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187

# STATE OF ALASKA THE LEGISLATURE

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

## LEGISLATIVE AFFAIRS AGENCY LEGISLATIVE REFERENCE LIBRARY

May, 1986

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS date base CM 14. In order to save space copies of minutes have not been left in the files.

Jeanie Henry

House Judiciary	3/19/85	1:30 pm
" "	3/22/85	1:30 pm
" "	3/29/85	1:30 pm
" "	3/30/85	9 Am
" "	4/2/85	1:30 pm
" "	3/27/86	1:30 pm
" "	4/7/86	8: Am



Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 183 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Governor's Commission on the  
7 Administration of Justice and to intelligence infor-  
8 mation."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 \* Section 1. AS 12.62.010 is amended to read:

11 Sec. 12.62.010. REGULATIONS. (a) The Governor's Commission on  
12 the Administration of Justice established under AS 44.19.110 - 44.19.-  
13 122 may [IS AUTHORIZED], after appropriate consultation with represen-  
14 tatives of state and local law enforcement agencies participating in  
15 information systems covered by this chapter, [TO] adopt regulations  
16 and, by regulation, establish procedures considered necessary to  
17 facilitate and regulate the exchange of criminal justice information  
18 and to insure the security and privacy of criminal justice information  
19 systems. The notice and hearing requirements of the Administrative  
20 Procedure Act (AS 44.62), relating to the adoption of regulations,  
21 apply to regulations adopted under this chapter.

22 (b) In addition to regulations adopted under (a) of this sec-  
23 tion, the commission shall, after appropriate consultation with rep-  
24 resentatives of state and local law enforcement agencies, adopt regu-  
25 lations [AND PROCEDURES] governing the gathering of intelligence  
26 information and the storage, security, and privacy of the intelligence  
27 information collected and maintained by law enforcement agencies in  
28 the state. [THE NOTICE AND HEARING REQUIREMENTS OF THE ADMINISTRATIVE  
29 PROCEDURE ACT (AS 44.62), RELATING TO THE ADOPTION OF REGULATIONS,

1 APPLY TO REGULATIONS ADOPTED UNDER THIS SUBSECTION.] In adopting  
2 these regulations, the commission shall take into account both the  
3 interest of law enforcement agencies in maintaining the ability to  
4 conduct intelligence operations and each individual's right to pri-  
5 vacy.

6 \* Sec. 2. AS 12.62.015(a) is amended to read:

7 (a) Regulations of the commission adopted under AS 12.62.010(b)  
8 must [SHALL] include requirements and guidelines concerning the cat-  
9 gories of intelligence information that [WHICH] may be gathered by  
10 law enforcement agencies in the state, the purposes for which intelli-  
11 gence information may be collected, and the methods and procedures  
12 that [WHICH] may be used in collecting intelligence information. The  
13 regulations must restrict methods and procedures for collecting intel-  
14 ligence information to methods and procedures likely to result in  
15 relevant and reliable information.

16 \* Sec. 3. AS 12.62.015 is amended by adding a new subsection to read:

17 (c) A law enforcement agency in the state may not gather or  
18 retain intelligence information unless the information pertains to an  
19 individual or group that is reasonably suspected of engaging in crimi-  
20 nal activity.

21 \* Sec. 4. AS 12.62.030(c) is amended to read:

22 (c) A person has [SHALL HAVE] the right to inspect criminal  
23 justice information that refers to the person. If a person believes  
24 the information to be inaccurate, incomplete, or misleading, the  
25 person may request the criminal justice agency having custody or  
26 control of the records to purge, modify or supplement them. When the  
27 agency responds to the person's request, the agency shall notify the  
28 person of the right to request a review from the commission under this  
29 subsection. If the agency declines to implement the person's request

1 [DO SO], or if the person believes the agency's decision to be other-  
2 wise unsatisfactory, the person may in writing request review by the  
3 commission within 60 days after [OF] the decision of the agency. If  
4 it finds a basis for complaint, the [THE] commission or [,] its rep-  
5 resentative or agent shall [, IN A CASE IN WHICH IT FINDS A BASIS FOR  
6 COMPLAINT,] conduct a hearing at which the person may appear with  
7 counsel, present evidence, and examine and cross-examine witnesses.  
8 Written findings and conclusions shall be issued and a copy of them  
9 sent to the person requesting review with a notice of the person's  
10 right to appeal under (f) of this section. If the record in question  
11 is found to be inaccurate, incomplete or misleading, the commission  
12 shall order it to be appropriately purged, modified or supplemented by  
13 an explanatory notation. An agency or person in the state with cus-  
14 tody, possession or control of the record shall promptly have every  
15 copy of the record altered in accordance with the commission's order.  
16 The commission shall promptly notify [NOTIFICATION OF A DELETION,  
17 AMENDMENT AND SUPPLEMENTARY NOTATION SHALL BE PROMPTLY DISSEMINATED BY  
18 THE COMMISSION TO] persons or agencies to which records in question  
19 have been communicated, and [AS WELL AS TO] the person whose records  
20 have been altered, of a deletion, amendment, or supplementary nota-  
21 tion.

22 \* Sec. 5. AS 12.52.030(e) is amended to read:

23 (e) The commission shall adopt regulations for access to crimi-  
24 nal justice information and establishing reasonable [REASONABLE] hours  
25 and places of inspection, and any additional restrictions, including  
26 fingerprinting, that are reasonably necessary both to assure the  
27 record's security and to verify the identity of a person who seeks to  
28 inspect a record [IDENTITIES OF THOSE WHO SEEK TO INSPECT THEM MAY BE  
29 PRESCRIBED BY PUBLISHED RULES]. Fingerprints taken under this sub-

section may not be transferred to another agency or used for any other purpose.

\* Sec. 6. AS 12.62.035(a) is amended to read:

(a) Notwithstanding any other provision of law, an interested person as defined in (e) of this section may request from the commission records of all convictions involving contributing to the delinquency of a minor and any sex crimes of a person who holds or applies for a position in which the person has or would have supervisory or disciplinary power over a minor. The requesting interested person shall include with the request a written authorization, signed by the subject of the request, indicating that the subject consents to release of the records to the interested person. If the commission is satisfied that the subject of the request has authorized release of the information, the [THE] commission shall authorize the disclosure of the information to the requesting interested person and shall provide a copy of the information to the person who is the subject of the request.

\* Sec. 7. AS 12.62.040(a) is amended to read:

(a) Criminal justice information systems shall

(1) be dedicated to law enforcement purposes and be under the management and control of law enforcement agencies unless exempted under regulations adopted under AS 12.62.010;

(2) include operating procedures approved by the commission that [WHICH] are [REASONABLY] designed to assure the security of the information contained in the system from unauthorized disclosure, and [REASONABLY] designed to assure that criminal offender record information in the system is regularly and accurately revised to include subsequently furnished information;

(3) include operating procedures approved by the commission

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which are designed to assure that information concerning an individual shall be removed from the records, based on considerations of age, nature of record, and reasonable interval following the last entry of information indicating that the individual is still under the jurisdiction of a law enforcement agency.

\* Sec. 8. AS 12.62.040 is amended by adding a new subsection to read:

(c) The commission shall adopt regulations that require a law enforcement agency to modify, supplement, or purge from the criminal justice information system

(1) inaccurate information; or

(2) information gathered or entered in violation of this chapter.

\* Sec. 9. AS 12.62.060(b) is amended to read:

(b) A person who [WILFULLY] disseminates or uses criminal justice information knowing the [SUCH] dissemination or use to be in violation of this chapter, or who knowingly collects, obtains or uses intelligence information in violation of this chapter, is guilty of a class C felony [UPON CONVICTION, IS PUNISHABLE BY A FINE OF NOT MORE THAN \$1,000 OR BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BY BOTH].

\* Sec. 10. AS 12.62.060(c) is amended to read:

(c) A good faith reliance upon the provisions of this chapter or of applicable law governing maintenance, dissemination, or use of criminal justice information, or upon [RULES,] regulations adopted [, OR PROCEDURES PRESCRIBED] under this chapter is a defense to a civil or criminal action brought under this chapter.

\* Sec. 11. AS 12.62.070(3) is amended to read:

(3) "criminal justice information system" means a system [, INCLUDING THE EQUIPMENT, FACILITIES, PROCEDURES, AGREEMENTS, AND

ORGANIZATIONS RELATED TO THE SYSTEM FUNDED IN WHOLE OR IN PART BY THE LAW ENFORCEMENT ASSISTANCE ADMINISTRATION,] for the collection, processing, or dissemination of criminal justice information;

\* Sec. 12. AS 44.19.112 is repealed and reenacted to read:

Sec. 44.19.112. MEMBERSHIP AND MEETINGS. (a) The commission is composed of the attorney general, the public defender, and three public members appointed by the governor. One of the public members must be experienced in the field of computer science.

(b) The commission shall elect a member to serve as chair and may elect other officers. Terms of officers are for one year.

(c) The commission shall meet at least once each year at the call of the chair.

\* Sec. 13. AS 44.19.114 is amended to read:

Sec. 44.19.114. COMPENSATION AND PER DIEM. Members of the commission receive no salary for their service on the commission. The public members [BUT] are entitled to per diem and travel expenses authorized by law for boards and commissions.

\* Sec. 14. AS 44.19.122 is repealed and reenacted to read:

Sec. 44.19.122. STAFF. The Department of Law shall provide staff for the commission without expense to the commission.

\* Sec. 15. Each criminal justice agency in the state that has entered intelligence information into the criminal justice information systems shall review that information and immediately purge from the system any information that does not meet the requirements of this Act.

\* Sec. 16. AS 44.19.118 and 44.19.120(a) are repealed.

Cramer  
4/4/86 ✓

Original sponsor: Rules/Governor

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BY THE JUDICIARY COMMITTEE

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22 intelligence information into the criminal justice information systems  
23 shall review that information and immediately purge from the system any  
24 information that does not meet the requirements of this Act.

25 \* Sec. 16. AS 44.19.118 and 44.19.120(a) are repealed.  
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A M E N D M E N T

Offered in the HOUSE

BY \_\_\_\_\_

TO: HB 183

Page 1, line 10, through page 2, line 5:

Delete all material and insert the following:

\* Section 1. AS 12.62.010 is repealed and reenacted to read:

Sec. 12.62.010. COMMITTEE ON CRIMINAL JUSTICE INFORMATION SYSTEMS; REGULATIONS. (a) The Alaska Committee on Criminal Justice Information Systems is established. It consists of the following persons or their respective designees:

- (1) the attorney general;
- (2) the commissioner of public safety;
- (3) the commissioner of health and social services;
- (4) the commissioner of corrections;
- (5) the public defender;
- (6) the public advocate;
- (7) a municipal police chief appointed by the governor; and
- (8) the administrative director of courts.

(b) The committee may adopt regulations and procedures considered necessary to facilitate and regulate the exchange of criminal justice information and to ensure the security and privacy of criminal justice information systems. The requirements of the Administrative Procedure Act (AS 44.62) relating to the adoption of regulations apply to regulations adopted under this chapter.

(c) No regulation adopted under this chapter is binding on the court system unless the court system representative on the committee voted in favor of the regulation. No regulation adopted under this chapter is binding on an executive-branch agency of state government unless a majority of the executive-branch representatives on the committee who voted on the question voted in favor of the regulation.

Page 6, line 6:

Delete "attorney general" and insert "committee established under AS 12.62.010" in its place.

Page 9, between lines 25 and 26:

Insert the following:

\* Sec. 13. Regulations adopted under AS 12.62.010 before the effective date of the repeal and reenactment of that section, by sec. 1 of this Act, remain in effect until amended or repealed by the Alaska Committee on Criminal Justice Information Systems.

Page 9, line 26:

Change "Sec. 13" to read "Sec. 14."

A M E N D M E N T

#1

Offered in the Judiciary Committee

By Clocksin

TO: HB 183

Page 1, line 8, after "attorney general" insert:

"; and requiring removal of certain records from the criminal justice information systems"

Page 6, after line 25, insert a new bill section to read:

"\* Sec. 10. AS 12.62.040 is amended by adding a new subsection to read:

(c) The attorney general shall purge from the criminal justice information systems all records of a conviction set aside by the court under AS 12.55.085(e)."

Renumber remaining sections.

A M E N D M E N T

#2

Offered in the Judiciary Committee

By Clocksin

TO: HB 183

Page 1, line 8, after "attorney general" insert:

"and relating to access to the criminal justice information systems by the public defender and the office of public advocacy"

Page 5, after line 11, insert a new bill section to read:

"\* Sec. 6. AS 12.6?.030 is amended by adding a new subsection to read:

(g) Notwithstanding any other provision of law, the Department of Law may not monitor, record, or restrict access of the public defender agency or the office of public advocacy to the criminal justice information systems for information related to the representation of a client."

Renumber remaining bill sections.

# Alaska State Legislature



## House of Representatives House Judiciary Committee

Pouch V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-4990

House Bill 183 was heard by the House Judiciary Committee during an interim work session on October 24, 1985. See tape F dated October 24.

STATE OF ALASKA 1986 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date : \_\_\_\_\_

REQUEST

FISCAL DETAIL

Bill/Resolution No. : CSHB 183 (Judiciary)  
 Title : "An Act Relating to the  
 Governor's Commission on the Administration  
 of Justice and to Intelligence Information."  
 Sponsoring : By the Judiciary Committee  
 Requestor : House Judiciary Committee  
 Date of Request : April 4, 1986

Agency Affected : Department of Law  
 BRU : Prosecution  
 Components : Administration and Support

**EXPENDITURES/REVENUES : Thousands of Dollars)**

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL		4.3	4.4	4.5	4.6	4.7
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>		<b>4.3</b>	<b>4.4</b>	<b>4.5</b>	<b>4.6</b>	<b>4.7</b>

CAPITAL						
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REVENUE						
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**FUNDING : (Thousands of Dollars)**

GENERAL FUND		4.3	4.4	4.5	4.6	4.7
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

**POSITIONS :**

FULL-TIME		-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Please see attached analysis.

Prepared by : Richard I. Pegues, Director Phone : 465-3672  
 Division : Administrative Services Division Date : 4/7/86  
 Approved by, Commissioner : Harold M. Brown, Att'y General Date : 4/7/86  
 Agency : Department of Law

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

# CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSHB 183 (Judiciary)

The Committee Substitute continues the Governor's Commission on the Administration of Justice, and it empowers the commission to oversee justice information and criminal intelligence computer systems. The bill provides that the Department of Law shall provide staff for the commission without expense to the commission. The bill also provides that the five-member commission shall meet three times each year in Anchorage. Although the department can provide existing staff time to support the commission's activities, it cannot provide travel and per diem for commission members when its travel budget is being reduced. It is anticipated that three members and staff will have to travel to Anchorage each time the commission meets. Two days of per diem would be required for members and staff who would be on travel status for each meeting. Fiscal note funds are therefore requested as follows:

Travel = 3 x \$322 x 3 trips	=	\$2,898
Per Diem = 3 x \$ 80 x 2 days x 3 trips	=	<u>\$1,440</u>
	TOTAL	\$4,338

3/27

Don -

If have 3 public members  
cost would be: (from Div. of  
Occupational Licensing)

Meet 3x / year

In Anchorage

2 day meeting

cost ~~for~~ <sup>for 3</sup> meetings is \$3,342.00

~~12,000.00~~  
~~12,000.00~~  
~~12,000.00~~

Public  
Member

Tueson to Anch.

airfare \$352.00  
2 day per diem 160.00  
cab fare 20.00  
\$532.00

Fkks to Anch.

airfare \$222.00  
2 day per diem 160.00  
cab fare 20.00  
\$402.00

Anch

airfare - \$0.00  
2 day per diem - \$160.00  
cab fare - 20.00  
\$180.00

No per diem or travel  
for P.D. & AG

Jan



# REPRESENTATIVE DON CLOCKSIN

Alaska House of Representatives

MAJORITY LEADER

1024 WEST SIXTH AVENUE  
ANCHORAGE, ALASKA 99501  
(907) 274-4031

WHILE IN JUNEAU:  
POUCH V  
JUNEAU, ALASKA 99811  
(907) 465-3704

## MEMO

To: Rep. M. Mike Miller, Chair  
House Judiciary Committee

From: Rep. Don Clocksin *DC*

Re: Proposed CSHB 183

Date: March 27, 1986

During the interim, I was appointed as a subcommittee to review HB 183. Attached is my proposed committee substitute to HB 183 entitled "An Act relating to the Governor's Commission on the Administration of Justice and to intelligence information. (Attachment 1).

### I. Background

The Alaska Justice Information System (AJIS) was the computerized criminal justice network and information system used in Alaska as established by AS 12.62.010 et seq. This system failed and within the past two years, the legislature approved funding for a new system known as ASPIN which operates under the same general principle.

In 1972 the Governor's Commission on the Administration of Justice (AS 44.19.110 - 44.19.122) was authorized to draft regulations (6 AAC 60) and provide oversight over the AJIS system. This 13 member Commission was made up of representatives from the public and private sectors.

However, this Commission is now defunct, and it is my understanding that they have not met since 1981. Under administrative regulations this oversight function is now delegated to the Attorney General as the ex-officio chair of the Commission.

My research shows that the last audit was conducted in 1981 by SRI International of California. This security and privacy audit had three pages of observations and recommendations. (See Attachment 2). I do not know how many of these have been implemented. At Judiciary Committee hearings during this last interim, concerns were voiced on the accuracy, security and control of this system. Forty-seven agencies, including Big Brothers/Big Sisters of Juneau and the Federal Highway Administration, now have some access to this system. These agencies have to sign a user agreement but no audits are made to check compliance.

I was concerned that there has been no oversight or review of the system since the Commission ceased to exist. I have requested the Legislative Budget and Audit Committee to conduct a performance audit of the entire system and to investigate the following in detail:

1. data quality;
2. record - subject review and challenge;
3. system security;
4. dissemination and use;
5. gathering of intelligence information;
6. record keeping on juveniles; and
7. purging and expungment of information

It is my understanding that the audit will be completed within the next thirty days.

## II. Recommendations:

In balancing the competing interests of protecting the public and an individual's right to privacy, I felt it was necessary to retain a scaled-down version of the original 13 member commission. The proposed committee substitute sets up a five member commission composed of the Attorney General, public defender, a member from the House, a member from the Senate and a representative of the Judiciary.

This bill would have a "zero" fiscal impact. Members of the Commission would receive no additional salary for serving on the Commission and their per diem and travel would be funded out of their respective existing budgets. It also requires no new positions to be funded to assist in carrying out the duties of the Commission. In fact, this bill validates into law what is current practice, that is, the Attorney General's office now has oversight and control over the entire system.

I have also amended existing statutes to take care of the concerns voiced in testimony and by members of the Committee

regarding security and access. Furthermore, an additional duty is imposed on users to purge any information currently kept in their system which is not in compliance with this bill.

Thank you for your consideration of this bill.

Cramer  
3/27/86

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 183 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Governor's Commission on the  
7 Administration of Justice and to intelligence infor-  
8 mation."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 \* Section 1. AS 12.62.010 is amended to read:

11 Sec. 12.62.010. REGULATIONS. (a) The Governor's Commission on  
12 the Administration of Justice established under AS 44.19.110 - 44.19.-  
13 122 may [IS AUTHORIZED], after appropriate consultation with represen-  
14 tatives of state and local law enforcement agencies participating in  
15 information systems covered by this chapter, [TO] adopt regulations  
16 and, by regulation, establish procedures considered necessary to  
17 facilitate and regulate the exchange of criminal justice information  
18 and to insure the security and privacy of criminal justice information  
19 systems. The notice and hearing requirements of the Administrative  
20 Procedure Act (AS 44.62), relating to the adoption of regulations,  
21 apply to regulations adopted under this chapter.

22 (b) In addition to regulations adopted under (a) of this sec-  
23 tion, the commission shall, after appropriate consultation with rep-  
24 resentatives of state and local law enforcement agencies, adopt regu-  
25 lations [AND PROCEDURES] governing the gathering of intelligence  
26 information and the storage, security, and privacy of the intelligence  
27 information collected and maintained by law enforcement agencies in  
28 the state. [THE NOTICE AND HEARING REQUIREMENTS OF THE ADMINISTRATIVE  
29 PROCEDURE ACT (AS 44.62), RELATING TO THE ADOPTION OF REGULATIONS,

1 APPLY TO REGULATIONS ADOPTED UNDER THIS SUBSECTION.] In adopting  
2 these regulations, the commission shall take into account both the  
3 interest of law enforcement agencies in maintaining the ability to  
4 conduct intelligence operations and each individual's right to pri-  
5 vacy.

6 \* Sec. 2. AS 12.62.015(a) is amended to read:

7 (a) Regulations of the commission adopted under AS 12.62.010(b)  
8 must [SHALL] include requirements and guidelines concerning the cat-  
9 egories of intelligence information that [WHICH] may be gathered by  
10 law enforcement agencies in the state, the purposes for which intelli-  
11 gence information may be collected, and the methods and procedures  
12 that [WHICH] may be used in collecting intelligence information. The  
13 regulations must restrict methods and procedures for collecting intel-  
14 ligence information to methods and procedures likely to result in  
15 relevant and reliable information.

16 \* Sec. 3. AS 12.62.015 is amended by adding a new subsection to read:

17 (c) A law enforcement agency in the state may not gather or  
18 retain intelligence information unless the information pertains to an  
19 individual or group that is reasonably suspected of engaging in crimi-  
20 nal activity.

21 \* Sec. 4. AS 12.62.030(a) is amended to read:

22 (a) Except as provided in (b) and (c) of this section and in  
23 AS 12.62.035, access to specified classes of criminal justice informa-  
24 tion in criminal justice information systems is available only to  
25 individual law enforcement agencies according to the specific needs of  
26 the agency under regulations adopted by the commission under AS 12.-  
27 62.010. Criminal justice information may be used only for law en-  
28 forcement purposes or for those additional lawful purposes necessary  
29 to protect the public health or safety [THE PROPER ENFORCEMENT OR

1 ADMINISTRATION OF OTHER PROVISIONS OF LAW AS THE COMMISSION MAY PRE-  
2 SCRIBE BY REGULATIONS ADOPTED UNDER AS 12.62.010]. Criminal justice  
3 information may not be disseminated to an agency before the commission  
4 determines the agency's eligibility to receive that information.

5 \* Sec. 5. AS 12.62.030(c) is amended to read:

6 (c) A person has [SHALL HAVE] the right to inspect criminal  
7 justice information that refers to the person. If a person believes  
8 the information to be inaccurate, incomplete, or misleading, the  
9 person may request the criminal justice agency having custody or  
10 control of the records to purge, modify or supplement them. When the  
11 agency responds to the person's request, the agency shall notify the  
12 person of the right to request a review from the commission under this  
13 subsection. If the agency declines to implement the person's request  
14 [DO SO], or if the person believes the agency's decision to be other-  
15 wise unsatisfactory, the person may in writing request review by the  
16 commission within 60 days after [OF] the decision of the agency. If  
17 it finds a basis for complaint, the [THE] commission or [,] its rep-  
18 resentative or agent shall [, IN A CASE IN WHICH IT FINDS A BASIS FOR  
19 COMPLAINT,] conduct a hearing at which the person may appear with  
20 counsel, present evidence, and examine and cross-examine witnesses.  
21 Written findings and conclusions shall be issued and a copy of them  
22 sent to the person requesting review with a notice of the person's  
23 right to appeal under (f) of this section. If the record in question  
24 is found to be inaccurate, incomplete or misleading, the commission  
25 shall order it to be appropriately purged, modified or supplemented by  
26 an explanatory notation. An agency or person in the state with cus-  
27 tody, possession or control of the record shall promptly have every  
28 copy of the record altered in accordance with the commission's order.  
29 The commission shall promptly notify [NOTIFICATION OF A DELETION,

1 AMENDMENT AND SUPPLEMENTARY NOTATION SHALL BE PROMPTLY DISSEMINATED BY  
2 THE COMMISSION TO] persons or agencies to which records in question  
3 have been communicated, and [AS WELL AS TO] the person whose records  
4 have been altered, of a deletion, amendment, or supplementary nota-  
5 tion.

6 \* Sec. 6. AS 12.62.030(e) is amended to read:

7 (e) The commission shall adopt regulations for access to crimi-  
8 nal justice information and establishing reasonable [REASONABLE] hours  
9 and places of inspection, and any additional restrictions, including  
10 fingerprinting, that are reasonably necessary both to assure the  
11 record's security and to verify the identity of a person who seeks to  
12 inspect a record [IDENTITIES OF THOSE WHO SEEK TO INSPECT THEM MAY BE  
13 PRESCRIBED BY PUBLISHED RULES]. Fingerprints taken under this sub-  
14 section may not be transferred to another agency or used for any other  
15 purpose.

16 \* Sec. 7. AS 12.62.035(a) is amended to read:

17 (a) Notwithstanding any other provision of law, an interested  
18 person as defined in (e) of this section may request from the commis-  
19 sion records of all convictions involving contributing to the delin-  
20 quency of a minor and any sex crimes of a person who holds or applies  
21 for a position in which the person has or would have supervisory or  
22 disciplinary power over a minor. The requesting interested person  
23 shall include with the request a written authorization, signed by the  
24 subject of the request, indicating that the subject consen' to re-  
25 lease of the records to the interested person. If the comm. on is  
26 satisfied that the subject of the request has authorized release of  
27 the information, the [THE] commission shall authorize the disclosure  
28 of the information to the requesting interested person and shall  
29 provide a copy of the information to the person who is the subject of

1 the request.

2 \* Sec. 8. AS 12.62.040(a) is amended to read:

3 (a) Criminal justice information systems shall

4 (1) be dedicated to law enforcement purposes and be under  
5 the management and control of law enforcement agencies unless exempted  
6 under regulations adopted under AS 12.62.010;

7 (2) include operating procedures approved by the commission  
8 that [WHICH] are [REASONABLY] designed to assure the security of the  
9 information contained in the system from unauthorized disclosure, and  
10 [REASONABLY] designed to assure that criminal offender record informa-  
11 tion in the system is regularly and accurately revised to include  
12 subsequently furnished information;

13 (3) include operating procedures approved by the commission  
14 which are designed to assure that information concerning an individual  
15 shall be removed from the records, based on considerations of age,  
16 nature of record, and reasonable interval following the last entry of  
17 information indicating that the individual is still under the juris-  
18 diction of a law enforcement agency.

19 \* Sec. 9. AS 12.62.040 is amended by adding a new subsection to read:

20 (c) The commission shall adopt regulations that require a law  
21 enforcement agency to modify, supplement, or purge from the criminal  
22 justice information system

23 (1) inaccurate information; or

24 (2) information gathered or entered in violation of this  
25 chapter.

26 \* Sec. 10. AS 12.62.060(b) is amended to read:

27 (b) A person who [WILFULLY] disseminates or uses criminal jus-  
28 tice information knowing the [SUCH] dissemination or use to be in  
29 violation of this chapter, or who knowingly collects, obtains or uses

1 intelligence information in violation of this chapter, is guilty of a  
2 class C felony [UPON CONVICTION, IS PUNISHABLE BY A FINE OF NOT MORE  
3 THAN \$1,000 OR BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BY  
4 BOTH].

5 \* Sec. 11. AS 12.62.060(c) is amended to read:

6 (c) A good faith reliance upon the provisions of this chapter or  
7 of applicable law governing maintenance, dissemination, or use of  
8 criminal justice information, or upon [RULES,] regulations adopted [,  
9 OR PROCEDURES PRESCRIBED] under this chapter is a defense to a civil  
10 or criminal action brought under this chapter.

11 \* Sec. 12. AS 12.62.070(3) is amended to read:

12 (3) "criminal justice information system" means a system [,  
13 INCLUDING THE EQUIPMENT, FACILITIES, PROCEDURES, AGREEMENTS, AND  
14 ORGANIZATIONS RELATED TO THE SYSTEM FUNDED IN WHOLE OR IN PART BY THE  
15 LAW ENFORCEMENT ASSISTANCE ADMINISTRATION,] for the collection, pro-  
16 cessing, or dissemination of criminal justice information;

17 \* Sec. 13. AS 44.19.112 is repealed and reenacted to read:

18 Sec. 44.19.112. MEMBERSHIP AND MEETINGS. (a) The commission is  
19 composed of the attorney general, the public defender, a member of the  
20 senate appointed by the president of the senate, a member of the house  
21 of representatives appointed by the speaker of the house, and a repre-  
22 sentative of the judiciary appointed by the chief justice of the state  
23 supreme court.

24 (b) The commission shall elect a member to serve as chair and  
25 may elect other officers. Terms of officers are for one year.

26 (c) The commission shall meet at least once each year at the  
27 call of the chair.

28 \* Sec. 14. AS 44.19.114 is amended to read:

29 Sec. 44.19.114. COMPENSATION AND PER DIEM. Members of the

1           commission receive no salary for their service on the commission but  
2           are entitled to per diem and travel expenses authorized by law for  
3           boards and commissions but only if the agency that employs the member  
4           pays for the travel or per diem.

5           \* Sec. 15. AS 44.19.122 is repealed and reenacted to read:

6                     Sec. 44.19.122. STAFF. The Department of Law shall provide  
7           staff for the commission without expense to the commission.

8           \* Sec. 16. Each criminal justice agency in the state that has entered  
9           intelligence information into the criminal justice information systems  
10          shall review that information and immediately purge from the system any  
11          information that does not meet the requirements of this chapter.

12          \* Sec. 17. AS 44.19.118 and 44.19.120(a) are repealed.

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y STATE CAPITOL  
JUNEAU ALASKA 99811  
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 27, 1986

SUBJECT: Governor's Commission on the Administration of  
Justice (Draft CSHB 183 (Judiciary))

TO: Representative Don Clocksin

FROM: Teresa B. Cramer *JBC*  
Legislative Counsel

Enclosed is the draft CSHB 183(Judiciary) that you requested. In my opinion the membership changes made by section 13 to include a senator, a member of the House of Representatives, and a member of the judiciary on the commission, violates the separation of powers doctrine of the state constitution.

The Alaska Constitution provides for the separation of powers between the legislative, judicial, and executive branches of government. Bradner v. Hammond, 553 P.2d 1 (Alaska 1976). The Commission on the Administration of Justice is located within the executive branch and its duties, including regulation of the exchange of information and insuring security and privacy of criminal justice information systems under AS 12.62.015, are an executive branch function. Accordingly, membership on the commission by members of the legislature or by appointees of the chief justice would violate the separation of powers doctrine.

If I may be of further assistance, please advise.

TC:mkr  
m4/046

## V SUMMARY OF OBSERVATIONS AND RECOMMENDATIONS

The following is a summary of SRI's analysis of security and privacy with respect to AJIS:

- . The overall level of awareness of and concern for security and privacy is high. The individuals interviewed at the state level generally seemed to have a greater understanding of both the issues and the procedures than did those interviewed at the local level. However, even those individuals and agencies who may have been deviating from the policies evidenced a sincere desire to support the security and privacy program.
- . The use of the court judgment for reporting dispositions represents an innovative means of gathering court dispositions.
- . A policy decision should be made as to the utility of entering all the conditions of the court judgment into AJIS.
- . AJIS policymakers and system designers, perhaps as part of the AJIS upgrade, should develop agency AJIS usage reports that would identify usage errors detected by AJIS. These reports would assist in identifying training and retraining requirements.
- . The Governor's Commission on the Administration of Justice should strive for resolution of any problems that may be impeding the upgrading of the NCIC line.
- . The possible move of the AJIS computer hardware to a new facility should be carefully analyzed with respect to the security and privacy needs of AJIS. As presently situated, the AJIS computers derive security by being located in an Alaska State Troopers (AST) facility. In this environment, security costs directly attributable to AJIS are minimal. Should the equipment be moved to a new and separate location, AJIS security requirements will have to be satisfied at direct cost to the agency.
- . AJIS users should be counseled with regard to the requirements for dissemination logging. Users should be advised as to:
  - When logging should occur
  - In what form the log should be maintained
  - What information should be maintained on the log.

- Arrangements should be made for the AJIS coordinator and/or the AJIS Security Officer to conduct periodic visits to the AJIS terminal sites. "Arrangements" must be understood to mean both the availability of travel funds and the availability of time. These visits will serve to
  - Permit an inspection of the physical facilities housing the AJIS terminals
  - Permit an examination of local practices regarding AJIS usage
  - Re-enforce user awareness of AJIS security requirements
  - Increase understanding of the needs of the AJIS users.

It is recognized that there will be costs associated with such visits. However, appropriate funding combined with judicious planning of travel should make such visits cost-effective.

- The AJIS Coordinator, in conjunction with other appropriate individuals and organizations, should undertake the development of an AJIS users' training program. AJIS users' training currently consists of on-the-job, word-of-mouth training. Experience has shown that such an approach is not desirable. Since the person giving the training is not a skilled teacher, the person receiving the training will generally learn less than the trainer knows. Over a period of time this has a detrimental effect upon system performance and utility.
- An analysis should be conducted as to possible problems with updating AJIS criminal history dispositions in those cases in which the final disposition is altered due to post-disposition events and decisions (e.g., violation of probation and subsequent judicial decisions to alter punishment).
- The AJIS Coordinator should review the impact and/or desirability of the present method of utilizing the AJIS network to disseminate AST press release information.
- Given the increasing value of AJIS, combined with the planned upgrade, consideration should be given to obtaining an uninterruptable power supply (UPS) system for AJIS.
- An upgrading of AJIS hardware and software should have a positive impact with respect to security and privacy.
- The proposed revisions to 6 AA 60 will place additional security and privacy requirements on AJIS.
- The AJIS Coordinator and Security Officer should provide AJIS users with guidelines for the destruction of AJIS hardcopy output.

- . Consideration should be given to examining the need for passwords for the individuals for whom the system usage log indicates no activity.
- . The AJIS Coordinator should provide the AJIS user agencies with a set of clear, concise guidelines regarding the public's right to review information covered by 6 AAC 60.
- . The AJIS Coordinator, working through the Governor's Commission on the Administration of Justice, should develop an on-going program to validate the accuracy and completeness of the AJIS criminal history records.
- . The edit portion of the AJIS software, perhaps as part of the AJIS upgrade, should be modified to further ensure the validity of the court case number associated with dispositions.

BILL SHEFFIELD  
GOVERNOR



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

The Honorable Ben Grussendorf  
Speaker of the House  
Alaska State Legislature  
Pouch V  
Juneau, AK 99811

Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill abolishing the Governor's Commission on the Administration of Justice and transferring certain of the commission's responsibilities to the attorney general.

The commission was originally established to be the steering agency for handling federal grants from the Law Enforcement Assistance Administration (LEAA). Since the LEAA no longer exists, the primary function of the commission has been eliminated.

A secondary function of the commission involved overseeing law enforcement uses of criminal justice information systems under AS 12.62. However, the large, 13-member commission has not met for a number of years. Therefore, under administrative regulations, this oversight function has been delegated to the attorney general as ex-officio chairman of the commission.

This bill thus codifies the practice that has evolved, whereby continuous oversight of such systems is maintained by the attorney general. It thus eliminates unnecessary statutes and unnecessary governmental structures. Therefore, I urge your prompt and favorable action on this measure.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bill Sheffield".

Bill Sheffield  
Governor

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

**REQUEST**

Bill/Resolution No.: HB 183  
 Title: "An Act abolishing the Gov.'s  
 Comm. on the Admin. of Justice..."  
 Sponsor: House Rules/Governor  
 Requestor: Governor's Ofc./OMB  
 Date of Request: 12/18/84

**FISCAL DETAIL**

Agency Affected: Department of Law  
 Program Category Affected: \_\_\_\_\_  
Administration of Justice  
 BRU, Program or Subprogram(s) Affected: \_\_\_\_\_  
Prosecution

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-

<b>CAPITAL</b>						
----------------	--	--	--	--	--	--

<b>REVENUE</b>						
----------------	--	--	--	--	--	--

**FUNDING: (Thousands of Dollars)**

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

**POSITIONS:**

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

**ANALYSIS:** Attach a separate page if necessary

This bill would abolish the Governor's Commission on the Administration of Justice and transfers the responsibility for regulating security and privacy of criminal justice information and intelligence systems to the Attorney General. The bill would validate what has in fact become practice since the programs formerly provided by the LEAA and the state's Criminal Justice Planning Agency were discontinued in 1982 and 1983, respectively. Consequently, there will not be a fiscal impact.

Prepared by: Richard I. Pegues Director Phone: 465-3672  
 Division: Administrative Services Date: 12/19/84

Approved by Commissioner: Richard I. Pegues / For Date: 12/19/84  
 Agency: Department of Law

**Distribution (by Agency preparing fiscal note):**

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

The Honorable Ben Grussendorf  
Speaker of the House  
Alaska State Legislature  
Pouch V  
Juneau, AK 99811

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This bill thus codifies the practice that has evolved, whereby continuous oversight of such systems is maintained by the attorney general. It thus eliminates unnecessary statutes and unnecessary governmental structures. Therefore, I urge your prompt and favorable action on this measure.

Sincerely,

A handwritten signature in cursive script that reads "Bill Sheffield".

Bill Sheffield  
Governor

BASIC CRITERIA FOR ACCESS  
TO THE ALASKA JUSTICE INFORMATION SYSTEM

Pursuant to administrative code regulations adopted by the Governor's Commission on the Administration of Justice in 6 AAC 60.070, only those agencies specifically listed in the regulations can have direct access to computerized criminal justice information in Alaska. Other agencies desiring such information (referred to as secondary users) must submit an application to the commission and be approved on an individual basis. Should your agency desire to submit such an application, please feel free to do so and it will be reviewed by the chairman of the commission. This memorandum briefly sets forth the basic criteria that the chairman of the commission ordinarily applies in deciding whether to grant an application.

The regulations refer to the Alaska Justice Information System (AJIS), which is defined as a network of federally funded criminal justice information systems run by different agencies. This network is not yet connected in any real way, so at the present time access will only be granted to the system operated by the Alaska Department of Public Safety, known as the Alaska Public Safety Information Network (APSIN). Access to APSIN will be granted only to government agencies or private agencies conducting specific research projects.

In general, secondary users of APSIN information fall into three broad categories. First, of course, there are law enforcement and other investigative agencies, the primary responsibility of which is to directly enforce the criminal laws or to undertake investigations which could lead to criminal or civil penalties. Applications from agencies in this category will ordinarily be granted by the chairman.

The second category includes those agencies that undertake background investigations of persons applying for a license or other benefit, including employment. Agencies in this second category will ordinarily be granted access to AJIS information by the chairman, on the condition that the individual signs a written consent to disseminate that information. If these agencies undertake an investigation which could lead to criminal or civil penalties, or which for some other reason must be conducted without the knowledge of the person being investigated, their functions therefore become similar to those of a law enforcement agency and written consent will not be required.

The final category includes agencies that are involved in counseling programs, primarily alcohol programs. Applications from agencies in this category will ordinarily be denied. Agencies which require access in order to conduct specific statistical or other scientific research projects should contact the Alaska Department of Law.

Once an application has been granted, a responsible person within your agency must sign a "User's Agreement" with the Alaska Department of Public Safety that establishes the conditions under which information may be disseminated. A draft copy of this agreement is attached for your information.

NOTE: Access to motor vehicle and driver's license information is not covered under this application process. Requests for that information should be directed to the Alaska Department of Public Safety.

# MEMORANDUM

# State of Alaska

TO: Michael Clemens  
Assistant Director  
Division of Administrative Services  
Department of Public Safety

DATE: January 7, 1985

FILE NO:

TELEPHONE NO:

FROM: Norman C. Gorsuch  
Attorney General

SUBJECT: AJIS User Agreements

Daniel W. Hickey  
Chief Prosecutor

By: Dean J. Guaneli  
Assistant Attorney General

Attached are five additional AJIS user agreements for signature of the appropriate official in your department. Also attached is the background material for your files. They are:

- (1) Alaska Dept. of Military and Veterans Affairs, Personnel Security Section
- (2) Alaska Dept. of Revenue, Gaming Enforcement Unit
- (3) Alaska Judicial Council
- (4) Alaska Transportation Commission
- (5) U.S. Dept. of Defense, Security Division

Please contact a representative from each agency to work out the details of their access to AJIS information.

According to my records, which I have double-checked with Marilyn Crenshaw, 47 agencies have been approved and have signed agreements on file.

1. Alaska Alcoholic Beverage Control Board (Dept. of Revenue)
2. Alaska Bar Association
3. Alaska Commercial Fisheries Entry Commission
4. Alaska Dept. of Health & Social Services - Commissioner's Office
5. Alaska Dept. of Labor - Unemployment Insurance Fraud Investigation Section
6. Alaska Dept. of Military and Veterans Affairs - Personnel Security Section
7. Alaska Dept. of Revenue - Gaming Enforcement Unit

8. Alaska Div. of Banking and Securities (Dept. of Commerce and Economic Development)
9. Alaska Div. of Elections (Lt. Governor's Office)
10. Alaska Division of Enforcement - Criminal Investigations (Department of Revenue)
11. Alaska Division of Family and Youth Services (Dept. of Health and Social Services)
12. Alaska Div. of Insurance (Dept. of Commerce and Economic Development)
13. Alaska Div. of Occupational Licensing (Dept. of Commerce and Economic Development)
14. Alaska Div. of Parks (Dept. of Natural Resources)
15. Alaska Judicial Council
16. Alaska Railroad (U.S. DOT)
17. Alaska Transportation Commission
18. Anchorage and Fairbanks International Airport Police (Alaska DOT/PF)
19. Big Brothers/Big Sisters of Juneau
20. Dr. Michael Phillips - Alaska Psychiatric Institute
21. Dr. Thomas . Lonner - Center for Alcoholism and Addiction Studies, University of Alaska
22. Elmendorf Air Force Base Security Police
23. Federal Aviation Administration Security Division
24. Federal Bureau of Alcohol, Tobacco, and Firearms
25. Federal Highway Administration
26. Federal Bureau of Land Management (U.S. Department of Interior)
27. Federal Protective Service Division (GSA)
28. Fort Richardson Security Police
29. Interstate Commerce Commission
30. National Park Service

31. National Transportation Safety Board
32. Postal Inspection Service
33. U.S. Coast Guard Intelligence and Law Enforcement Branch
34. U.S. Customs Service
35. U.S. Dept. of Defense Investigative Service
36. U.S. Dept. of Defense, Security Division
37. U.S. Dept. of Health and Human Services - Social Security Field Integrity Staff
38. U.S. Drug Enforcement Administration (DEA)
39. U.S. Environmental Protection Agency
40. U.S. Forest Service
41. U.S. Immigration and Naturalization Service
42. U.S. Office of Personnel Management - Investigations
43. U.S. Probation Office for U.S. District Court
44. U.S. Secret Service (Department of Treasury)
45. University of Alaska Security - Anchorage Campus
46. University of Alaska Security - Fairbanks Campus
47. Western States Information Network

DJG/gb-42

Attachments

cc: Sergeant Mike Radisch  
Marilyn Crenshaw

# STATE OF ALASKA

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

Bill Sheffield, Governor

DEPT. OF LAW  
CRIMINAL DIVISION

POUCH K - STATE CAPITOL  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-3600

### Agreement for the Dissemination of Criminal History Record Information

This agreement is between the Alaska Department of Public Safety, designated as the central repository for criminal history record information under Title 6, Chapter 60, section 900(3) of the Alaska Administrative Code (6 AAC 60.900(3)) (hereafter the department), and Commissioner's Office, Alaska Department of Health and Social Services, (hereafter the user). This agreement is entered into under the authority of Title 28, Part 20, of the Code of Federal Regulations, Title 12, Chapter 62, of the Alaska Statutes, and Title 6, Chapter 60, of the Alaska Administrative Code, and with the approval of the Governor's Commission on the Administration of Justice. The parties agree that:

1. If the user complies with the requirements of paragraph 2 of this agreement, the department may disseminate to the user, through any of the agencies listed in 6 AAC 60.050, criminal history record information as defined in 6 AAC 60.900(7).

2. In order to receive criminal history record information from the department pursuant to paragraph 1 of this agreement, the user must:

(a) familiarize its personnel and comply with 28 C.F.R. § 20, AS 12.62, and 6 AAC 60;

(b) contact the department to determine the accuracy of criminal history record information prior to using any information, other than for statistical or research purposes, that was received more than 30 days earlier;

(c) keep criminal history record information confidential and use it only for those lawful purposes necessary to carry out the responsibilities of the user, and not further disseminate any information received;

(d) immediately notify the department of an intentional or unintentional violation

by the user of any requirement of this agreement or any provision of 28 C.F.R. § 20, AS 12.62 or 6 AAC 60;

(e) purge its records, upon the request of the department, of any information received under this agreement;

(f) comply with reasonable requirements that the department finds to be beneficial for maintenance of the Alaska Justice Information System and for carrying out the purposes of 28 C.F.R. § 20, AS 12.62 and 6 AAC 60; and

(g) submit to the department the written consent of any individual about whom criminal history record information is needed in order to undertake a background investigation to determine whether or not a license or other benefit or security clearance will be granted.

3. Any violation of this agreement or the provisions of 28 C.F.R. § 20, AS 12.62 or 6 AAC 60 will result in the immediate termination of this agreement and a minimum of three years restriction on the further dissemination of criminal history record information and may subject the user to both civil and criminal penalties as provided by law.

Alaska Department of Public Safety

User

By: Mariegn Br...  
Supv dx 2 3/27/84  
Title Date

By: John R. Pugh  
Deputy Commissioner 2/21/84  
Title Date

Approved by the Governor's Commission on the Administration of Justice

Mary O. ...  
Interim Approval  
Date 3/9/84

\_\_\_\_\_  
Final Approval  
Date



Supreme Court

Chambers of  
Jay A. Rabinowitz  
Chief Justice

October 8, 1985

Box 850  
Fairbanks, Alaska  
99707


HAYDEN KADEN, Committee Counsel  
House Judiciary Committee  
House of Representatives  
Alaska State Legislature  
Pouch V, State Capitol  
Juneau, Alaska 99811

Dear Mr. Kaden:

My thanks for your invitation and informative letter. Arthur Snowden, or his designee, will appear at the House Judiciary Committee meetings on October 24 and 25, 1985.

Again my thanks for keeping me apprised of these developments.

Sincerely,

  
Jay A. Rabinowitz

JAR:cjm

# Technology poses threat to privacy, U.S. agency says

Washington (AP) — The explosion in communications technology has so outpaced privacy laws that Americans have little or no protection against a plethora of new ways for government or private adversaries to pry into their lives, a congressional agency reported today.

The non-partisan Office of Technology Assessment found that 35 out of 142 domestic federal agencies use or plan to use various electronic surveillance methods, including modern devices not governed by a landmark 1968 law that circumscribed the use of wiretaps and bugs — concealed microphones.

The agency said 36 agencies, not counting those in foreign intelligence, already use a total of 85 computerized record systems for investigative or intelligence purposes, and maintain 288 million files on 114 million people. The report raised the "technically feasible" specter of these being linked into a single data base network that could track untold numbers of citizens without due cause.

The report, requested by House and Senate committees, noted that many new and uncontrolled methods of surveillance are made possible by the very technologies of which more and more Americans are availing themselves — electronic mail, computer conferencing, cellular and cordless telephones, beepers and electronic pagers. Intercepting such devices is easy, and "the law has not kept pace," the agency said.

But other devices, such as miniature television cameras and pen registers — which monitor the numbers called on a given telephone line — have enabled new ways to spy on people even if their own communications habits are more old-fashioned, the agency noted.

Rep. Don Edwards, D-Calif., chairman of the House Judiciary subcommittee on civil and constitutional rights, said, "While the attorney general of the United

States is claiming that the civil liberties granted by the Constitution should be limited to the 'original intentions' of the framers, the technological possibilities for government surveillance have exploded. The framers knew nothing of closed-circuit television, wiretapping and computer data banks."

The report noted that the Fourth Amendment, which protects "the right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures," was written "at a time when people conducted their affairs in a simple direct, and personalized fashion."

Neither, said the report, has Title III of the Crime Control and Safe Streets Act of 1968, which was designed to protect the privacy of wire and oral communications.

The congressional agency said it could not estimate the extent of electronic surveillance in the private sector, saying only "it is probable that many forms . . . go undetected, and if detected, go unreported."

But in its survey of the federal bureaucracy, OTA found 35 agencies, mostly in the Justice, Treasury and Defense departments, used or planned to use:

- Closed circuit television, 29 agencies.
- Night vision systems, 22.
- Miniature transmitters, 21.
- Electronic beepers and sensors, 15.
- Telephone taps, recorders, and pen registers, 14.
- Computer usage monitoring, 6.
- Electronic mail monitoring, 6.
- Cellular radio interception, 5.
- Satellite interception, 4.

Under the 1968 law, wiretaps and bugs are prohibited without a court order based on the affirmation of a high-ranking prosecutor that a crime has occurred, that the target of the surveillance is involved, and that other means of investigation would be ineffective.