§ 837. Functions, powers and duties of division. The division shall have the following functions, powers and duties:

1. Advise and assist the governor in developing policies, plans and programs for improving the coordination, administration and effectiveness of the criminal justice system;

2. Make recommendations to agencies in the criminal justice system for improving their administration and effectiveness:

3. Act as the official state planning agency pursuant to the federal acts; in accordance therewith, prepare, evaluate and revise statewide crime control and juvenile delinquency prevention and control plans; and receive and disburse funds from the federal government;

4. In cooperation with the state administrator of the unified court system as well as any other public or private agency,

(a) through the central data facility collect, analyze, evaluate and disseminate statistical and other information and data; and

(b) undertake research, studies and analyses and act as a central repository, clearinghouse and disseminator of research studies, in respect to criminal justice functions and any agency responsible for a criminal justice function, with specific attention to the effectiveness of existing programs and procedures for the efficient and just processing and disposition of criminal cases; and

(b-1) collect data and undertake research, studies and analyses of judicial diversion programs including but not limited to the judicial diversion program described in article two hundred sixteen of the criminal procedure law; and

(c) collect and analyze statistical and other information and data with respect to the number of crimes reported or known to police officers or peace officers, the number of persons arrested for the commission of offense, the age of the person or persons arrested, the number of custodial arrests and appearance tickets issued, the offense for which the person was arrested, the county within which the arrest was made and the accusatory instrument filed, the disposition of the accusatory instrument including, but not limited to, as the case may be,

dismissal, acquittal, the offense to which the defendant pled guilty, the offense the defendant was convicted of after trial, and the sentence; and where a firearm as defined in section 265.00 of the penal law or machine gun, rifle or shotgun comes into the custody of police officers or peace officers in the course of an investigation of such crime or offense, the make, model type, caliber and magazine or cylinder capacity of any such firearm and whether possession of such firearm by the defendant is licensed or unlicensed and if confiscated at arrest, the style and manufacturer of any ammunition; and

(d) Supply data, upon request, to federal bureaus or departments engaged in collecting national criminal statistics; and

(e) Supply data, including confidential and sealed criminal history record information, for bona fide research purposes. Such information shall be disseminated in accordance with procedures established by the division to assure the security and privacy of identification and information data, which shall include the execution of an agreement which protects the confidentiality of the information and reasonably protects against data linkage to individuals; and

(e-1) Collect demographic data with respect to persons appointed as a police officer, including but not limited to racial and gender characteristics; and

(f) Accomplish all of the functions, powers, and duties set forth in paragraphs (a), (b), (c) and (d) of this subdivision with respect to the processing and disposition of cases involving violent felony offenses specified in subdivision one of section 70.02 of the penal law.

4-a. In cooperation with the state administrator of the unified court system as well as any other public or private agency, collect and analyze statistical and all other information and data with respect to the number of environmental crimes and offenses in violation of articles twenty-seven, thirty-seven and forty, and titles twenty-seven and thirty-seven of article seventy-one of the environmental conservation law reported or known to the department of environmental conservation, the division of state police, and all other police or peace officers, the number of persons arrested for the commission of said violation, the offense for which the person was arrested, the county within which the arrest was made and the accusatory instrument filed, the disposition of

the accusatory instrument filed, including, but not limited to, as the case may be, dismissal, acquittal, the offense to which the defendant pled guilty, the offense the defendant was convicted of after trial, and the sentence or monetary penalty levied, or the civil disposition of the offense if such offense was adjudicated by civil means.

4-b. In cooperation with any public or private agency or entity, collect and analyze statistical data and all other information and data with respect to the number of crimes and offenses committed against employees of the city of New York responsible for enforcing certain regulations in such city, while such employees were enforcing or attempting to enforce such regulations and reported or known to any law enforcement agency, the number of persons arrested for the commission of said offenses, the offense for which the person was arrested, the county within which the arrest was made and the accusatory instrument filed, the disposition of the accusatory instrument filed, including but not limited to, as the case may be, dismissal, acquittal, the offense to which the defendant pled guilty, the offense the defendant was convicted of after trial, and the sentence or other penalty levied. For the purposes of this subdivision, an employee of the city of New York responsible for enforcing certain regulations in such city shall mean a traffic enforcement agent or an employee of the department of sanitation who is authorized to issue notices of violation, summons or appearance tickets.

4-c. (a) In cooperation with the chief administrator of the courts as well as any other public or private agency, including law enforcement agencies, collect, maintain, analyze and make public statistical and all other information and data with respect to the number of hate crimes reported to or investigated by the division of state police, and all other police or peace officers, the number of persons arrested for the commission of such crimes, the offense for which the person was arrested, the demographic data of the victim or victims of such crimes including, but not limited to, race, color, national origin, ancestry, gender, gender identity or expression, religion, religious practice, age, disability or sexual orientation of a person, the demographic data of the person or persons arrested for the commission of such crimes

including, but not limited to, race, color, national origin, ancestry, gender, gender identity or expression, religion, religious practice, age, disability or sexual orientation of a person, the county within which the arrest was made and the accusatory instrument filed, the disposition of the accusatory instrument filed, including, but not limited to, as the case may be, dismissal, acquittal, the offense to which the defendant pled guilty, the offense the defendant was convicted of after trial, and the sentence imposed. Data collected shall be used for research or statistical purposes only and shall not contain information that may reveal the identity of any individual. The division shall include the statistics and other information required by this subdivision in an annual report submitted to the governor, the speaker of the assembly, the temporary president of the senate, the chair of the assembly codes committee, the chair of the senate codes committee, the attorney general and the chief administrative judge of the office of court administration. Such annual reports shall be a public record.

(b) The division shall promulgate regulations related to the use and collection of a "hate crime demographic data form". The regulations shall address the appropriate methods and timing of collection of the demographic data included in paragraph (a) of this subdivision. The division shall consider the manner of collection which will be most conducive to respecting victims while collecting necessary information that will assist the state in providing adequate victim support services and additional programming to decrease the likelihood of such hate crimes occurring, and best practices for collection of the data. Information disclosed on the hate crime victim demographic data form or the hate crime defendant demographic data form shall be used only to assist the division in complying with paragraph (a) of this subdivision and shall not be used in any administrative or judicial proceeding.

(c) As used in this section, the term "gender identity or expression" shall have the same meaning as defined in paragraph (c) of subdivision four of section 485.05 of the penal law.

5. Conduct studies and analyses of the administration or operations of any criminal justice agency when requested by the head of such agency, and make the results thereof available for the benefit of such agency;

5-a. Undertake to furnish or make available to the district attorneys of the state such supportive services and technical assistance as the commissioner and any one or more of the district attorneys shall agree are appropriate to promote the effective performance of his or their prosecutorial functions.

6. Establish, through electronic data processing and related procedures, a central data facility with a communication network serving qualified agencies anywhere in the state, so that they may, upon such terms and conditions as the commissioner, and the appropriate officials of such qualified agencies shall agree, contribute information and, except as provided in subdivision two of section 306.2 of the family court act, have access to information contained in the central data facility, which shall include but not be limited to such information as criminal record, personal appearance data, fingerprints, photographs, and handwriting samples;

6-a. Upon request, provide an incarcerated individual of the state or local correctional facility, at no charge, with a copy of all criminal history information maintained on file by the division pertaining to such incarcerated individual.

7. Receive, process and file fingerprints, photographs and other descriptive data for the purpose of establishing identity and previous criminal record;

7-a. Receive, process and file orders granting a change of name to persons convicted of a felony subject to the provisions of subdivision two of section sixty-one of the civil rights law;

8. Adopt appropriate measures to assure the security and privacy of identification and information data;

8-a. Charge a fee when, pursuant to statute or the regulations of the division, it conducts a search of its criminal history records and returns a report thereon in connection with an application for employment or for a license or permit. The division shall adopt and may,

from time to time, amend a schedule of such fees which shall be in amounts determined by the division to be reasonably related to the cost of conducting such searches and returning reports thereon but, in no event, shall any such fee exceed twenty-five dollars and an additional surcharge of fifty dollars. The comptroller is hereby authorized to deposit such fees into the general fund, provided, however, that the monies received by the division of criminal justice services for payment of the additional surcharge shall be deposited in equal amounts to the general fund and to the fingerprint identification and technology account. Notwithstanding the foregoing, the division shall not request or accept any fee for searching its records and supplying a criminal history report pursuant to section two hundred fifty-one-b of the general business law relating to participating in flight instruction at any aeronautical facility, flight school or institution of higher learning.

8-b. Notwithstanding any other provision of law to the contrary, charge a fee for the provision of agency materials and publications, conferences, criminal history record reviews, legal services, the provision of services to analyze or prepare data that is not prepared in the ordinary course of business, the provision of information in a computerized format, the application for approval and renewal of security guard training schools and the certification and renewal certification of security guard instructors, the service and repair of municipal law enforcement agency equipment and collect reimbursement and other moneys. Such fees shall be reasonably related to the actual costs incurred, including the costs of salaries, computer time, shipping and handling, as appropriate. The comptroller is hereby authorized to deposit such fees into the general fund effective August thirty-first, nineteen hundred ninety-six.

8-c. Notwithstanding the provisions of section one hundred three of the general municipal law, section one hundred seventy-four of the state finance law and any other general, special or local law to the contrary, any officer, board or agency of a political subdivision or state agency authorized to make purchases of materials, equipment or supplies, may make such purchases of statewide automated fingerprint identification

system-related materials, equipment or supplies, through the agreement executed between the division and North American Morpho Systems, Inc. Notwithstanding any other law to the contrary, the division shall be authorized to enter into voluntary cost-sharing arrangements with local criminal justice agencies for expanded facsimile services and criminal justice information access through the criminal justice data communications network.

9. Accept, agree to accept and contract as agent of the state, with the approval of the governor, any grant, including federal grants, or any gift for any of the purposes of this article;

10. Accept, with the approval of the governor, as agent of the state, any gift, grant, devise or bequest, whether conditional or unconditional (notwithstanding the provisions of section eleven of the state finance law), including federal grants, for any of the purposes of this article. Any monies so received may be expended by the division to effectuate any purpose of this article, subject to the same limitations as to approval of expenditures and audit as are prescribed for state monies appropriated for the purposes of this article;

11. Enter into contracts with any person, firm, corporation, municipality, or governmental agency;

12. Make an annual report to the governor and legislature concerning its work during the preceding year, and such further interim reports to the governor, or to the governor and legislature, as it shall deem advisable, or as shall be required by the governor;

13. Adopt, amend or rescind such rules and regulations as may be necessary or convenient to the performance of the functions, powers and duties of the division;

14. Do all other things necessary or convenient to carry out the functions, powers and duties expressly set forth in this article.

15. Promulgate, in consultation with the superintendent of state

police and the state office for the prevention of domestic violence, and in accordance with paragraph (f) of subdivision three of section eight hundred forty of this article, a standardized "domestic violence incident report form" for use by state and local law enforcement agencies in the reporting, recording and investigation of all alleged incidents of domestic violence, regardless of whether an arrest is made as a result of such investigation. Such form shall be prepared in multiple parts, one of which shall be immediately provided to the victim, and shall include designated spaces for: the recordation of the results of the investigation by the law enforcement agency and the basis for any action taken; the recordation of a victim's allegations of domestic violence; the age and gender of the victim and the alleged offender or offenders; and immediately thereunder a space on which the victim may sign and verify such victim's allegations. Such form shall also include, but not be limited to spaces to identify:

(a) what other services or agencies, including but not limited to medical, shelter, advocacy and other supportive services are or have previously been involved with the victim; and

(b) whether the victim has been provided with the written notice described in subdivision five of section eight hundred twelve of the family court act and subdivision six of section 530.11 of the criminal procedure law.

16. Operate a toll-free twenty-four hour telephone number that members of the public may call to obtain information as to resources available to the public to assist in the location and recovery of missing persons. Such toll-free telephone line may be operated by the division as part of the toll-free telephone line established pursuant to section eight hundred thirty-seven-f of this article. Furthermore, all such information relating to the locating and recovery of missing persons may be included on the division homepage established pursuant to section eight hundred forty-three of this article.

17. In consultation with the district attorneys, develop and operate a witness protection program. Within the amounts available by appropriation, such program shall provide assistance to district attorneys in protecting witnesses and victims, including their family

members, who may suffer physical or emotional harm, intimidation or retaliatory violence as a result of the cooperation of the witness or victim with law enforcement, with a particular emphasis on vulnerable witnesses and victims, including witnesses to and victims of domestic violence and sexual exploitation and witnesses and victims testifying against violent or dangerous defendants. Such assistance may include, but not be limited to, administrative measures to: (a) facilitate name changes and receipt of new identification documents for witnesses and victims in appropriate cases; and (b) provide a range of protective services, including, when necessary, relocating victims and witnesses, and their family members. The division may enter into contracts with any person, firm, corporation, not-for-profit entity or governmental agency to provide administrative oversight and assistance in the operation of this program, may issue appropriate guidelines and may adopt, amend or rescind any rules and regulations as may be necessary or convenient to the operation of the program. These guidelines and regulations shall include a process by which district attorneys may apply for reimbursement of the costs of providing witness protection services.

18. In cooperation with any public or private agency or entity, undertake to make and furnish an instructional video relating to how sexual predators lure children. The video shall be geared toward parental information and education. The division shall distribute a copy of the video to all public libraries and police departments for public use and viewing.

19. Receive names and other non-clinical identifying information pursuant to section 9.46 of the mental hygiene law; provided, however, any such information shall be destroyed five years after such receipt, or pursuant to a proceeding brought under article seventy-eight of the civil practice law and rules determining that an individual is eligible for a license pursuant to section 400.00 of the penal law and otherwise permitted to possess a firearm.

20. To assist the department of agriculture and markets in developing information about animal cruelty and protection laws pursuant to subdivision forty-eight of section sixteen of the agriculture and

markets law.

21. Promulgate a standardized and detailed written protocol that is grounded in evidence-based principles for the administration of photographic array and live lineup identification procedures for police agencies and standardized forms for use by such agencies in the reporting and recording of such identification procedure. The protocol shall address the following topics:

(a) the selection of photographic array and live lineup filler photographs or participants;

(b) instructions given to a witness before conducting a photographic array or live lineup identification procedure;

(c) the documentation and preservation of results of a photographic array or live lineup identification procedure;

(d) procedures for eliciting and documenting the witness's confidence in his or her identification following a photographic array or live lineup identification procedure, in the event that an identification is made; and

(e) procedures for administering a photographic array or live lineup identification procedure in a manner designed to prevent opportunities to influence the witness.

22. (a) Maintain and annually update a list of offenses in states and territories of the United States other than New York that include all of the essential elements of a serious offense as defined by subdivision seventeen of section 265.00 of the penal law, to assist courts, licensing authorities and others in determining which offenses in such other states and territories qualify as a serious offense for purposes of article two hundred sixty-five of the penal law, subdivision seventeen of section 265.00 of the penal law, and subdivision one-a of section 400.00 of the penal law. The division shall append to such list of offenses a disclaimer that such list shall be for informational purposes only and is not intended to be a substitute for the advice of an attorney or counselor-at-law.

(b) Such updated list shall be prominently posted on the website maintained by the division. Each list shall bear the date of posting, and each posted and dated listing shall be separately maintained by the

division as a record available to the public. The first list compiled under this subdivision shall be prominently posted by the division no later than nine months after the effective date of this subdivision.

23. (a) In conjunction with the superintendent of the state police, promulgate policies and procedures with regard to standardization of firearms safety training required under subdivision nineteen of section 400.00 of the penal law, which shall include the approval of course materials and promulgation of proficiency standards for live fire training; and

(b) In conjunction with the superintendent of state police, create an appeals board for the purpose of hearing appeals as provided in subdivision four-a of section 400.00 of the penal law and promulgate rules and regulations governing such appeals.

24. In furtherance of the responsibilities of the office of gun violence prevention set forth in section eight hundred thirty-seven-y of this article, the division shall:

(a) create and disseminate resources and training materials on gun violence intervention and prevention strategies and best practices; and may, if practicable, provide technical assistance, additional resources, and direct training to professionals focused on gun violence intervention and prevention strategies.

(b) where appropriate, facilitate response activities among political subdivisions of the state and not-for-profit organizations to assist communities that are impacted by incidents of mass gun violence. For the purposes of this section, mass gun violence shall include a "mass shooting" as defined in subdivision eleven of section eight hundred thirty-five of this article; a single shooting incident that results in injury to three or more people; or multiple related shooting incidents resulting in injuries to three or more individuals, occurring within a community over a period of up to seven calendar days.