

[Ex. Ord. No. 13719 was originally published at 81 F.R. 7687 and was republished as set out above to correct an error appearing in the original publication.]

### § 2000ee-3. Federal agency data mining reporting

#### (a) Short title

This section may be cited as the “Federal Agency Data Mining Reporting Act of 2007”.

#### (b) Definitions

In this section:

##### (1) Data mining

The term “data mining” means a program involving pattern-based queries, searches, or other analyses of 1 or more electronic databases, where—

(A) a department or agency of the Federal Government, or a non-Federal entity acting on behalf of the Federal Government, is conducting the queries, searches, or other analyses to discover or locate a predictive pattern or anomaly indicative of terrorist or criminal activity on the part of any individual or individuals;

(B) the queries, searches, or other analyses are not subject-based and do not use personal identifiers of a specific individual, or inputs associated with a specific individual or group of individuals, to retrieve information from the database or databases; and

(C) the purpose of the queries, searches, or other analyses is not solely—

(i) the detection of fraud, waste, or abuse in a Government agency or program; or

(ii) the security of a Government computer system.

##### (2) Database

The term “database” does not include telephone directories, news reporting, information publicly available to any member of the public without payment of a fee, or databases of judicial and administrative opinions or other legal research sources.

#### (c) Reports on data mining activities by Federal agencies

##### (1) Requirement for report

The head of each department or agency of the Federal Government that is engaged in any activity to use or develop data mining shall submit a report to Congress on all such activities of the department or agency under the jurisdiction of that official. The report shall be produced in coordination with the privacy officer of that department or agency, if applicable, and shall be made available to the public, except for an annex described in subparagraph (C).<sup>1</sup>

##### (2) Content of report

Each report submitted under subparagraph (A)<sup>2</sup> shall include, for each activity to use or develop data mining, the following information:

(A) A thorough description of the data mining activity, its goals, and, where appropriate, the target dates for the deployment of the data mining activity.

(B) A thorough description of the data mining technology that is being used or will be used, including the basis for determining whether a particular pattern or anomaly is indicative of terrorist or criminal activity.

(C) A thorough description of the data sources that are being or will be used.

(D) An assessment of the efficacy or likely efficacy of the data mining activity in providing accurate information consistent with and valuable to the stated goals and plans for the use or development of the data mining activity.

(E) An assessment of the impact or likely impact of the implementation of the data mining activity on the privacy and civil liberties of individuals, including a thorough description of the actions that are being taken or will be taken with regard to the property, privacy, or other rights or privileges of any individual or individuals as a result of the implementation of the data mining activity.

(F) A list and analysis of the laws and regulations that govern the information being or to be collected, reviewed, gathered, analyzed, or used in conjunction with the data mining activity, to the extent applicable in the context of the data mining activity.

(G) A thorough discussion of the policies, procedures, and guidelines that are in place or that are to be developed and applied in the use of such data mining activity in order to—

(i) protect the privacy and due process rights of individuals, such as redress procedures; and

(ii) ensure that only accurate and complete information is collected, reviewed, gathered, analyzed, or used, and guard against any harmful consequences of potential inaccuracies.

#### (3) Annex

##### (A) In general

A report under subparagraph (A)<sup>2</sup> shall include in an annex any necessary—

(i) classified information;

(ii) law enforcement sensitive information;

(iii) proprietary business information; or

(iv) trade secrets (as that term is defined in section 1839 of title 18).

##### (B) Availability

Any annex described in clause (i)—<sup>3</sup>

(i) shall be available, as appropriate, and consistent with the National Security Act of 1947 [50 U.S.C. 3001 et seq.], to the Committee on Homeland Security and Governmental Affairs, the Committee on the Judiciary, the Select Committee on Intelligence, the Committee on Appropriations, and the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Homeland Security, the Committee on the Judiciary, the Permanent Select Committee on Intelligence, the Committee on Appropriations, and the

<sup>1</sup> So in original. Probably should be “paragraph (3)”.

<sup>2</sup> So in original. Probably should be “paragraph (1)”.

<sup>3</sup> So in original. Probably should be “subparagraph (A)—”.

Committee on Financial Services of the House of Representatives; and

(ii) shall not be made available to the public.

**(4) Time for report**

Each report required under subparagraph (A)<sup>2</sup> shall be—

(A) submitted not later than 180 days after August 3, 2007; and

(B) updated not less frequently than annually thereafter, to include any activity to use or develop data mining engaged in after the date of the prior report submitted under subparagraph (A).<sup>2</sup>

(Pub. L. 110-53, title VIII, §804, Aug. 3, 2007, 121 Stat. 362.)

**Editorial Notes**

REFERENCES IN TEXT

The National Security Act of 1947, referred to in subsec. (c)(3)(B)(i), is act July 26, 1947, ch. 343, 61 Stat. 495, which was formerly classified principally to chapter 15 (§401 et seq.) of Title 50, War and National Defense, prior to editorial reclassification in Title 50, and is now classified principally to chapter 44 (§3001 et seq.) of Title 50. For complete classification of this Act to the Code, see Tables.

**CHAPTER 21F—PROHIBITING EMPLOYMENT DISCRIMINATION ON THE BASIS OF GENETIC INFORMATION**

Sec.

|            |  |
|------------|--|
| 2000ff.    | Definitions.   |
| 2000ff-1.  | Employer practices.                                  |
| 2000ff-2.  | Employment agency practices.                         |
| 2000ff-3.  | Labor organization practices.                        |
| 2000ff-4.  | Training programs.                                   |
| 2000ff-5.  | Confidentiality of genetic information.              |
| 2000ff-6.  | Remedies and enforcement.                            |
| 2000ff-7.  | Disparate impact.                                    |
| 2000ff-8.  | Construction.  |
| 2000ff-9.  | Medical information that is not genetic information. |
| 2000ff-10. | Regulations.   |
| 2000ff-11. | Authorization of appropriations.                     |

**§ 2000ff. Definitions**

In this chapter:

**(1) Commission**

The term “Commission” means the Equal Employment Opportunity Commission as created by section 2000e-4 of this title.

**(2) Employee; employer; employment agency; labor organization; member**

**(A) In general**

The term “employee” means—

(i) an employee (including an applicant), as defined in section 2000e(f) of this title;

(ii) a State employee (including an applicant) described in section 2000e-16c(a) of this title;

(iii) a covered employee (including an applicant), as defined in section 1301 of title 2;

(iv) a covered employee (including an applicant), as defined in section 411(c) of title 3; or

(v) an employee or applicant to which section 2000e-16(a) of this title applies.

**(B) Employer**

The term “employer” means—

(i) an employer (as defined in section 2000e(b) of this title);

(ii) an entity employing a State employee described in section 2000e-16c(a) of this title;

(iii) an employing office, as defined in section 1301 of title 2;

(iv) an employing office, as defined in section 411(c) of title 3; or

(v) an entity to which section 2000e-16(a) of this title applies.

**(C) Employment agency; labor organization**

The terms “employment agency” and “labor organization” have the meanings given the terms in section 2000e of this title.

**(D) Member**

The term “member”, with respect to a labor organization, includes an applicant for membership in a labor organization.

**(3) Family member**

The term “family member” means, with respect to an individual—

(A) a dependent (as such term is used for purposes of section 1181(f)(2) of title 29) of such individual, and

(B) any other individual who is a first-degree, second-degree, third-degree, or fourth-degree relative of such individual or of an individual described in subparagraph (A).

**(4) Genetic information**

**(A) In general**

The term “genetic information” means, with respect to any individual, information about—

(i) such individual’s genetic tests,

(ii) the genetic tests of family members of such individual, and

(iii) the manifestation of a disease or disorder in family members of such individual.

**(B) Inclusion of genetic services and participation in genetic research**

Such term includes, with respect to any individual, any request for, or receipt of, genetic services, or participation in clinical research which includes genetic services, by such individual or any family member of such individual.

**(C) Exclusions**

The term “genetic information” shall not include information about the sex or age of any individual.

**(5) Genetic monitoring**

The term “genetic monitoring” means the periodic examination of employees to evaluate acquired modifications to their genetic material, such as chromosomal damage or evidence of increased occurrence of mutations, that may have developed in the course of employment due to exposure to toxic substances in the workplace, in order to identify, evaluate, and respond to the effects of or control adverse environmental exposures in the workplace.