recipient, as necessary to carry out its mission.

(16) To carry out other duties assigned by the Attorney General to accomplish the mission of the Office.

**(c) Competition required**

Except as otherwise expressly provided by law, all research and development carried out by or through the Office shall be carried out on a competitive basis.

**(d) Information from Federal agencies**

Federal agencies shall, upon request from the Office and in accordance with Federal law, provide the Office with any data, reports, or other information requested, unless compliance with such request is otherwise prohibited by law.

**(e) Publications**

Decisions concerning publications issued by the Office shall rest solely with the Director of the Office.

**(f) Transfer of funds**

The Office may transfer funds to other Federal agencies or provide funding to non-Federal entities through grants, cooperative agreements, or contracts to carry out its duties under this section: *Provided*, That any such transfer or provision of funding shall be carried out in accordance with section 605 of Public Law 107-77.

**(g) Annual report**

The Director of the Office shall include with the budget justification materials submitted to Congress in support of the Department of Justice budget for each fiscal year (as submitted with the budget of the President under section 1105(a) of title 31) a report on the activities of the Office. Each such report shall include the following:

(1) For the period of 5 fiscal years beginning with the fiscal year for which the budget is submitted—

(A) the Director's assessment of the needs of Federal, State, and local law enforcement

agencies for assistance with respect to law enforcement technology and other matters consistent with the mission of the Office; and

(B) a strategic plan for meeting such needs of such law enforcement agencies.

(2) For the fiscal year preceding the fiscal year for which such budget is submitted, a description of the activities carried out by the Office and an evaluation of the extent to which those activities successfully meet the needs assessed under paragraph (1)(A) in previous reports.

(Pub. L. 107-296, title II, §232, Nov. 25, 2002, 116 Stat. 2159; Pub. L. 108-7, div. L, §103(1), Feb. 20, 2003, 117 Stat. 529.)

#### REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (b)(2), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

The National Technology Transfer and Advancement Act of 1995, referred to in subsec. (b)(3), (4), is Pub. L. 104-113, Mar. 7, 1996, 110 Stat. 775, as amended. For complete classification of this Act to the Code, see Short Title of 1996 Amendment note set out under section 3701 of Title 15, Commerce and Trade, and Tables.

Section 605 of Public Law 107-77, referred to in subsec. (f), is section 605 of Pub. L. 107-77, title VI, Nov. 28, 2001, 115 Stat. 798, which is not classified to the Code.

#### AMENDMENTS

2003—Subsec. (f). Pub. L. 108-7 inserted before period at end “: *Provided*, That any such transfer or provision of funding shall be carried out in accordance with section 605 of Public Law 107-77”.

### § 163. Definition of law enforcement technology

For the purposes of this subchapter, the term “law enforcement technology” includes investigative and forensic technologies, corrections technologies, and technologies that support the judicial process.

(Pub. L. 107-296, title II, §233, Nov. 25, 2002, 116 Stat. 2161.)

#### REFERENCES IN TEXT

This subchapter, referred to in text, was in the original “this title”, meaning title II of Pub. L. 107-296, Nov. 25, 2002, 116 Stat. 2145, which enacted this subchapter, amended sections 1030, 2511, 2512, 2520, 2701 to 2703, and 3125 of Title 18, Crimes and Criminal Procedure, sections 3712 and 3722 of Title 42, The Public Health and Welfare, and section 401a of Title 50, War and National Defense, and enacted provisions set out as a note under section 101 of this title and listed in a Provisions for Review, Promulgation, or Amendment of Federal Sentencing Guidelines Relating to Specific Offenses table set out under section 994 of Title 28, Judiciary and Judicial Procedure. For complete classification of title II to the Code, see Tables.

### § 164. Abolishment of Office of Science and Technology of National Institute of Justice; transfer of functions

#### (a) Authority to transfer functions

The Attorney General may transfer to the Office any other program or activity of the Department of Justice that the Attorney General, in consultation with the Committee on the Judiciary of the Senate and the Committee on the

Judiciary of the House of Representatives, determines to be consistent with the mission of the Office.

#### (b) Transfer of personnel and assets

With respect to any function, power, or duty, or any program or activity, that is established in the Office, those employees and assets of the element of the Department of Justice from which the transfer is made that the Attorney General determines are needed to perform that function, power, or duty, or for that program or activity, as the case may be, shall be transferred to the Office: *Provided*, That any such transfer shall be carried out in accordance with section 605 of Public Law 107-77.

#### (c) Report on implementation

Not later than 1 year after November 25, 2002, the Attorney General shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report on the implementation of this subchapter. The report shall—

(1) provide an accounting of the amounts and sources of funding available to the Office to carry out its mission under existing authorizations and appropriations, and set forth the future funding needs of the Office; and

(2) include such other information and recommendations as the Attorney General considers appropriate.

(Pub. L. 107-296, title II, §234, Nov. 25, 2002, 116 Stat. 2161; Pub. L. 108-7, div. L, §103(2), Feb. 20, 2003, 117 Stat. 529.)

#### REFERENCES IN TEXT

Section 605 of Public Law 107-77, referred to in subsec. (b), is section 605 of Pub. L. 107-77, title VI, Nov. 28, 2001, 115 Stat. 798, which is not classified to the Code.

This subchapter, referred to in subsec. (c), was in the original “this title”, meaning title II of Pub. L. 107-296, Nov. 25, 2002, 116 Stat. 2145, which enacted this subchapter, amended sections 1030, 2511, 2512, 2520, 2701 to 2703, and 3125 of Title 18, Crimes and Criminal Procedure, sections 3712 and 3722 of Title 42, The Public Health and Welfare, and section 401a of Title 50, War and National Defense, and enacted provisions set out as a note under section 101 of this title and listed in a Provisions for Review, Promulgation, or Amendment of Federal Sentencing Guidelines Relating to Specific Offenses table set out under section 994 of Title 28, Judiciary and Judicial Procedure. For complete classification of title II to the Code, see Tables.

#### AMENDMENTS

2003—Subsec. (b). Pub. L. 108-7 inserted before period at end “: *Provided*, That any such transfer shall be carried out in accordance with section 605 of Public Law 107-77”.

### § 165. National Law Enforcement and Corrections Technology Centers

#### (a) In general

The Director of the Office shall operate and support National Law Enforcement and Corrections Technology Centers (hereinafter in this section referred to as “Centers”) and, to the extent necessary, establish new centers through a merit-based, competitive process.

#### (b) Purpose of Centers

The purpose of the Centers shall be to—