of the banking laws of the United States and in aiding in the prosecution of the banker under the supervision of the district attorney, and hence was not liable for damages suffered by banker as a result of the prosecution. Cooper v. O'Connor, 1938, 99 F.2d 135, 69 App.D.C. 100, 118 A.L.R. 1440, certiorari denied 59 S.Ct. 146, 305 U.S. 642, 83 L.Ed. 414, rehearing denied 59 S.Ct. 241, 305 U.S. 673, 83 L.Ed. 436, rehearing denied 59 S.Ct. 1030, 307 U.S. 651, 83 L.Ed. 1529.

Where Federal Bureau of Investigation, the Civil Service Commission, and Department of State were authorized to interrogate federal employee who was employed on a conditional basis, subject to character and fitness investigation, questions as to whether employee was a member of Communist Party, as to whether he had ever participated in any of its activities, etc., were relevant and within scope of investigation. U. S. v. Marzani, D.C.D.C.1947, 71 F.Supp. 615, affirmed 168 F.2d 133, affirmed 69 S.Ct. 299, 335 U.S. 895, 93 L.Ed. 431, adhered to on rehearing 69 S.Ct. 653, 336 U.S. 922, 93 L.Ed. 355.

3. Relationship with United States Attorney

Where property had been illegally seized for use in prosecution in Michigan federal court pursuant to order of that court directed to agents of Federal Bureau of Investigation, the United States attorney in the Southern District of New York, where property was seized, could not avoid responsibility for return of property to claimant on ground that federal officers by relinquishing custody of property might open themselves to disciplinary proceedings from the Michigan court, since an official cloak cannot hide an illegal act, or justly open the official to criticism or discipline for measures taken to correct the wrong. Weinberg v. U. S., C.C.A.N.Y.1942, 126 F.2d 1004.

Where property had been illegally seized in New York pursuant to order issued by Michigan federal court directed to agents of the Federal Bureau of Investigation, the United States attorney for the Southern District of New York could not escape responsibility for returning property to claimant on ground that he had no control over the Federal Bureau of Investigation, since special agents generally operate to aid United States Attorneys. Id.

4. Subpoena duces tecum

Plaintiff, suing in federal court a special agent of Federal Bureau of Investigation and others for wrongful imprisonment, was entitled by subpoena duces tecum to require production of military files pertaining to his imprisonment, including investigative reports of Bureau of Investigation, where loyal citizenship of plaintiff and actionable deviation from official conduct by defendants were brought in issue, such reports were in the custody of military authorities and not of any officer or employee of the Department of Justice, and their production was not shown to be unreasonable or oppressive. Zimmerman v. Poindexter, D.C.Hawaii 1947, 74 F.Supp. 933.

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

(a) The Attorney General shall—

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

(2) exchange these records with, and for the official use of, authorized officials of the Federal Government, the States, cities, and penal and other institutions.

(b) The exchange of records authorized by subsection (a) (2) 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.

Added Pub.L. 89–554, § 4(c), Sept. 6, 1966, 80 Stat. 616.

Historical and Revision Notes

Reviser's Notes

Derivation:	United States 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 103 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.

Explanatory Notes.

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 setion 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.

Library References

Attorney General ⇐6.

C.J.S. Attorney General §§ 5, 6.

§ 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 title 18 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, or complaint received in a department or agency of the executive branch of the Government relating to violations of Title 18 involving Government officers and employees shall be expeditiously reported to the Attorney General by the head of the department or agency, 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.

CHAPTER 33—FEDERAL BUREAU OF INVESTIGATION

§ 532. Director of the Federal Bureau of Investigation

Confirmation and Compensation of Director; Term of Service. Pub.L. 90-351, Title VI, § 1101, June 19, 1968, 82 Stat. 236, as amended by Pub.L. 94-503, Title II, § 203, Oct. 15, 1976, 90 Stat. 2427, provided that:

"(a) Effective as of the day following the date on which the present incumbent in the office of Director ceases to serve as such, the Director of the Federal Bureau of Investigation shall be appointed by the President, by and with the advice and consent of the Senate, and shall receive compensation at the rate prescribed for level II of the Federal Executive Salary Schedule [section 5313 of Title 5].

"(b) Effective with respect to any individual appointment by the President, by and with the advice and consent of the Senate, after June 1, 1973, the term of service of the Director of the Federal Bureau of Investigation shall be ten years. A Director may not serve more than one ten-year term. The provisions of subsections (a) through (c) of section 8335 of title 5, United States Code [section 8335(a) through (c) of Title 5], shall apply to any individual appointed under this section."

§ 533. Investigative and other officials; appointment

2. Scope of investigatory powers

In view of complex problems of Indian Tribal Court jurisdiction, uncertainty of the law and fact that neither the tribe nor tribal court would, if aware of limitations on their power, exceed it, district court would not issue preliminary injunction to restrain the tribe and its officers from further proceedings with contempt citations or interfering with the Federal Bureau of Investigation in the investigation of violations of federal statutes on their reservation. U. S. v. Blackfeet Tribe of Blackfeet Indian Reservation, D.C.Mont.1973, 364 F.Supp. 192, reaffirmed 369 F.Supp. 562.

It is beyond the power of Indian tribe to in any way regulate, limit, or restrict federal law officer, including FBI agent, in the performance of his duties. Id.

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

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½. Purpose

This section under which fingerprint identification functions were delegated to FBI was designed to facilitate coordination of law enforcement activities of federal and local governments and was not intended or effective to authorize dissemination of arrest records to any state or local agency for purposes of employment or licensing checks. Menard v. Mitchell, D.C.D.C.1971, 328 F.Supp. 718, remanded on other grounds 498 F.2d 1017, 162 U.S. App.D.C. 284.

¾. Construction

This section governing maintenance of criminal records must be construed in a manner designed to prevent government dissemination of inaccurate criminal information without reasonable precautions to insure accuracy. Tarlton v. Saxbe, 1974, 507 F.2d 1116, 165 U.S.App.D.C. 293.

The word "shall" in this section providing that the Attorney General shall acquire and preserve criminal identification records is not merely an authorization but an imperative direction. U. S. v. Rosen, D.C.N.Y.1972, 343 F.Supp. 804.

⅞. Generally

Court was required to assume that official records of federal government would correctly reflect final disposition of case in which charges against individual were dismissed. U. S. v. Seasholtz, D.C.Okl. 1974, 376 F.Supp. 1288.

1. Records within section

A record of an arrest and conviction constitutes a "criminal record" within meaning of this section; thus, such records are properly maintained in the F. B. I. criminal files. Crow v. Kelley, C.A.Mo.1975, 512 F.2d 752.

Inclusion of fingerprints in neutral noncriminal files, such as general identification files, provides no reasonable basis for a claim of legal injury. Menard v. Saxbe, 1974, 498 F.2d 1017, 162 U.S. App.D.C. 284.

Congress intended to differentiate "criminal identification" from other information that FBI is authorized to gather. Id.

Under this section authorizing Attorney General to maintain identification files, identification division of FBI is precluded from maintaining in its criminal files as an arrest record an encounter with police that has been established not to constitute an arrest, but is not prohibited from maintaining neutral identification records. Id.

Once FBI was informed by local police that arrestee's encounter with local police was purely fortuitous, and was not deemed an arrest but only a detention, FBI had no authority to retain arrest record received from local police in its

criminal files along with mass of arrest records. Id.

That defendant had been detained for two days by California police and released without judicial hearing, that FBI maintained record of his detention indicating date of arrest, charge, disposition, etc., and that federal officers had no knowledge of any crime committed by plaintiff or incident to his detention did not establish that records were outside fair reading of term "criminal records" in this section authorizing FBI to maintain criminal records. Menard v. Mitchell, 1970, 430 F.2d 486, 139 U.S.App.D.C. 113, on remand 328 F.Supp. 718.

1a. Suits allowable

Insofar as arrestee's action to remove his record from FBI's criminal files attacked abuses of identification division of FBI in its unique role in the information network, suit against the FBI was proper. Menard v. Saxbe, 1974, 498 F.2d 1017, 162 U.S.App.D.C. 284.

2. Justification for maintenance of records

F. B. I. had no duty to satisfy itself as to underlying validity of petitioner's state arrests and convictions before entering information in relation thereto on its files. Crow v. Kelley, C.A.Mo.1975, 512 F.2d 752.

In view of possible adverse effect on plaintiff of FBI's maintenance of record of his California arrest and detention, without further prosecution, and of possibility of dissemination of record, mere fact that plaintiff had been arrested did not justify maintenance of his fingerprints and record of his detention in criminal identification files. Menard v. Mitchell, 1970, 430 F.2d 486, 139 U.S.App.D.C. 113, on remand 328 F.Supp. 718.

3. Disclosure

Dissemination of inaccurate criminal information by the FBI without the precaution of reasonable efforts to forestall inaccuracy restricts the subject's liberty without any procedural safeguards designed to prevent such inaccuracies. Tarlton v. Saxbe, 1974, 507 F.2d 1116, 165 U.S.App.D.C. 293.

United States executive order limited by judicial decisions was, in permitting use of FBI fingerprint records for purposes of governmental employment, proper exercise of President's responsibilities in name of national security, in view of many civil service and other built-in safeguards protecting misuse of such information, and government's discreet use of such information was not infringement upon any constitutional right asserted by person whose fingerprinting resulted from arrest on probable cause. Menard v. Mitchell, D.C.D.C.1971, 328 F.Supp. 718. Remanded on other grounds 498 F.2d 1017, 162 U.S.App.D.C. 284.

4. Retention of records

Substantial bundle of constitutional rights, including those to due process, privacy and presumption of innocence, may be unnecessarily infringed by police authorities' practice of routinely distributing preconviction or postexoneration arrest records, including not only fingerprints but also data identifying person arrested and information concerning details and surrounding circumstances of arrest, to Federal Bureau of Investigation for nationwide redistribution for both law enforcement and employment and licensing purposes. Utz v. Cullinane, C.A.D.C.1975, 520 F.2d 467.

Where defendant's arrest was lawful, pursuant to indictment returned by duly constituted grand jury, charges set forth in indictment were lawful ones not subject to any constitutional infirmity, there was no government harassment, trial judge held there was sufficient incriminating evidence against defendant to require submission of at least nine counts to jury, and jury acquitted defendant of all nine counts, defendant was not entitled to expungement of arrest record, notwithstanding acquittal. U. S. v. Linn, C.A.Okl.1975, 513 F.2d 925, certiorari denied 96 S.Ct. 63, 423 U.S. 836, 46 L.Ed.2d 55.

Where defendants under indictment seeking return of arrest records had not been acquitted and there was no improper dissemination of the records, no improper use of the records, and no injuries sustained by defendants as a result of retention of the records, retention of the records did not violate defendants' right of privacy and United States Attorney would not be required to return records to defendants. U. S. v. Rosen, D.C.N.Y.1972, 343 F.Supp. 804.

Even where a person has been acquitted of charges against him, the arrest records and other materials of identification may be retained unless there is a statute that directs return of such records, the arrest was unlawful, or the record of the arrest is the "fruit" of an illegal seizure. Id.

5. Arrest records, expungement

Courts possess power to expunge arrest record where arrestee has been acquitted. U. S. v. Linn, C.A.Okl.1975, 513 F.2d 925. Certiorari denied 96 S.Ct. 63, 423 U.S. 836, 46 L.Ed.2d 55.

Acquittal, standing alone, is not in itself sufficient to warrant expungement of arrest record. Id.

Complaint with respect to validity of underlying arrests and convictions must be raised in the appropriate state forum rather than by way of petition for writ of mandamus requesting the F. B. I. to remove allegedly false and unconstitutional information from its files; considerations of federal-state comity require that federal court give initial opportunity to state or local authorities to pass on the validity of the convictions. Crow v. Kelley, C.A.Mo.1975, 512 F.2d 752.

Generally, courts order expungement of arrest or conviction records to remedy constitutional injuries sustained by reason of such arrest or convictions. Tarlton v. Saxbe, 1974, 507 F.2d 1116, 165 U.S.App.D.C. 293.

When FBI is apprised by local police that a person has been exonerated after initial arrest, released without charge and a change of record to "detention only," the FBI has responsibility to expunge the incident from its criminal identification files; the FBI cannot turn aside its responsibility by claiming that it is powerless to act absent a specific and formal request from local police for withdrawal of the record. Menard v. Saxbe, 1974, 498 F.2d 1017, 162 U.S.App.D.C. 284.

Nonserious offenses are to be deleted from all Federal Bureau of Investigation criminal records, upon request for dissemination for all individuals over age 35, and on conversion to computerized files for all other individuals. Tarlton v. Saxbe, D.C.D.C.1976, 407 F.Supp. 1083.

Individual arrest records of Federal Bureau of Investigation need not reflect existence and nature of pending challenges to such records. Id.

The courts have power to expunge arrest and criminal records. Id.

A court may order the expungement of arrest record where police action and arrest violated certain basic constitutional rights. Shadd v. U. S., D.C.Pa.1975, 389 F.Supp. 721, affirmed 535 F.2d 1247.

Where petitioner who sought to expunge arrest on firearms charge from his F. B. I. criminal file did not contend that arrest was without probable cause

or solely for harassment purposes and where F. B. I. record properly reflected magistrate's dismissal of charge, order sought would be inappropriate. Id.

Federal courts have equity power to expunge arrest records of individuals in extraordinary or extreme circumstances such as illegal arrests or mass arrests or harassment where justice requires. U. S. v. Seasholtz, D.C.Okl.1974, 376 F.Supp. 1288.

Whether circumstances of arrest are extraordinary or extreme so that justice requires exercise of equity power by federal court to expunge arrest record of individual depends upon facts of particular case. Id.

Federal courts do not expunge arrest records in normal case unless directed by statute, or arrest was unlawful. Id.

Issue as to whether arrest records of person, who had been acquitted but did not contend that arrests were made without probable cause or for purposes of harassment, should be expunged was legislative matter rather than a matter for the courts. U. S. v. Dooley, D.C.Pa.1973, 364 F.Supp. 75.

Federal court has power to enter order expunging arrest records of individuals, who are arrested without probable cause or for purposes of harassment, and may expunge such records in extraordinary circumstances where justice requires. Id.

Defendant who failed to make use of remedy of expunging record of fingerprints taken after illegal arrest waived objection to use of information in other, unrelated investigations. Com. v. Fredericks, 1975, 340 A.2d 498, 235 Pa.Super. 78.

5a. Exhaustion of administrative remedies

Challenges to Federal Bureau of Investigation criminal records must ordinarily proceed first before appropriate local agencies or courts. Tarlton v. Saxbe, D.C.D.C.1976, 407 F.Supp. 1083.

6. Persons entitled to sue

Plaintiff has standing to maintain action to expunge certain information from his FBI "criminal" file when such information consisted of several entries of arrests for which no ultimate disposition was indicated and of arrests and convictions which were allegedly perpetrated in violation of his constitutional rights. Tarlton v. Saxbe, 1974, 507 F.2d 1116, 165 U.S.App.D.C. 293.

Arrestee, whose fingerprints were routinely forwarded by local police to FBI along with notation that he had been arrested for burglary and two days later "Released—unable to connect with any felony or misdemeanor at this time." and whose record was retained by the FBI, had not merely suffered personal distress, but had sustained a cognizable legal injury. Menard v. Saxby, 1974, 498 F.2d 1017, 162 U.S.App.D.C. 284.

7. Justiciable controversies

Pro se complaint wherein plaintiff sought to expunge certain information from his FBI "criminal" file presented the sort of dispute that had been traditionally considered justiciable; and claim was ripe for decision. Tarlton v. Saxbe, 1974, 507 F.2d 1116, 165 U.S.App.D.C. 293.

8. Pleadings

Pro se litigants should not be deprived of their rights due to inexpertly drawn pleadings; accordingly, plaintiff could seek to expunge certain information from his FBI "criminal" file, even though he did not in his initial pro se pleadings set forth theory of his action with complete precision. Tarlton v. Saxbe, 1974, 507 F.2d 1116, 165 U.S.App.D.C. 293.

9. Accuracy of records

The FBI must expunge information from its criminal files when the local agency which first reported that information to the FBI later reports information disputing the accuracy of the relevant FBI records. Tarlton v. Saxbe, 1974, 507 F.2d 1116, 165 U.S.App.D.C. 293.

Record of police "detentions" for which the FBI knows that no probable cause for arrest existed may not be included in FBI files; as a corollary thereto, arrest or convictions known by the FBI to be unconstitutional are not properly enshrined in FBI files. Id.

10. Duty of F.B.I.

This section which directs the Attorney General to acquire, collect, classify, and preserve identification, criminal identification, crime, and other records implies a duty on the part of the FBI, to which the Attorney General has delegated the task of criminal record-keeping, to take account of responsible information that the arrest record previously submitted did not communicate an information properly retained by the Bureau in its criminal file as an arrest record. Tarlton v. Saxbe, 1974, 507 F.2d 1116, 165 U.S.App. D.C. 293.

The FBI has a duty to take notice of responsible information furnished by local law enforcement agencies and, on application for expungement, district court may inquire whether persuasive reasons exist for not extending this duty to a more general duty of requesting local law enforcement agencies to reveal the factual bases, if any of allegations submitted to the FBI challenging the accuracy of prior information submitted by local agency. Id.

Duty of the FBI to take reasonable measures to produce accurate information for parole or sentencing authorities supports the procedural rights guaranteed at sentencing and parole hearing since such authorities are themselves required to sentence on an accurate and constitutional criminal record. Id.

Federal Bureau of Investigation, at minimum, has duty to forward challenges to its criminal records to appropriate criminal justice agencies and courts for investigation and initiation of correction procedures. Tarlton v. Saxbe, D.C.D.C. 1976, 407 F.Supp. 1083.

11. —— Standard of care

A reliable and responsible performance of the record-keeping function of the FBI requires such reasonable care as the FBI is able to afford to avoid injury to innocent citizens through dissemination of inaccurate information. Tarlton v. Saxbe, 1974, 507 F.2d 1116, 165 U.S.App.D.C. 293.

12. Authority of F.B.I.

The FBI is not authorized to disseminate inaccurate criminal information without taking reasonable precautions to prevent inaccuracy. Tarlton v. Saxbe, 1974, 507 F.2d 1116, 165 U.S.App.D.C. 293.

If the FBI has the authority to collect and disseminate inaccurate criminal information about private individuals without making reasonable efforts to safeguard the accuracy of the information, it would in effect have the authority to libel those individuals, but, absent the clearest statement of congressional policy, the Congress cannot be imputed with an intent to authorize the FBI to damage the reputation of innocent individuals in contravention of settled common-law principles. Id.

The Congress cannot be presumed to have authorized the FBI to receive and disseminate without reasonable precautions the sort of incomplete, unchallengeable information from state or local officials which those officials themselves are forbidden to disseminate. Id.

13. Right of privacy

Both the constitutional issue of permitting the FBI to disseminate inaccurate criminal information without making reasonable efforts to prevent inaccuracy and the common-law principle forbidding defamation of innocent individuals refer to the value of individual privacy, a value which finds its most direct expression in U.S.C.A.Const. Amends. 4 and 5. Tarlton v. Saxbe, 1974, 507 F.2d 1116, 165 U.S.App. D.C. 293.

14. Disclaimer of responsibility

The FBI may not disclaim responsibility for the records system it has created through insertion of a printed warning on the records it disseminates. Tarlton v. Saxbe, 1974, 507 F.2d 1116, 165 U.S.App. D.C. 293.

15. Comity

A district court cannot review the constitutionality and relitigate the merits of all the arrests and convictions in the United States when it is presented with a request for expungement of an arrest record, nor can it order expungement of information from files of local governmental agencies over which it has no jurisdiction; rather, considerations of federal-state and comity would seem to require that local courts which supervised the arrest or entered the conviction under attack should make the initial determination as to the validity of that arrest or conviction. Tarlton v. Saxbe, 1974, 507 F.2d 1116, 165 U.S.App.D.C. 293.

The policy of federal-state comity, while applicable to requests for expungement of arrest records, does not prevent expungement actions directed against the FBI prior to a successful expungement action in the local court of the jurisdiction which first provided the disputed record. Id.

16. Duty of court

The FBI is not and cannot be the guarantor of the accuracy of information in its criminal files, but neither can it avoid all responsibility for inaccuracies which injure innocent individuals; accordingly, on application for expungement, task of district court is to consider, by the standards of reasonable care within the FBI's capacity, where between these extremes the proper definition of FBI responsibility may be found. Tarlton v. Saxbe, 1974, 507 F.2d 1116, 165 U.S. App.D.C. 293.

17. Discretion of court

In considering a request for expungement of FBI records, the district court may, in its discretion, wish to consider whether persuasive reasons exist which might justify the failure of the FBI to keep its files reasonably current, whether the FBI should upon request of an individual detailing allegations of inaccurate entries in his FBI criminal file forward those allegations to the relevant local law enforcement agency with a request for comment or contradiction, or it may wish to review the present FBI forms for use by local law enforcement officials to determine whether it is reasonable to require the reporting of additional information about the crime which is the subject of the submission. Tarlton v. Saxbe, 1974, 507 F.2d 1116, 165 U.S.App. D.C. 293.

18. Matters considered

Cost and administrative difficulty of implementing duty of inquiry in respect to accuracy of information in FBI criminal files must be weighed in ascertaining what if any legally protectable federal interest accrues to subjects of those files. Tarlton v. Saxbe, 1974, 507 F.2d 1116, 165 U.S.App.D.C. 293.

19. Jurisdiction

Jurisdiction of action wherein plaintiff sought to expunge certain information from his FBI "criminal" file was founded upon section 1331 of this title granting district courts jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States. Tarlton v. Saxbe, 1974, 507 F.2d 1116, 165 U.S.App.D.C. 293.

20. State agencies, assistance to

Action of official of division of parole in obtaining assistance of F. B. I. agent in identifying parolee's associates and in providing FBI-compiled criminal records of such associates did not taint parole violation inquiry, but was sensible and proper utilization of lawful investigative resource. People v. Santos, 1975, 368 N.Y. S.2d 130, 82 Misc.2d 184.

21. Correction of files

Court would not, at present prevent Federal Bureau of Investigation from disseminating year-old arrest records without notation of disposition of charges for law enforcement purposes, but would direct Bureau to conduct feasibility study relating to methods of keeping disposition entries on criminal records reasonably current. Tarlton v. Saxbe, D.C.D.C.1976, 407 F.Supp. 1083.

Where correlation between state court criminal matters which petitioner alleged had been set aside and the F. B. I. entries in files listing petitioner's criminal record required unreasonable guesswork on part of court, government's motion to dismiss petitioner's action seeking amendment and correction of his F. B. I. file as to such charges was reserved for limited period of time to allow petitioner, who was proceeding pro se, to submit to the court and to the government specific information as to which entries he alleged to be wrong. Shadd v. U. S., D.C. Pa.1975, 389 F.Supp. 721, affirmed 535 F. 2d 1247.

Duplicitous listing in petitioner's F. B. I. criminal file of witness tampering charges coupled with lack of a disposition entry for charges which were disposed of 27 months earlier violated even minimal definition of F. B. I. responsibility for maintaining accurate criminal file, entitling petitioner to an appropriate order directing F. B. I. to correct its records. Id.

22. Summary Judgment

Fact that petitioner who was proceeding pro se in action seeking to amend and correct F. B. I. files listing his criminal record did not file a cross motion for summary judgment did not preclude entry of summary judgment for petitioner where record established that no genuine issue of material fact existed as to inaccuracy of portion of F. B. I. records. Shadd v. U. S., D.C.Pa.1975, 389 F.Supp. 721, affirmed 535 F.2d 1247.

§ 536. Positions in excepted service

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1. Generally

Employees of Federal Bureau of Investigation are outside the classified civil service. Carter v. U. S., 1968, 407 F.2d 1238, 132 U.S.App.D.C. 303.