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HOUSE COMMITTEE ON STATE AFFAIRS

RECAP OF
SB 23

DPS Authority/Crime Statistics Collection

Received February 13, 1989
by Sens. Faiks and Sturgulewski

Heard March 21, 1989
Heard March 22, 1989

Passed Out of Committee March 22, 1989
5 Do Pass

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(Audit Control Number 06-4251-86-S)
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February 1, 1989

HOUSE COMMITTEE REPORT

(7)

Date Referred: February 13, 1989

FURTHER REFERRALS: JUDICIARY

Date of Committee Action: _____

The STATE AFFAIRS Committee considered:

SB 23

SENATE BILL NO. 23 [DPS AUTHORITY/CRIME STATISTICS COLLECTION]
"An Act relating to the recording and collection of crime statistics."

RECOMMENDS:

- [] replacing with _____ [] the same title
[] a new title
[] the attached amendment(s)
[X] do pass
[] do not pass
[] no recommendation
[] individual recommendations
[] additional referral to the _____ Committee

ADOPTS: Senate letter of intent

ATTACHES NEW FISCAL NOTE(S):

- [] fiscal impact
[] zero fiscal note
[] zero with analysis

APPROVES PREVIOUS:

- [] fiscal note(s) published:
[X] zero fiscal notes(s) published:
2/1/89 DPS

SIGNING DO PASS:

Handwritten signatures of committee members on the left side.

SIGNING OTHER THAN DO PASS: (Do Not Pass, No Recommendation, Amend)

Blank lines for signatures on the right side.

Chairman's signature: O.A. Barber

Item 1

1 IN THE SENATE

BY FAIKS AND
STURGULEWSKI

2

SENATE BILL NO. 23

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to the recording and collection of
7 crime statistics."

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

9 * Section 1. AS 44.41.020 is amended by adding a new subsection to
10 read:

11 (c) The department shall establish, and may require state and
12 local law enforcement agencies to use, standardized methods of col-
13 lecting and recording law enforcement and crime statistics.

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: SB 23
PUBLISH DATE: 7/7/89

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: The recording and collection
of crime statistics
Sponsor: Sen. Faiks, Sturgulewski
Requestor: Senate State Affairs

Agency Affected: Public Safety
BRU: DPS Administration
Component: Data & Word Processing

EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not included)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
---------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

Because the Department of Public Safety (DPS) is presently compiling the data now submitted by local departments, no fiscal impact on DPS is anticipated.

Prepared by: Kenneth E. Bischoff, Director
Division: Administrative Services

Phone: 465-4322
Date: 1/30/89

Approved by Commissioner: Arthur English
Agency: Department of Public Safety

Date: 1/30/89

Letter of Intent
for
SB 23

It is the intent of the Senate that the Department of Public Safety (DPS) work with local police departments statewide in order to develop methods of implementing SB 23 over time in a manner that have negligible financial impact on those departments and which do not create disincentives to participate in the collection of data for the Uniform Crime Reports (UCR).

Dist by Senators Pourchet + Faiks

Senate adopted 2/9/89

STATE OF ALASKA

PUBLIC DEFENDER AGENCY

STEVE COWPER, GOVERNOR

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May 5, 1989

Representative Peter Goll
Representative Max Gruenberg
Co-Chairmen
House Judiciary Committee
P.O. Box V
Juneau, Alaska 99811

RE: CS SB 23 (Judiciary)

Dear Representatives Goll and Gruenberg:

This letter is in response to your request for comment concerning the above-referenced bill. Your concern centers around the need to preserve confidentiality as to juvenile offenders.

I have reviewed the Committee Substitute which adds an entire section to Chapter 44. That section, entitled CRIME STATISTICS INVOLVING JUVENILES (44.41.027) dictates how juvenile crime statistics are to be kept. See Section (a). The requirement of confidentiality is addressed in Section (b) of the proposed bill which states:

(b) information and records obtained under this subsection are confidential and are not public records, and may be disclosed under regulations established by the department only for the purpose of compiling statistics and only to a person doing research or maintaining statistics who has assured the anonymity of the juvenile offenders. (Emphasis added).

I am uncomfortable with statutory language which allows the release of juvenile crime statistics and then relies on the individual to whom those statistics were released to maintain the confidentiality of the identity of the juvenile offender. This language relinquishes the responsibility of the Department of Public Safety and confers it to an individual over whom the Department may have no control or authority.

I have been asked to review substitute language which in some manner cures this problem. It reads as follows.

- (b) Information and records obtained under this subsection:
- (1) are confidential and are not public records,
 - (2) may be disclosed only under regulations established by the department,

(3) may be disclosed only for the purpose of compiling statistics,

(4) may be disclosed only to a person doing research or maintaining statistics, and

(5) and may be disclosed only in a manner assuring the anonymity of the juvenile offenders.

Subsection (5) of this proposed language is preferable to the provisions previously discussed. Nevertheless, I believe the proscription against disclosure of the names of juvenile offenders should be framed even more strongly. It is my suggestion that the following language be substituted for Subsection (5):

(5) and may be disclosed only in a manner which does not reveal the identity of the juvenile offenders.

Such a provision would place the duty squarely on the Department of Public Safety to ensure anonymity before juvenile crime statistics are revealed to individuals doing research or otherwise in need of this information. This language is more precise and ensures that the identity of the juvenile offender does not go beyond the record keeping system of the Department. Additionally, such language would ensure consistency with the record keeping provisions of Title 47 and the Alaska Rules of Court. This is not to suggest that the other language proposed is contradictory to present law, statute, or rules.

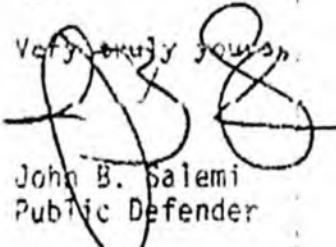
I have one additional comment regarding proposed A.S. 44.41.027 which is separate from the issue of confidentiality. This section states that the juvenile records compiled:

shall include the name of the juvenile admitted, the juvenile's date of birth, the reason for admission, the time admitted, the time released, the sex of the juvenile admitted, the ethnic origin of the juvenile admitted, and other information required by federal law or state statute or regulation. The record shall be prepared at the time of admission from information provided by the juvenile. (Emphasis added).

While I believe it is acceptable practice for law enforcement personnel to request certain biographical data of an offender, whether adult or juvenile, inquiring of a juvenile suspect "the reason for admission" would potentially violate the individual's fifth amendment right under the federal constitution and parallel state constitutional rights. I believe it is best that much of the information which will be gathered under this section be compiled from a source other than the juvenile.

Thank you for this opportunity to comment on the proposed legislation. Do not hesitate to contact me if you require further information.

Very truly yours,



John B. Salemi
Public Defender

JBS:sh

DEPARTMENT OF
PUBLIC SAFETY

BILL NO: SB 23

DATE: March 20, 1989

TITLE: "An Act relating to the recording and collection of crime statistics."

CONTACT: Kenneth E. Bischoff, Director
Administrative Services
465-4336

The Alaska Department of Public Safety collects statewide crime offense data needed by the Federal Bureau of Investigation (FBI) to produce its annual, national Uniform Crime Report (UCR). The Alaska UCR program uses procedures developed by the FBI. At the present time, 24 police agencies and the Alaska State Troopers participate by voluntarily submitting UCR data. This compiled data is published annually by the Department as "Crime in Alaska".

The Department supports SB 23 which would require DPS to establish a standard method of "collecting and recording law enforcement and crime statistics." If this legislation were enacted, DPS would adopt federal UCR procedures and continue reporting to the federal government on a voluntary basis. Police agencies would continue to participate in UCR voluntarily. Although SB 23 would give DPS the authority to require local law enforcement agencies to submit crime data, the Department does not intend to do so now, or in the foreseeable future. Mandatory local participation in UCR would have a fiscal impact at both the state and local levels.

Until recently, police agencies have been very cooperative in voluntarily providing their statistical information to the state and ultimately the federal UCR program. However, in this era of declining revenues, all law enforcement agencies are looking for functions that can be reduced or deleted. Further, the development of locally controlled computer systems has made it possible for certain police departments to obtain current, custom reports which make it a duplication of effort for them to separately input UCR data unless some automated or summary-based interface can be developed. Acute staff shortages in the Department's Administrative Services Division, stemming in part from the budget cuts in past years, have prevented DPS staff from following up with local police departments to develop such interfaces. DPS has only part of one position to compile UCR data, follow up problems, report to the FBI, and prepare the annual "Crime in Alaska" report.

This past year three communities, Ketchikan, Dillingham and Klawock, have stopped submitting UCR data; Sitka stopped submitting UCR data as of 1987. Crimes committed in those communities will not be included in the 1988 "Crime in Alaska" report. On the plus side of the ledger, Valdez has begun UCR participation as of 1989.

Crime data is now submitted in either an incident-based format, where each offense committed during a criminal incident is reported, or a summary-based format, where only the most severe offense that occurred is reported. The larger police agencies, i.e. the Alaska State Troopers, Anchorage Police Department, and Fairbanks Police Department, use the summary-based system. The smaller agencies generally use the incident-based reporting format, but if they have computer terminals, they can input their data directly into the Alaska Public Safety Information Network (APSIN) if they chose to do so. Reports are provided to contributing agencies to summarize their crime offense data.

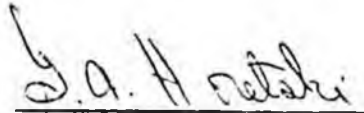
In response to the perceived need for several changes to UCR, the FBI recently completed a three-year study which recommended that all states adopt an incident-based reporting system. Adoption of the new standard would require the collection of additional data elements covering victim/offender relationships, drugs, weapons, and vehicles. These new data elements would make enhanced analysis of crime data possible.

At this time the Department has determined that the existing UCR program needs to be consolidated and strengthened before considering adoption of the new standard. The existing UCR system will still be supported by the FBI for the foreseeable future.

Any future decision to adopt the incident-based standard should take into account the input of the participating agencies. At the March 1989 meeting of the Alaska Chiefs of Police Association a dialog was begun with the chiefs of local departments on means of reducing the impact of UCR data collection on the contributors, and ways of encouraging voluntary participation in the UCR program.

SB 23 does not require local police departments to submit crime data. However, under SB 23, DPS must establish a standardized system and could require that crime data be provided in a standard format. In conjunction with computerization at the local level, DPS will be working more closely with police departments to develop low-cost, workable solutions to the UCR data collection problem. It is in the state's best interests to collect and compile statewide crime offense data and publish it for use by policy makers.

In summary, the DPS supports SB 23. The Department will continue to work with other law enforcement agencies in Alaska to gather crime data in Alaska in the most accurate, cost-efficient way possible.


for Arthur English
Commissioner

on
my
desk

A SPECIAL REPORT ON THE
OVERSIGHT OF CRIMINAL JUSTICE INFORMATION SYSTEMS
IN ALASKA AND THE
ALASKA PUBLIC SAFETY INFORMATION NETWORK

March 19, 1986

Audit Control Number

12-4247-86-S

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THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

April 8, 1986

Members of the Legislative Budget
and Audit Committee:

In accordance with the provision of Title 24 of the Alaska
Statutes and your special request, the attached report is
presented for your review:

A SPECIAL REPORT ON THE
OVERSIGHT OF CRIMINAL JUSTICE INFORMATION SYSTEMS
IN ALASKA AND THE
ALASKA PUBLIC SAFETY INFORMATION NETWORK

March 19, 1986

Audit Control Number

12-4247-86-S



Gerald L. Wilkerson, CPA
Legislative Auditor
Division of Legislative Audit

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PURPOSE AND SCOPE OF THE REPORT

In accordance with a Legislative Budget and Audit Committee special request and Title 24 of the Alaska Statutes, we conducted a review of Alaska's criminal justice information systems, with specific emphasis on the Alaska Public Safety Information Network (APSIN). Our scope included the following:

1. Responsibility for oversight and review of Alaska's criminal justice information systems.
2. An overview of APSIN criminal justice information, to include:
 - a. Data quality.
 - b. Record review and challenge (individual's right to information).
 - c. System security.
 - d. Dissemination and use of criminal history information.
 - e. Gathering of intelligence information.
 - f. Recordkeeping on juveniles.
 - g. Purging of information.

Scope Restraints

The Department of Public Safety replaced their Alaska Justice Information System (AJIS) with APSIN in 1984. Because the 1981 security and privacy audit conducted by SRI International of California focused on AJIS, the majority of observations and recommendations are not relevant to APSIN. For this reason, an extensive follow-up to SRI's audit was not conducted. Any continuing concerns are addressed in our review of the oversight function of criminal justice information systems and the investigation of specific areas relevant to APSIN outlined above.

OVERVIEW OF ALASKA'S CRIMINAL JUSTICE INFORMATION SYSTEMS

In 1970, the State accepted funding from the Law Enforcement Assistance Administration (LEAA) to create a five year master plan for the development of an automated, statewide criminal justice information system. The plan that resulted envisioned phases to develop subsystems to meet the operational and management needs of the various criminal justice agencies in the State.

The result of this plan was the Alaska Justice Information System (AJIS). While a few other criminal justice agencies such as the courts and local police utilized AJIS for operational and management needs, most used it for information retrieval only. AJIS was run by the Department of Public Safety and, for all purposes, it became their system.

In 1972, the Legislature enacted AS 12.62, which required the Governor's Commission on the Administration of Justice to adopt the appropriate regulations to provide for security and privacy of criminal justice information housed in criminal justice information systems. These regulations (6 AAC 60) took effect in late 1972 and were amended in July of 1982. The amended regulations introduced the "Alaska Justice Information System" and defined it as an electronically linked network of criminal justice information systems in the various criminal justice agencies (theoretical AJIS). Public Safety's AJIS did not meet the definition of "AJIS" in the regulations.

In 1984, the Department of Public Safety converted from AJIS to the Alaska Public Safety Information Network (APSIN). The conversion process involved upgrading to new hardware and software. APSIN is processed at the Anchorage Data Center and utilizes modern database technology. The APSIN database was built from AJIS records.

Other criminal justice agencies have developed systems to meet their specific management and operational needs.

In 1983, the Department of Law completed implementation of Alaska's Prosecutor's Management Information System (PROMIS). PROMIS maintains prosecutor case information including prosecuting attorney, defendant, crime type, charge and disposition. PROMIS does not interface with APSIN.

In the fall of 1983, the Offender Based State Correctional Information System (OBSCIS), was implemented by the Department of Corrections to provide for management and tracking of offenders in Alaska's correctional institutions. OBSCIS provides information on bookings, inmate information, location and statistics. OBSCIS does not interface with APSIN.

The Alaska Court System has two computerized systems which are used for case tracking and court calendaring. Anchorage utilizes a Microdata System, while 13 other cities, including Kenai, Ketchikan, Cordova and Sitka utilize a mini-computer system. Fairbanks, Juneau, and some small courts use manual systems. The two computerized systems are not compatible and do not interface with APSIN.

The Public Defender Agency does not have a computerized system for management, operational or statistical purposes. The Agency utilizes a manual system for case management and defendant information.

The above mentioned agencies are some of the "primary users" of APSIN criminal justice information. As such, they have access on-line to a variety of criminal justice information, while secondary users are limited to receiving printouts of criminal conviction information from primary users. See Appendix A for full listing of primary users and Appendix B for a secondary user listing.

FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

Alaska needs an effective criminal justice information system oversight and review function.

Alaska Statute 44.19.110-.122 establishes the Governor's Commission on the Administration of Justice. Under AS 12.62 the Commission is charged with a variety of oversight functions related to the regulation of criminal justice information systems (CJISs), to include:

1. Adoption of regulations (AS 12.62).
2. Receipt of annual report from each law enforcement agency in the State certifying compliance with regulations (AS 12.62.017).
3. Determination of non-law enforcement agency eligibility to receive criminal justice information (secondary user status) (AS 12.62.030(a)).
4. Arbitration of disagreements between individuals and law enforcement agencies regarding individual's personal criminal history record (AS 12.62.030(c)).
5. Review of listings of criminal justice information dissemination by law enforcement agencies (AS 12.62.030(d)).
6. Authorization for disclosure of convictions involving contributing to the delinquency of minors or sex crimes for individuals holding or applying for positions involving the supervision of a minor (AS 12.62.035).
7. Approval of operating procedures involving security, update, and purging of criminal justice information (AS 12.62.040).
8. Regulation of participation by criminal justice agencies in interstate exchange of criminal justice information (AS 12.62.050).

The Commission has not met since 1981. The Attorney General, as ex-officio chair, provides legal advice to the criminal justice community and grants secondary user status to requesting agencies as appropriate. The Department of Public Safety has been performing the "sex crimes" background checks and as of March 1986 is participating in interstate exchange of criminal justice information through the Interstate Identification Index. There has been no further oversight or review since the Commission became dormant, resulting in the absence of centralized administrative control and regulation of Alaska's CJISs.

A. Lack of oversight and review function.

The Governor's Commission was established to oversee the privacy and security of CJISs and access to criminal justice information. This oversight function, as delineated in AS 12.62, has not been performed for the past several years. Several new CJISs have been implemented since 1981 when the Commission last met. These CJISs include Prosecutor's Management Information System (PROMIS), Offender-Based State Correctional Information System (OBSCIS), and Alaska Public Safety Information Network (APSIN). These CJISs were designed and implemented without the benefit of centralized planning. Coordinated planning between agencies to determine common fields for reference and interagency data needs did not take place. For example, when the Department of Public Safety upgraded from the Alaska Justice Information System (AJIS) to APSIN, the Alaska Identification number (AID) was deleted in the conversion process. The AID number was used by the Department of Corrections in both the organization of its manual files and as a key field in OBSCIS. This resulted in the inability to cross reference individuals in the two systems.

Because oversight functions are not being performed, procedures for individual CJISs have not been reviewed nor has compliance with statutes and regulations been monitored. As new CJISs were implemented, the regulations were not always reviewed to determine applicability to the new system. As a result, the current regulations do not apply to APSIN, as discussed below under B.

In light of the inactivity of the Governor's Commission and the critical need for CJIS oversight and review, the Legislature should consider the following alternatives:

1. Transfer responsibilities of the Governor's Commission on the Administration of Justice to the Attorney General.

This is the solution proposed by House Bill No. 183. An advantage to this alternative is that it would place responsibility under one person and would therefore increase efficiency. In a letter commenting on this bill, the Alaska Court System objected to giving the Attorney General control over the Court's CJISs on the grounds of separation of powers. In addition, only one agency within the criminal justice system would be represented. During our survey process, most criminal justice agency personnel interviewed objected to Attorney General oversight based upon a concern that decision processes may be biased toward the prosecution's viewpoint.

2. Reappoint the Governor's Commission on the Administration of Justice.

The major advantage to this alternative is that all agencies within the criminal justice system in Alaska would be represented. Oversight by a commission was preferred over Attorney General oversight by most individuals surveyed. However, this composition may well be unconstitutional, both as a violation of the doctrine of separation of powers and as a violation of the prohibitions against dual office holding by Supreme Court Justices and by legislators. In addition, the reappointment process is time-consuming and the operation of commissions is costly and often ineffective.

3. Place responsibility for oversight and review of CJISs in the Office of the Governor.

This alternative eliminates the Commission's constitutional problem of dual office holding, but may result in a question regarding separation of powers as it would require executive branch oversight of the Court's information systems. In addition, the Federal National Crime Information Center (NCIC) user agreement signed by the State stipulates that a law enforcement agency be responsible as controlling agency. The Office of the Governor is not a "law enforcement agency," per se; however, the definition of a law enforcement agency per Title 28 of the Federal Regulations includes "subunits of non-criminal justice agencies performing a function of the administration of criminal justice pursuant to Federal or State statute or executive order." State statutes granting the Office of the Governor such authority should remove any conflict with NCIC requirements. Placing oversight responsibility outside the criminal justice system itself should result in increased objectivity. The informal Criminal Justice Working Group as it currently exists could continue to provide coordination for planning and budgetary issues.

The Office of the Governor maintains a central staff of management analysts and information system auditors. The overview of CJISs statewide seems to appropriately fall within the purview of this agency.

Regardless of where the oversight function is placed, it should include review and approval of regulations governing CJISs and monitoring for compliance with statutes and approved regulations. In addition, periodic reviews for the integrity of central criminal justice information records should be performed or commissioned by the oversight body.

B. Ineffective statutes and regulations governing CJISs.

The Law Enforcement Assistance Agency (LEAA) was a Federal agency which funded computerized criminal history information systems in the late 1960s and early 1970s. One of the results of Alaska's LEAA funding was a plan for a statewide CJIS which included subsystems to meet the operational and management needs of the various criminal justice agencies in the State. This "Alaska Justice Information System" (theoretical AJIS) would result in the sharing of criminal justice information via electronic connections of agency subsystems. The CJIS which actually developed from this plan was the Department of Public Safety's portion of the statewide system. It was called the Alaska Justice Information System (AJIS).

While a few other criminal justice agencies utilized AJIS for operational and/or management needs, most used it for information retrieval only. AJIS was run by the Department of Public Safety and for all purposes it became their system. LEAA funds were also used in the implementation of Alaska's PROMIS and OBSCIS systems and to purchase hardware and software for other criminal justice agencies in the State. Theoretical AJIS never materialized because these systems are self-contained and do not electronically interface.

In 1972, the vision of a network of interconnecting CJISs, combined with the then current fear of privacy invasion through the use of computerized information systems, led to the development of statutes and regulations governing CJISs. The statutes and original regulations were written specifically relating to computerized LEAA-funded systems with oversight to be provided by the Governor's Commission on the Administration of Justice. In 1982 the regulations were amended and additional restrictions were included which relate only to the theoretical AJIS; the remaining portions of the current regulations apply to individual LEAA-funded CJISs, both manual and computerized (see Appendix C). This presents a problem in that APSIN was funded with State and not LEAA money, and as such is not covered by current State statutes and regulations.

Subpart C of Title 28 contains regulations applying to the use of the Federal Department of Justice criminal history record information systems. Alaska, through APSIN, links to NCIC to obtain Federal criminal history information. Although out-of-state offenses are not entered into APSIN, at some time in the past such offenses may have been incorporated in AJIS records, from which the APSIN database was built. Although out-of-state records constitute a very small percentage of APSIN's database, subpart C may govern not only our use of current NCIC information from the Federal Computerized Criminal History file, but also APSIN criminal histories.

General security guidelines are provided for in these Federal regulations; however, they are silent on such issues as data collection standards, purging of records, and systematic audit of data integrity. The NCIC Operating Manual used by the State contains procedures to maintain the integrity of NCIC records as well as outlining security requirements for State participation.

The lack of a centralized oversight and monitoring function has resulted in the inapplicability of State statutes and regulations to Alaska's major CJIS, APSIN. This, combined with the limited scope of Federal regulations which apply to APSIN, necessitates the revision of current statutes and regulations in order to effectively govern all of Alaska's CJISs.

Alaska Statutes should be revised to reflect a decision as to oversight and monitoring responsibility and to clearly set policy for CJISs in such areas as purging of records, dissemination and use, security and privacy, and the assurance of data integrity. Definitions must be updated in order to ensure applicability to all CJISs in Alaska.

In conjunction with a decision regarding oversight of CJISs, alternatives toward making regulations more effective should be considered. Alternatives include:

1. Update current regulations to apply to all CJISs. This would require the oversight body to revise and adopt regulations which comply with updated statutory policy decisions.
2. Allow individual agencies to adopt regulations governing their own CJIS. Each agency would draft regulations and procedures to comply with statutory policy. Approval by the oversight body would be required prior to agency adoption.

The areas of oversight and regulation of CJISs within Alaska require immediate attention. Alaska's major CJIS, APSIN, upon which all law enforcement agencies statewide rely for criminal justice information, is currently not governed by statute or regulation.

Recommendation No. 2

A policy decision should be made regarding purging of and access to certain criminal justice information in Alaska's criminal justice information systems.

Alaska Statute 12.62.040(a)(3) provides for the removal of criminal justice information from the records based on selected factors. Under administrative regulation 6 AAC 60, Article 4 provides for the purging of criminal justice records, but only applies to criminal justice information

systems (CJISs) which are directly interconnected (theoretical AJIS). Purging is a collective term referring to both closing and expunging of records. Regulations governing purging of records have never applied to any operational CJIS in Alaska. Therefore, neither closing nor expunging of criminal justice information records as defined in the regulations has ever occurred.

As defined in 6 AAC 60.900, closing refers to the retention of criminal history record information in a CJIS subject to further restrictions on access and dissemination. Original regulations required the closing of criminal history conviction information records after a specified time period had passed without interaction between the individual and any criminal justice system. As revised in 1982, the regulations limited the closing requirement to theoretical AJIS. Criminal history records were not closed in AJIS, nor are they being closed in APSIN. The Records and Identification (R & I) Section of the Department of Public Safety will close an individual's criminal history record only in response to a court order to do so. There are no restrictions regarding access to individual criminal history records which have been inactive for the specified period of time.

As defined by regulation, expunging refers to the deletion of certain criminal justice records, specifically non-conviction arrest information. Expunging can also be ordered by the court. Court ordered expunging of criminal history data does take place in APSIN. From 1972 until 1982, the Department of Public Safety's CJIS (AJIS) was governed by regulations which excluded manual records from this purging process. Therefore the central repository of the State's criminal justice information records, R & I, retained all records in manual files, including non-conviction arrest information. However, this information was not entered into AJIS. In 1982, the regulations were amended to include manual systems in the definition of a CJIS, but restricted the purging requirement to information within theoretical AJIS.

AJIS was replaced by the new Alaska Public Safety Information Network (APSIN) in 1984. Non conviction arrest information maintained in R & I's manual files is being systematically added to the individual criminal histories within APSIN. Access to this information is restricted on-line; however, APSIN retains the information in a maintenance menu. This information (a "peanut") is disseminated to primary users in hard copy form through the mail.

Non-conviction arrest information is necessary for the effective performance of the duties of various agencies comprising the criminal justice system. Police agencies need this information during the apprehension process to

apprise them of individuals with dangerous or violent histories. This information is relevant to prosecutors in the decision to prosecute or decline a charge. Judges in the Court System require the information to assure proper sentence imposition. Cases in which this information would be relevant include prior arrests of a drug dealer which were dropped due to improper search and seizure, and the abusing spouse whose counterpart repeatedly has dropped charges because of intimidation. This information could improperly affect an individual where prior arrests were the result of prejudices against, or harassment of, groups or individuals.

Currently when primary users check APSIN for an individual's criminal history, they may or may not be notified of the existence of non-conviction arrest information. For persons with prior convictions, only conviction history will be displayed and users will not be notified that non-conviction information exists. For persons with no prior conviction, primary users are notified on-line if non-conviction information exists and are instructed to contact R & I for further information. R & I then prints the information from APSIN's database and mails it to the requester. This is costly, time-consuming and introduces weaknesses in the control over this confidential information.

A statutory policy decision regarding the retention of this type of information must be made. Federal laws regulating criminal justice information, as well as California law, do not require the expunging of non-conviction arrest data. Alaska has always been the champion of the individual's right to privacy. The privacy issue must be weighed against the advantages of having this information available for use by the Alaska criminal justice system.

If the decision is made to retain this information, then it should be made available to authorized primary users on-line. This would eliminate the unjustified distinction between on-line access to data and hard copy reports from the same system.

Recommendation No. 3

The Department of Public Safety should review criminal justice information housed in Alaska Public Safety Information Network for accuracy and completeness. In addition, input control procedures should be instituted to provide assurance as to the integrity of the data entered.

The concern over the quality and completeness of data housed in Alaska Public Safety Information Network (APSIN) has received a lot of attention recently. It was publicized that such well-known criminals as Charles Meach could not be found in the system. While all data housed in AJIS was converted to APSIN; problems regarding missing data in AJIS records prevented some records from being displayed on APSIN.

These types of problems have been corrected. However, in a limited review of APSIN criminal history information, we discovered a number of errors currently remaining in APSIN.

The following types of errors were disclosed:

- a. Individuals with known criminal histories were not found.
- b. Criminal conviction histories were found to be incomplete.
- c. Incorrect criminal information was found due to the entering of the wrong charge.
- d. In the case of a charge reduction, both the original and the reduced charge appeared as convictions.

The majority of APSIN users surveyed expressed a general lack of confidence in the system to provide complete and accurate criminal history information.

Our review revealed a serious lack of internal control over the input process. This deficiency begins with the collection of data for input by the various criminal justice agencies and includes the lack of even the most basic controls over document flow.

The process of controlling input into APSIN is not a simple one. Documents from the Court System, Department of Corrections, and State and local police agencies are entered into APSIN. Verification of an individual's identity must be ascertained before the data is entered. Positive proof of identity requires a fingerprint match between the "10 print" which is usually obtained by Corrections, and a latent print (thumbprint) from the Court judgement.

Arrest information may be entered from a variety of sources. Alaska State Troopers and local police agencies may enter arrest data directly or may forward documents to R & I for entry. The original booking and/or entry of an individual into a correctional institution should result in a "10 print" fingerprint card which is input by R & I. Criminal convictions are entered by R & I based upon Court judgements. All documents which include fingerprints are routed through the Alaska Automated Fingerprint Identification System in Anchorage before being forwarded to R & I in Juneau. Documents are sent through the mail, neither certified nor registered, and are not counted or batched at any point for purposes of input control.

Procedures relating to the standardized collection of data for input should be established and enforced for all agencies who contribute data to APSIN. In addition, documents sent

to APSIN for input should be counted, batched, and logged at every transfer point, and APSIN itself should count documents entered by terminal and operator ID. These procedures will help to ensure that the proper data is collected for entry and that no documents have been lost between origination and entry into APSIN. Alaska Statute 12.55.147 requires that convicted felons be fingerprinted in open court at the time of sentencing. This has not been uniformly implemented in all courts; however, efforts to standardize procedures for the obtaining of fingerprints on court judgements have been underway between the Court System and the Department of Public Safety to correct this situation.

Title 28 §20.21(a) of the Federal regulations which govern LEAA-funded systems require criminal justice agencies to ensure that criminal history record information is accurate and complete. Part 2 of §20.21(a) defines accuracy and outlines procedures for accomplishing this task:

. . . to be accurate means that no record containing criminal history record information shall contain erroneous information. To accomplish this end, criminal justice agencies shall institute a process of data collection, entry, storage, and systematic audit that will minimize the possibility of recording and storing inaccurate information.

The Department of Public Safety is working toward transferring pre-APSIN non-conviction arrest information from manual files to APSIN. In addition to its ongoing "audit" process, the Department should verify APSIN criminal history records. To correct the various types of errors disclosed above, the review should trace data both from APSIN to Court System documents and from Court System documents to APSIN. This process could be accomplished in-house, or could be performed by an outside firm.

All law enforcement agencies, both State and local, within Alaska rely on APSIN for criminal history information. Because of this, the importance of ensuring complete and accurate data is increased. While APSIN is not an LEAA-funded system, procedures similar to those required by Title 28 §20 should be implemented.

Auditor's Comments

Several areas specific to Alaska Public Safety Information Network (APSIN) were included in our review. Our general observations and comments related to these areas follow.

1. Data Quality

Data quality of criminal justice information housed in APSIN needs to be improved. As discussed in Recommendation No. 3, the Department of Public Safety should implement input and data integrity controls.

2. Subject Review and Challenge

Alaska Statutes 12.62.030(c) and administrative regulation 6 AAC 60.080 provide for the right of an individual to inspect criminal justice information which refers to that person. Procedures related to the review and challenge of this information by the individual are outlined by the regulation cited above. The APSIN Security Officer has disseminated logs for recording such inspections. If the individual contests the validity of recorded criminal history, AS 12.62.030(c), provides for an appeal to the Commission.

3. System Security

Adequate controls over computerized systems are comprised of general controls and application controls. General controls refer to those controls in a data processing environment that apply to all applications processed under that environment. They have widespread impact because they affect all applications processed by the facility. Application controls are specific controls over input, processing and output and should ensure that only authorized data is completely and accurately processed by a system.

APSIN is an application which is processed at the Anchorage Data Center (ADC). A recent review of general controls at ADC revealed several security control weaknesses. These weaknesses are sweeping in nature and would be difficult, if not impossible, to compensate for at the application level. Our review did not include a detailed study of application controls.

4. Dissemination and Use

In various memos, the APSIN Security Officer has outlined procedures for the dissemination and logging of criminal conviction information issued to secondary users. Lists of current secondary users are updated periodically. See Appendix B for a February 3, 1986 list of secondary users. Our concerns regarding access to and dissemination of criminal justice information to primary users are discussed in Recommendation No. 2.

5. Intelligence Information

Under Alaska Statute 12.62.015, law enforcement agencies in Alaska may collect and maintain intelligence information. AS 12.62.070 defines intelligence information to mean

information concerning the background, activities or associations of the individual or group collected or obtained by a law enforcement agency for preventive, precautionary or general investigative purposes not directly connected with the investigation of a specific crime . . .

The Criminal Investigation Bureau of the Alaska State Troopers maintains a procedures manual regarding intelligence information. All intelligence information is maintained manually and does not reside on any computerized information system. As our review centered on APSIN, we did not evaluate procedures governing intelligence information.

6. Recordkeeping on Juveniles

Information regarding juveniles is not maintained on APSIN. As such, recordkeeping on juveniles was excluded from the scope of our review.

7. Purging of Records

The definition of purging includes both closing and expunging of criminal history records. Under current regulations, neither of these functions are required for APSIN. See Recommendation No. 2 for a discussion of our concerns in this area.

APPENDIXES

APPENDIX A

-- Listing of Primary Users

Per 6 AAC 60.060

1. Department of Public Safety
2. Local Alaska Police Departments
3. Alaska State Court System
4. Department of Corrections
5. Alaska Board of Parole
6. Department of Law
7. Alaska Public Defender Agency
8. Child Support Enforcement Agency
9. Federal Bureau of Investigation
10. Governor's Commission of the Administration of Justice

APPENDIX B

-- Listing of Secondary Users

Per Department of Public Safety Memorandum of
February 3, 1986

1. Alaska Alcoholic Beverage Control Board (Department of Revenue)
2. Alaska Bar Association
3. Alaska Commercial Fisheries Entry Commission
4. Alaska Department of Health and Social Services Commissioner's Office
5. Alaska Department of Labor (Unemployment Insurance Fraud Investigation Section)
6. Alaska Division of Banking and Securities (Department of Commerce and Economic Development)
7. Alaska Division of Elections (Lt. Governor's Office)
8. Alaska Division of Enforcement, Criminal Investigations (Department of Revenue)
9. Alaska Division of Family and Youth Services (Department of Health and Social Services)
10. Alaska Division of Insurance (Department of Commerce and Economic Development)
11. Alaska Division of Occupational Licensing (Department of Commerce and Economic Development)
12. Alaska Division of Parks (Department of Natural Resources)
13. Alaska Railroad (U. S. DOT)
14. Anchorage and Fairbanks International Airport Police (Alaska DOT/PF)
15. Big Brothers/Big Sisters of Juneau
16. Dr. Michael Phillips, Alaska Psychiatric Institute
17. Dr. Thomas D. Lonner, Center for Alcoholism and Addiction Studies, University of Alaska

18. Elmendorf Air Force Base Security Police
19. Federal Aviation Administration Security Division
20. Federal Bureau of Alcohol, Tobacco and Firearms
21. Federal Highway Administration
22. Federal Bureau of Land Management (U. S. Department of Interior)
23. Federal Protective Service Division (GSA)
24. Fort Richardson Security Police
25. Interstate Commerce Commission
26. National Park Service
27. National Transportation Safety Board
28. Postal Inspection Service
29. U. S. Coast Guard Intelligence and Law Enforcement Branch
30. U. S. Customs Service
31. U. S. Department of Defense Investigative Service
32. U. S. Department of Health and Human Services, Social Security Field Integrity Staff
33. U. S. Drug Enforcement Administration (DEA)
34. U. S. Environmental Protection Agency
35. U. S. Forest Service
36. U. S. Immigration and Naturalization Service
37. U. S. Office of Personnel Management, Investigations
38. U. S. Probation Office for U. S. District Courts
39. U. S. Secret Service (Department of the Treasury)
40. University of Alaska Security, Anchorage Campus
41. University of Alaska Security, Fairbanks Campus
42. Western States Information Network
43. Alaska Department of Military and Veterans Affairs, Personnel Security Section

- 44. Alaska Department of Revenue, Gaming Enforcement Unit
- 45. Alaska Judicial Council
- 46. Alaska Transportation Commission
- 47. U. S. Department of Defense, Security Division

APPENDIX C

Applicability of 6 AAC 60 by Section

<u>Section</u>	<u>Description</u>	<u>Individual CJIS</u>	<u>Theoretical AJIS</u>
.010	Scope of regulations	X	X
.015	Oversight and authority for AJIS and CJISs	X	X
.020	Categories of information allowed (includes all arrest information)	X	X
.030	Security required over automated systems	X	X
(d,e,f)	Linkages allowing access to AJIS by other agencies		X
.040	Agency security over personnel and physical plant	X	X
.050	Input and update authority by agency		X
.060	Access authority of agencies		X
.070	Restrictions on dissemination	X	X
.080	Individual's right to information	X	X
.090	Research use of information	X	X
.100	Purging of information (includes closing and expunging)		X
.110	Purging of information on persons regarding dangerous or suicidal tendencies	X	X
.120	Notification regarding information purged under section .100 purged under section .110	X	X
.130	Formulation of procedures	X	X

DEPARTMENT OF PUBLIC SAFETY

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OFFICE OF THE COMMISSIONER

May 12, 1986

Gerald L. Wilkerson, CPA
Legislative Auditor
Legislative Affairs Agency
P.O. Box W
Juneau, Alaska 99811-3300

MAY 12 1986

Dear Mr. Wilkerson:

Re: A Special Report on the Oversight of the Criminal
Justice Information Systems in Alaska and the
Alaska Public Safety Information Network

Thank you for the March 19, 1986 Preliminary Report
outlining the findings and recommendations of this audit.
That document has been treated as confidential. This
Department's response is outlined below:

Recommendation #1:

Alaska needs an effective criminal justice information
system oversight and review function.

Agree. Each state agency involved has responsibilities to
oversee and review its own criminal justice information
system. Where common problems exist, a task force approach
designed to address and solve a specific issue holds the
most promise of success.

While the Governor's Commission on the Administration of
Justice is dormant, it is important to recognize that
several of their functions are performed notwithstanding the
Commission's present status. Some examples are:

1. Secondary user lists are issued periodically.
2. Disagreements between individuals and the
Department of Public Safety's criminal
history records are resolved based upon proof
of identity and documentation of the arrest,
charges, or dispositions in dispute. The
judicial process allows for aggrieved
individuals to petition for correction,
or expungement of criminal history record
information.

3. The "sex crimes" background check (AS 12.62.035) has been delegated to the Department of Public Safety by the Attorney General.

As of March 1986, the Department is able to automatically exchange criminal history information via the National Law Enforcement Telecommunications System (NLETS). The Department is now participating in the FBI's Interstate Identification Index (III) to a limited degree; full participation in III is planned for the future.

A. Lack of oversight and review function:

The Governor's Commission on the Administration of Justice was primarily established as the policy level oversight body for the annual funding plan required by the now defunct federal Law Enforcement Assistance Administration or LEAA. For a period of time, LEAA funded various innovative programs aimed at all levels and agencies within the criminal justice system. The Governor's Commission along with its staff was primarily involved in issues directly related to federal funding, although comprehensive planning was a related objective.

It would not be appropriate for this Department to comment on planning, design and implementation of other criminal justice information systems, but both PROMIS and OBSCIS appear to be essentially 'canned' packages which required little design work and therefore, centralized review would have been probably less useful. In any case, Public Safety was not consulted in their design or implementation. Preliminary discussion on the design of the Alaska Public Safety Information Network (APSIN) was begun while the Commission staff had an opportunity to provide input. Later, information was requested from both the Courts and the Corrections as part of 'user group' efforts in regards to the development of APSIN. Suggestions were incorporated into the system based on holistic and efficiency considerations and the feasibility of those suggestions. Further, several levels of needs, within and outside of DPS, were considered regarding APSIN design. In fact, extensive "user group" involvement (through the design, testing and implementation stages) is considered to be a key factor for the success of APSIN. As in all major management information systems, there are "trade-offs" since the design cannot accommodate all desired data fields. The purpose of the AID number was to provide a unique identification for each person in the AJIS system. This unique identification scheme (AID #) still exists in APSIN; the method of creation has been changed, but it is available to the Department of Corrections should they seriously desire access.

Placement of this oversight function in OMB does not seem appropriate since the federal National Crime Information Center (NCIC) user agreement signed by the State specifically requires that a law enforcement agency shall be responsible as the controlling agency. In fact, for APSIN to work under the computer umbrella of the Department of Administration, Department of Public Safety had to enter into a special Management Control Agreement with the former in order to be in compliance with NCIC. Some provisions of this agreement such as back-up and security control are still not fully implemented. The tentatively scheduled (for a period of one week from 09/29/86 - five member audit team) comprehensive NCIC audit of APSIN may address several such issues.

The Department of Public Safety is not opposed to abolishing the Governor's Commission and transferring its duties to the Attorney General (HB 183) or to the Information Systems Committee appointed by the Governor by expanding the Committee to include the Court System. Further, the Department of Administration now has elaborate procedures for its Information Resource Management Expenditure Approval Committee (IRMEAC). IRMEAC can be considered a functional review entity for any new data processing project and OMB is represented on IRMEAC. All such existing and ongoing procedural reviews and oversight capability should be reviewed prior to creating an additional oversight layer.

The appointment of another executive branch commission, ipso facto, will not solve the coordination and communication problems among executive branch agencies or between the court system and executive branch agencies. The same basic issues which hindered full implementation of AJIS still remain.

Full-time oversight by the former Commission was discontinued with the elimination of their federal funding. Given Gramm-Rudman funding constraints and Alaska's oil revenue shortfall, it is unlikely that additional oversight and review duties such as this will be absorbed by agencies cutting back direct public services. On the other hand, the task force nature of an informal Criminal Justice Working Group should allow it more than sufficient clout and expertise to resolve issues which arise.

B. Ineffective statutes and regulations governing CJISs:

In our opinion, Alaska Statutes need not contain CJIS policy for criminal records issues such as purging of records, dissemination and use, security and privacy, and the assurance of data integrity. We believe that

APSIN is governed by applicable federal law, National Crime Information Center (Department of Justice) mandates, and the professional judgement of criminal justice managers. The Attorney General's office is consulted about impact of day-to-day policies and procedures since officials involved are conscious of civil and criminal remedies available to aggrieved persons.

Current regulations cannot properly be updated to go beyond or supplant statutory scope. AJIS regulations require purging of criminal history information for both felony and misdemeanor convictions; the AJIS purge requirements conflict with information needs of criminal justice agencies defined as primary users as well as certain statutes (e.g. presumptive sentencing, sex crimes, etc.). Since only authorized users have access to criminal history information, purging is more a matter of data management than privacy and security. For example, dead people's files are removed from active records. Everyone should keep in mind that criminal history files are built from public records. Conviction information is often publicized by the media.

The Department rejects the notion that a central oversight agency or additional law is needed to monitor APSIN privacy and security, but is concerned about security problems at the Data Centers. Problem resolution efforts are continuing.

Furthermore, fiscal impact of new statutes or regulations is being more closely monitored now that State revenues are dwindling. Any new statute or regulation or procedure which requires increased resources to implement should receive cautious consideration. If problems do not require increased resources, but merely a minor change or emphasis in existing operations, a task force approach is more efficient.

Recommendation #2:

A policy decision should be made regarding purging of and access to certain criminal justice information in Alaska's criminal justice information systems.

Agree. Current discussion is underway to resolve purge and access issues. Background comments are appropriate.

An expungement of criminal records requires that all records covered (i.e. computer or manual files) in the court order are destroyed and eliminated with no method for retrieval. In the context of the AJIS regulations, purging means restricting access to certain data after a period of time. Expungement and purging should not be used interchangeably.

Certain criminal history records have been expunged from both AJIS computerized files and manual files in the State central repository (i.e. Records and Identification) in response to court order, but closing or purging of records from computerized AJIS files has never taken place systematically in compliance with the AJIS regulations, 6 AAC 60.100. This decision related, in part, to the difficulty of making revisions to the computer programs of AJIS. The reason for the AJIS/APSIN conversion-redesign, in part, was that routine maintenance of AJIS and minor enhancements to AJIS were time-consuming and backlogged. The Division of Motor Vehicle's computer applications took precedence because of the major direct public impact of their service requests. After the AJIS/APSIN conversion-redesign, enhancements are being made in priority order and much faster than would have been possible under AJIS. For clarification, it should be stated that the AJIS/APSIN conversion-redesign did not satisfy all outstanding user needs or wants, but only those requirements which were highest priority and could be met within available resources. One major design parameter was that future APSIN enhancements be relatively easy in absolute terms and relatively cost-efficient from a technical standpoint.

The APSIN criminal history main menu is being updated to include a message indicating that non-conviction data exists where that is the case.

Since the criminal justice community needs access to individual criminal history records without regard to the AJIS regulations' purge requirements, the Records and Identification (R&I) Section was handling these requirements separately from the computerized criminal history information. For example, arrests without convictions were not entered on AJIS, but were available in the R&I criminal history manual files. Upon request from authorized criminal justice users, a full criminal history would be provided via administrative message. Under the AJIS regulations, complete information could not be contained on computerized files subject to those regulations. Nevertheless, the criminal justice community needs for complete information still existed.

Arrest information is now being entered into APSIN by some police agencies as a suspense mechanism to insure that court judgements are received on those persons arrested. This improved linkage between arrests and dispositions enhances the completeness and accuracy of the criminal history record information maintained on APSIN. Exception or aging reports are now being produced monthly to show arrests over 90 and 120 days old that have not had dispositions recorded in APSIN.

Currently, R&I staff respond to primary user requests for a full criminal history by reviewing the manual R&I files, reviewing the APSIN submenu, and then updating the submenu and subsequently printing it out and mailing it to the requester. This process is somewhat time consuming, and does introduce the possible compromise of security via the mail system. Public Safety needs the full criminal history information as do several other authorized users.

The Attorney General, as legal advisor to the executive branch, possesses the authority and responsibility to interpret whether the AJIS statutes and regulations apply to APSIN. If the Attorney General decides that the AJIS statutes do not apply to APSIN, then the Attorney General is free to work with the Department of Public Safety from a procedural standpoint to insure that ongoing operations of APSIN do not violate any issues of federal or state law.

Recommendation #3:

The Department of Public Safety should review criminal justice information housed in the Alaska Public Safety Information Network for accuracy and completeness. In addition, input control procedures should be instituted to provide assurance as to the integrity of the data entered.

Agree. Criminal histories are reviewed for accuracy and completeness as resources permit. Further input controls will be explored. Although much has been accomplished, we recognize more needs to be done.

Computer reports show that all criminal history records in AJIS were converted to APSIN. The only processing that the conversion programs performed was to translate offense codes and check for numeric data.

Systems analysis would reveal that the data in APSIN depends upon several issues which are not under control of the Department of Public Safety. For example, the Department of Corrections and other law enforcement agencies must insure that arrestees are properly fingerprinted, that full information is included on the fingerprint card, and that those fingerprint cards are promptly sent to the Department of Public Safety. In addition, once convicted of charges not included on the original arrest, those offenders must again be fingerprinted to insure that the convictions stemming from the original arrest are also submitted to the Department of Public Safety for inclusion in their criminal history files. Taking the example of Charles Meach, he was not shown on the APSIN main menu because his court disposition was not received by Records and Identification. When this situation was brought to the attention of Records and Identification his fingerprint card was used as a basis for going to the court to request a disposition. The court

provided the disposition which reflected Mr. Meach's conviction. The conviction was then entered into APSIN; and is now available to inquirers. In short, because of insufficient resources, the central repository must depend upon law enforcement officials in the field to point out examples of incomplete conviction information which needs to be supplemented by seeking the court disposition on that particular individual. While this situation is definitely not a frequent occurrence, at the same time, Mr. Meach is not an isolated incident which illustrates the need for continued cooperation of all criminal justice agencies with the central repository to insure the most complete data base. And, in our opinion, the various components of criminal justice group are increasingly becoming aware of this imperative and working together and better.

One of the "errors" in the auditor's very limited sample was a person whose record had been expunged in compliance with a court order. Other "errors" related to incomplete information because of backlogs. There is a backlog of about 22,000 misdemeanor judgements which have not been entered; this may be the major reason for some users perception that criminal history data is incomplete. Serious errors, where a person has incorrect arrest or conviction data recorded, are very rare and promptly corrected when discovered or reported. However, if a judgement cannot be conclusively associated with a person, the judgement is not entered. Please remember that all omissions, in this context, are not errors unless there is proof that Public Safety, through error, omitted a record. Giving the benefit of doubt to a citizen is preferable to erroneously associating that individual with a criminal record.

The Alaska Court System is responsible statewide for submitting court judgements or dispositions to the Department of Public Safety. Alaska Statute 12.55.147 also requires that convicted felons be fingerprinted in open court at the time of sentencing. Unfortunately, this law (which would identify and facilitate tracking of serious criminals), has not been uniformly implemented.

The number of criminal history errors in APSIN was not discussed in a thorough and complete manner so that conclusions could properly be drawn from the statement of findings. For example, the sample size and the nature of problems in each category should be discussed or summarized more fully. The so-called "general lack of confidence" is not supported by a discussion how that subjective statement was solicited or recorded. While realizing that the point of a legislative audit is not to discuss what is going correctly, in the particular case, it seems appropriate in order to keep this limited finding from provoking a "general lack of confidence" in the APSIN criminal history information. Such a wholesale indictment is not substantiated by the limited audit conducted and any such implication is unwarranted.

It is important to appreciate the Department's resource commitment to a system which is operated for the benefit of the entire criminal justice community with, at times, less than complete understanding from other agencies. Both the production of a revised procedural manual and additional training needs are being addressed. The Department is more than willing to accept Reimbursable Services Agreements from other criminal justice agencies to address common problems and increase the level of service provided. We will have to review how budget constraints would impact service.

Several statements in the audit regarding completeness or accuracy are correct, but require further comments.

- ° APSIN has more edits than AJIS did to help insure data validity.
- ° AJIS had read-back verification. However, it did not eliminate problems.
- ° Data entry personnel did not always proof read the entry. It is normally not a typographical error if a person puts in the charge of murder rather than manslaughter.
- ° To insure proper entry, the material should be audited. One person inputs, the second person audits the documentation and entry. We should work towards this goal.
- ° The data clerks, on occasion, are not familiar with the court terminology. Additionally, many judgements are written with poor penmanship and are confusing to decipher.
- ° At present, the court enters the judgement in their system, the District Attorneys in their system, Corrections in their system and Records & Identification in APSIN. This does create a proper breeding ground for errors.
- ° The ideal method of entry would be court input with a written judgement produced as a result of the entry. This would be reviewed and signed by the judge and all systems would be updated with the same information.

Meanwhile, until such an ideal process that is less conducive to errors of omission and commission can be implemented, the Court System will be requested to send all judgments via certified mail, return receipt requested, and to insure that each batch of judgments is numbered and contains all judgments for dates specified in their transmittal memo.

We will continue to seek perfection, however, we should remember that criminal history information systems in every state of the nation are facing such systemic problems and continuing efforts should, every time, bring us a little closer to the eluding perfection.

For example, the Department of Public Safety began a criminal history audit in conjunction with implementation of the Alaska Automated Fingerprint Identification System (AAFIS). This audit was conducted, in part, to insure that AAFIS fingerprint files contained the maximum number of computer readable fingerprints to insure the highest possible fingerprint data base quality. At the same time, criminal history information was reviewed for completeness and accuracy. The limited resources available were applied, however incomplete, to most recent and most active criminal history records.

Several enhancements to APSIN were completed since the conversion of AJIS to APSIN and many are in process. The auditor's suggestion of APSIN counting documents entered by terminal and operator ID will be explored.

Auditor's Comments:

1. Data Quality

The data quality of criminal justice information in APSIN is a major concern of the Department of Public Safety. Input and data integrity efforts will continue; however, lack of in-house controls is not the major problem with data completeness.

2. Subject Review and Challenge - No Comment

3. Systems Security

The Department of Public Safety has previously identified the problems with general controls at the Data Centers; discussions are still continuing. If these control problems are not resolved, Alaska may lose its access and use of the National Crime Information Center files and the Interstate Identification Index (III) which would require Alaska's criminal justice agencies to wait two or three weeks for mail and FBI delays rather than have the data available on-line. If NCIC and III access is terminated because of security audit problems then NLETS participation will also be terminated which will eliminate Alaska's on-line ability to gather out-of-state criminal history data, driver records, vehicle registrations, etc.

4. Dissemination and Use - No Comment
5. Intelligence Information - No Comment
6. Record Keeping on Juveniles

Records on juveniles are not kept in the central repository or in APSIN.

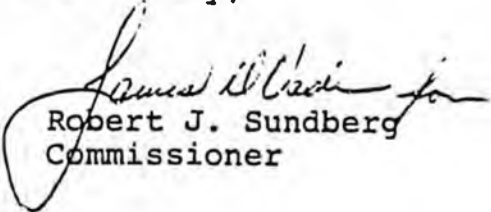
7. Purging and Expungement

The definition of purging should not confuse the difference between closing and expungement.

In summary, the Department of Public Safety is very concerned about data completeness, quality, and security of information disseminated to criminal justice agencies statewide and nationwide. Although the audit does not address significant problems such as back-up, we continue to work towards achieving the objectives listed here.

The giant leap from AJIS to APSIN is still a small step in absolute terms and continued emphasis and allocation of resources should further our objectives. Thank you for bringing these recommendations and findings to our attention.

Sincerely,


Robert J. Sundberg
Commissioner

BILL SHEFFIELD, GOVERNOR

REPLY TO

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April 30, 1986

MAY 1 1986

Gerald L. Wilkerson
Legislative Auditor
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P.O. Box W
Juneau, Alaska 99811-3300

Dear Mr. Wilkerson:

Thank you for the opportunity to respond to the preliminary audit report on criminal justice information systems.

Initially, we take exception to two separate passages in the report which seem to suggest that there is no control over APSIN because the Governor's Commission is not in operation. At page 6, it is asserted that

As new CJISSs were implemented, the regulations were not always reviewed to determine the applicability to the new system. As a result, the current regulations do not apply to APSIN, as discussed below under B.

Later, at page 9:

The lack of a centralized oversight and monitoring has resulted in the inapplicability of state statutes and regulations to Alaska's major CJIS, APSIN.

As I have pointed out to your office on other occasions, the observations quoted above are simply incorrect. There are two reasons why state laws might not apply to APSIN, neither of which has anything to do with "lack of centralized oversight." The first reason why certain laws do not apply is because they were not intended to apply. As a result of action by the Commission--rather than inaction--the administrative code was amended so as to limit the purging requirements in the regulations to interagency systems only. Thus it is incorrect to state that the regulations do not apply "as a result" of the dormancy of the Commission. If certain regulations do not

apply to individual information systems it is because of the work of the Commission--not because the Commission was dormant.

It also is not true that "as new CJISSs were implemented, the regulations were not always reviewed." To the contrary, at the last meeting of the Commission 1/ the PROMIS and OBSCIS systems were being implemented and the Commission was well aware of their existence. In fact the Commission was given an overview of the capabilities of each system and its current status. I personally gave an overview of the PROMIS system. No new federally-funded information systems have been implemented since that time.

The second reason why state laws may not apply is because that is what statutes provide and the Commission has no authority to change the statutes. If the APSIN system is not federally-funded, and is therefore not governed by state statute, then the Commission would have no say over its operation. The regulation-making authority under AS 12.62 is limited to federally-funded systems, and any regulations which attempted to expand that authority would be invalid.

Overall, I think it is unfair to suggest that the failure of state law to address certain aspects of certain information systems is because the Commission no longer operates.

My second point relates to your alternative suggestions for providing centralized oversight. Your report states that the composition of the Commission "may well be unconstitutional" (page 7) but the Legal Services Division of the Legislative Affairs Agency has recently issued a short opinion that is much more certain. In response to a request from Representative Clocksin, an opinion was rendered by Teresa Cramer, legislative attorney, that the composition definitely violates the doctrine of separation of powers. See opinion dated March 27, 1986, relating to House Bill 183.

In light of these concerns about the separation of powers, and in light of the concerns about placing oversight responsibility under the Attorney General, the Governor's Criminal Justice Work Group unanimously endorsed a proposal by former attorney general John Havelock that would create a new

1/ Although I neglected to mention it previously, the Commission last met in 1982--not 1981. I don't recall the exact date, but it was early in the year, shortly before the amended regulations went into effect. The effective date of those regulations is May 29, 1982.

body made up of agencies most directly affected by these information systems.

The Work Group proposed that the new body include the attorney general, the commissioners of public safety, health and social services and corrections, the public defender, the public advocate, a municipal police chief and the administrative director of courts. In addition, the proposal provided that no regulation would be binding on the executive branch unless a majority of executive branch representatives voted in favor. Similarly, no regulation would be binding on the court system unless the administrative director of courts voted in favor.

In light of the problems associated with each of the alternatives mentioned in your report, I think that the Work Group's proposal deserves mention and, if appropriate, your endorsement.

Finally, I have noticed two minor inaccuracies in Appendix C. I believe that only subsections (e) and (f) of 6 AAC 60.030 apply to "theoretical AJIS" and that the reference to subsection (d) is in error. I also believe that the requirements of 6 AAC 60.120, with respect to purging under section 110, apply to both individual system and "theoretical AJIS."

Thank you for your consideration of my comments.

Very truly yours,

HAROLD M. BROWN
ATTORNEY GENERAL

By:


Dean J. Guaneli
Assistant Attorney General

STATE OF ALASKA

AUDIT DIVISION
POUCH W
JUNEAU, ALASKA 99811-3300

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

May 5, 1986

Members of the Legislative Budget
and Audit Committee:

We have reviewed the Department of Law's response to our preliminary report. Our comments follow.

The Department of Law asserted on page 2, paragraph 3 that Legislative Audit was "unfair" in suggesting that the Commission's inactivity was the cause of the failure of State law to address "certain aspects of certain information systems." Legislative Audit maintains that the lack of centralized oversight was a primary cause of the fact that neither State statute nor regulation apply to a "certain information system," namely APSIN.

Prior to the last meeting of the Commission (early 1982), capital monies had been appropriated through the Department of Law and the Criminal Justice Planning Agency (ch. 82, SLA 81, p. 153, l. 17) for the upgrade from AJIS to APSIN. Those were State dollars; no Federal money was involved. This was within the timeframe when the regulations were being reviewed. While the regulations were reviewed by the Commission there apparently was no review at that time, or at any later time, of the regulations in regard to their applicability to the new, non-LEAA funded Alaska Public Safety Information Network.

The point was made by the Department of Law that the statutes do not provide for Commission oversight of non-LEAA funded systems and that the Commission does not have the authority to change statutes. This is true; however, Legislative Audit believes that it was the responsibility of the Commission to bring to the attention of the Governor and the Legislature the fact that APSIN would not be regulated by State law unless changes were made. APSIN is Alaska's major criminal justice information system. All criminal justice agencies in the State rely on APSIN for criminal history record information. It is Legislative Audit's belief that APSIN should be specifically governed by State law. This would ensure that access to information housed in APSIN is restricted by statute to law enforcement agencies.

Legislative Audit feels the proposal endorsed by the Governor's Criminal Justice Working Group for a new body to provide centralized oversight of Alaska's criminal justice information systems is a sound one. Our primary concern is that the oversight body actively provide for review and approval of regulations governing CJISs in Alaska (whether funded by LEAA monies or not) and for the monitoring of such systems for compliance with statutes and approved regulations. In addition, periodic reviews of the integrity of central criminal justice information records should be performed or commissioned by the body.

The minor inaccuracies found in Appendix C have been corrected in the final report.



Gerald L. Wilkerson, CPA
Legislative Auditor
Division of Legislative Audit

Item 4

Alaska State Legislature

Chairman
(907) 465-4523



Jan Faiks
Post Office Box V
Juneau, Alaska 99811

Senate Judiciary Committee

February 23, 1989

MEMORANDUM

TO: Representative Red Boucher, Chairman
House State Affairs Committee

FROM: Senator Jan Faiks, Chairman
Senate Judiciary Committee

SUBJECT: SB 23 "An Act relating to the recording and collection of crime statistics."

Senate Bill 23 has been referred to the House State Affairs Committee for consideration. This bill proposes an amendment to AS 44.41.020, which defines the duties of the Department of Public Safety (DPS). This bill passed the Senate on February 9, 1989 by a vote of 16 - 3, along with the attached letter of intent.

At the present time, DPS collects crime data from local law enforcement agencies, processes it, and then returns it to the agencies in the form of statistical summaries of the crime situation in each community. These summaries are a part of the Alaska Uniform Crime Reports (UCR). DPS, however, has no authority to require that participating agencies submit the raw data in a uniform manner. The purpose of SB 23 is to give DPS the authority to establish and require the use of standardized methods of collecting and recording law enforcement and crime statistics by local departments.

SB 23 was introduced as a result of a recommendation contained in a 1986 Legislative Audit report on the Division of Family and Youth Services. A copy of that audit is attached. The audit was performed because of the conflict between crime statistics, which showed that juvenile crime was falling, and police officials, who said that juvenile crime was actually rising. The auditors found that flaws in the way the state

Members
Mike Szymanski, Vice-Chairman • Rick Halford • Drue Pearce • Pat Rodey

Out of Session
3111 C Street, Anchorage, Alaska 99503 • (907) 561-7610

collected crime data might understate the actual rate of juvenile crime.

Accordingly, the auditors recommended that DPS be given the authority to require standardized methods of recording and collecting crime statistics by local departments statewide.

The slightly different collection and classification procedures used by the more than 20 police jurisdictions in Alaska that elect to participate in the UCR can distort the statewide crime statistics for all crime, not just juvenile crime.

Most of the local police agencies that currently elect to participate in the Department's system use an incident-by-incident method of reporting all criminal calls they answer. However, the State's two largest police departments, Anchorage and Fairbanks, as well as the State Troopers, employ the summary method of data collection.

As the name implies, the incident-by-incident format requires departments to keep a log of all police calls they answer, coded in accordance with uniform standards, and submit this information to DPS monthly. DPS keypunches this raw data and produces various informational reports that are returned to the reporting localities. DPS additionally retains this information and uses it to develop an annual statewide crime report.

In the summary method, the local departments do their own processing of the raw data using slightly different classification systems, and submit the data to DPS already summarized. DPS then "fits" this information together with the incident data collected from other local agencies for the annual statewide report. This results in a distortion of statewide crime statistics.

The state participates in the FBI's Uniform Crime Reports, and provides statewide data to the FBI. The FBI recognizes the problems caused by different reporting methods, and is recommending that the incident-by-incident method be used, using standard reporting forms developed by that agency. This would be one option for standardization which SB 23 would give to DPS.

Current law does not require local communities to participate in the UCR, and this bill does not change that. It merely gives DPS the authority to require that those agencies which do elect to participate provide data in a uniform manner.

As legislators, we make important public policy decisions based upon our perception of the level and nature of crime in

our state. Without accurate data, we cannot make intelligent decisions. For this reason, I would appreciate the committee's consideration of SB 23 at its earliest convenience.

CITATION

Honoring - A Kid's Place, Anchorage Kid's Day
by Senators Uehling, Pourchot, Pearce, Rodey,
Szymanski, Faiks, Sturgulewski, Karttula,
Halford and Kelly

Senator Halford moved and asked unanimous consent that the citation be adopted. Without objection, the citation was adopted and referred to the Secretary for transmittal.

CONSIDERATION OF THE CALENDAR cont'd

SENATE BILLS IN THIRD READING

SB 23

SENATE BILL NO. 23 (An Act relating to the recording and collection of crime statistics) and the motion on the adoption of the Letter of Intent were before the Senate.

Senator Faiks moved and asked unanimous consent to withdraw the motion to adopt the Letter of Intent. Without objection, it was so ordered.

A new Letter of Intent was offered by Senators Pourchot and Faiks:

Letter of Intent
for
Senate Bill No. 23

It is the intent of the Senate that the Department of Public Safety (DPS) work with local police departments statewide in order to develop methods of implementing SB 23 over time in a manner that have negligible financial impact on those departments and which do not create disincentives to participate in the collection of data for the Uniform Crime Reports (UCR).

Senator Faiks moved and asked unanimous consent that the Letter of Intent be adopted as a Senate Letter of Intent. Without objection, the Senate Letter of Intent was adopted.

Alaska State Legislature

Chairman
(907) 465-4523



Jan Faiks
Post Office Box V
Juneau, Alaska 99811

Senate Judiciary Committee

April 7, 1989

MEMORANDUM

TO: Representative Peter Goll, Co-Chairman
Representative Max Gruenberg, Co-Chairman
House Judiciary Committee

FROM: Senator Jan Faiks, *Jan Faiks* Chairman
Senate Judiciary Committee

SUBJECT: SB 23 "An Act relating to the recording and
collection of crime statistics."

Senate Bill 23 has been referred to the House Judiciary Committee for consideration. This bill proposes an amendment to AS 44.41.020, which defines the duties of the Department of Public Safety (DPS). This bill passed the Senate on February 9, 1989 by a vote of 16 - 3, along with the attached letter of intent.

At the present time, DPS collects crime data from local law enforcement agencies, processes it, and then returns it to the agencies in the form of statistical summaries of the crime situation in each community. These summaries are a part of the Alaska Uniform Crime Reports (UCR). DPS, however, has no authority to require that participating agencies submit the raw data in a uniform manner. The purpose of SB 23 is to give DPS the authority to establish and require the use of standardized methods of collecting and recording law enforcement and crime statistics by local departments.

SB 23 was introduced as a result of a recommendation contained in a 1986 Legislative Audit report on the Division of Family and Youth Services. A copy of that audit is attached. The audit was performed because of the conflict between crime statistics, which showed that juvenile crime was falling, and police officials, who said that juvenile crime was actually rising. The auditors found that flaws in the way the state

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collected crime data might understate the actual rate of juvenile crime.

Accordingly, the auditors recommended that DPS be given the authority to require standardized methods of recording and collecting crime statistics by local departments statewide.

The slightly different collection and classification procedures used by the more than 20 police jurisdictions in Alaska that elect to participate in the UCR can distort the statewide crime statistics for all crime, not just juvenile crime.

Most of the local police agencies that currently elect to participate in the Department's system use an incident-by-incident method of reporting all criminal calls they answer. However, the State's two largest police departments, Anchorage and Fairbanks, as well as the State Troopers, employ the summary method of data collection.

As the name implies, the incident-by-incident format requires departments to keep a log of all police calls they answer, coded in accordance with uniform standards, and submit this information to DPS monthly. DPS keypunches this raw data and produces various informational reports that are returned to the reporting localities. DPS additionally retains this information and uses it to develop an annual statewide crime report.

In the summary method, the local departments do their own processing of the raw data using slightly different classification systems, and submit the data to DPS already summarized. DPS then "fits" this information together with the incident data collected from other local agencies for the annual statewide report. This results in a distortion of statewide crime statistics.

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Current law does not require local communities to participate in the UCR, and this bill does not change that. It merely gives DPS the authority to require that those agencies which do elect to participate provide data in a uniform manner.

As legislators, we make important public policy decisions based upon our perception of the level and nature of crime in

our state. Without accurate data, we cannot make intelligent decisions. For this reason, I urge your favorable consideration of this legislation.

CITATION

Honoring - A Kid's Place, Anchorage Kid's Day
by Senators Ushling, Pourchot, Pearce, Rodey,
Szymanski, Faiks, Sturgulewski, Kerttula,
Halford and Kelly

Senator Halford moved and asked unanimous consent that the citation be adopted. Without objection, the citation was adopted and referred to the Secretary for transmittal.

CONSIDERATION OF THE CALENDAR cont'd

SENATE BILLS IN THIRD READING

SB 21

SENATE BILL NO. 23 (An Act relating to the recording and collection of crime statistics) and the motion on the adoption of the Letter of Intent were before the Senate.

Senator Faiks moved and asked unanimous consent to withdraw the motion to adopt the Letter of Intent. Without objection, it was so ordered.

A new Letter of Intent was offered by Senators Pourchot and Faiks:

Letter of Intent
for
Senate Bill No. 23

It is the intent of the Senate that the Department of Public Safety (DPS) work with local police departments statewide in order to develop methods of implementing SB 23 over time in a manner that have negligible financial impact on those departments and which do not create disincentives to participate in the collection of data for the Uniform Crime Reports (UCR).

Senator Faiks moved and asked unanimous consent that the Letter of Intent be adopted as a Senate Letter of Intent. Without objection, the Senate Letter of Intent was adopted.

BILL NO: SB 23

DATE: March 20, 1989

TITLE: "An Act relating to the recording and collection of crime statistics."

CONTACT: Kenneth E. Bischoff, Director
Administrative Services
465-4336

DEPARTMENT OF
PUBLIC SAFETY

The Alaska Department of Public Safety collects statewide crime offense data needed by the Federal Bureau of Investigation (FBI) to produce its annual, national Uniform Crime Report (UCR). The Alaska UCR program uses procedures developed by the FBI. At the present time, 24 police agencies and the Alaska State Troopers participate by voluntarily submitting UCR data. This compiled data is published annually by the Department as "Crime in Alaska".

The Department supports SB 23 which would require DPS to establish a standard method of "collecting and recording law enforcement and crime statistics." If this legislation were enacted, DPS would adopt federal UCR procedures and continue reporting to the federal government on a voluntary basis. Police agencies would continue to participate in UCR voluntarily. Although SB 23 would give DPS the authority to require local law enforcement agencies to submit crime data, the Department does not intend to do so now, or in the foreseeable future. Mandatory local participation in UCR would have a fiscal impact at both the state and local levels.

Until recently, police agencies have been very cooperative in voluntarily providing their statistical information to the state and ultimately the federal UCR program. However, in this era of declining revenues, all law enforcement agencies are looking for functions that can be reduced or deleted. Further, the development of locally controlled computer systems has made it possible for certain police departments to obtain current, custom reports which make it a duplication of effort for them to separately input UCR data unless some automated or summary-based interface can be developed. Acute staff shortages in the Department's Administrative Services Division, stemming in part from the budget cuts in past years, have prevented DPS staff from following up with local police departments to develop such interfaces. DPS has only part of one position to compile UCR data, follow up problems, report to the FBI, and prepare the annual "Crime in Alaska" report.

This past year three communities, Ketchikan, Dillingham and Klawock, have stopped submitting UCR data; Sitka stopped submitting UCR data as of 1987. Crimes committed in those communities will not be included in the 1988 "Crime in Alaska" report. On the plus side of the ledger, Valdez has begun UCR participation as of 1989.

Crime data is now submitted in either an incident-based format, where each offense committed during a criminal incident is reported, or a summary-based format, where only the most severe offense that occurred is reported. The larger police agencies, i.e. the Alaska State Troopers, Anchorage Police Department, and Fairbanks Police Department, use the summary-based system. The smaller agencies generally use the incident-based reporting format, but if they have computer terminals, they can input their data directly into the Alaska Public Safety Information Network (APSIN) if they chose to do so. Reports are provided to contributing agencies to summarize their crime offense data.

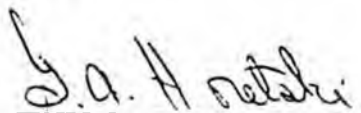
In response to the perceived need for several changes to UCR, the FBI recently completed a three-year study which recommended that all states adopt an incident-based reporting system. Adoption of the new standard would require the collection of additional data elements covering victim/offender relationships, drugs, weapons, and vehicles. These new data elements would make enhanced analysis of crime data possible.

At this time the Department has determined that the existing UCR program needs to be consolidated and strengthened before considering adoption of the new standard. The existing UCR system will still be supported by the FBI for the foreseeable future.

Any future decision to adopt the incident-based standard should take into account the input of the participating agencies. At the March 1989 meeting of the Alaska Chiefs of Police Association a dialog was begun with the chiefs of local departments on means of reducing the impact of UCR data collection on the contributors, and ways of encouraging voluntary participation in the UCR program.

SB 23 does not require local police departments to submit crime data. However, under SB 23, DPS must establish a standardized system and could require that crime data be provided in a standard format. In conjunction with computerization at the local level, DPS will be working more closely with police departments to develop low-cost, workable solutions to the UCR data collection problem. It is in the state's best interests to collect and compile statewide crime offense data and publish it for use by policy makers.

In summary, the DPS supports SB 23. The Department will continue to work with other law enforcement agencies in Alaska to gather crime data in Alaska in the most accurate, cost-efficient way possible.


for Arthur English
Commissioner

A REPORT ON THE
DEPARTMENT OF HEALTH AND SOCIAL SERVICES
DIVISION OF FAMILY AND YOUTH SERVICES
JUVENILE CRIME STATISTICS

March 25, 1986

Audit Control Number

06-4251-86-S

Commissioner, Department of
Health and Social Services

John Pugh

Deputy Commissioner, Department
of Health and Social Services

Connie Sipe

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STATE OF ALASKA

AUDIT DIVISION
POUCH W
JUNEAU, ALASKA 99811-3300

THE LEGISLATURE
BUDGET AND AUDIT COMMITTEE

March 27, 1986

Members of the Legislative Budget
and Audit Committee:

In accordance with the provisions of Title 24 and a special
request of the Legislative Budget and Audit Committee, the
attached report is submitted for your review.

A REPORT ON THE
DEPARTMENT OF HEALTH AND SOCIAL SERVICES
DIVISION OF FAMILY AND YOUTH SERVICES
JUVENILE CRIME STATISTICS

March 25, 1986

Audit Control Number

06-4251-86-S



Gerald L. Wilkerson, CPA
Legislative Auditor
Division of Legislative Audit

PURPOSE OF THE REPORT

In accordance with the provisions of Title 24 of the Alaska Statutes and a special request of the Legislative Budget and Audit Committee, we conducted a review of the statistics and analysis regarding the annual trends in juvenile crime in Alaska over the past five years (1979-1983). The review was conducted in order to reconcile the claims of law enforcement officials that juvenile crime is increasing with the statistical data that indicates the contrary.

ORGANIZATION AND FUNCTION

Title 47 of the Alaska Statutes charges the Department of Health and Social Services with the responsibility of directly providing, or arranging through contract, a range of services designed to remedy or prevent neglect, abuse, and exploitation of children, youth, and adults. They are also responsible for providing care and protection for juveniles committed to their custody by the Superior Court.

The Division's activities are mainly conducted by three sections: Family Services, Adult Services, and Youth Services. Family Services is responsible for offering a wide range of services including, but not limited to: individual and family counseling services, child protection services including the investigation of reported incidents of abuse and neglect, arranging and supervising emergency shelter and foster home care, and licensing and monitoring private non-medical community care facilities. The section has five regional offices in Ketchikan, Anchorage, Fairbanks, Bethel, and Nome and also twenty-nine field offices.

The Adult Services section is responsible for providing services to adults exposed to abuse, neglect, or exploitation. These services would include providing support to individuals who need out-of-home care.

The Youth Services section is responsible for providing a range of diversion, intervention, and rehabilitative services to juveniles found delinquent by the courts. The section has three district offices in Juneau, Anchorage, and Fairbanks and three youth facilities; McLaughlin Youth Center, Fairbanks Youth Facility, and Nome Youth Facility.

AUDITOR'S COMMENTS

Statistics cited by the Department of Health and Social Services, Division of Family and Youth Services (DFYS) do indicate that the rate of juvenile crime has declined during the past five years (1979-83). As presented in the following Findings and Recommendation section, we found that there may be significant factors in how the statistics are collected and reported that could understate the actual level of juvenile crime.

The juvenile crime rate is measured by the number of arrests made and reported to the Department of Public Safety (DPS), compared to the annual population statistics developed by the Department of Labor. The information used by DFYS in their analysis is supported by the available statistics, and in our opinion, DFYS draws logical public policy conclusions from the information.

It should be noted that the factors we discuss in the Findings and Recommendation section that may lead to understating juvenile arrests should not have a direct impact on serious or violent crimes. Juveniles are consistently arrested for such crimes and we could expect them to be counted consistently on a year-to-year basis. Accordingly, although there may be some merit to those who dispute the crime rate statistical evidence, we believe that their argument is less convincing in the area of serious or violent crimes. The statistical evidence of decline in the rate of serious juvenile crime is more convincing and less open to question.

FINDINGS AND RECOMMENDATION

Recommendation No. 1

The Legislature should consider legislation that would give the Department of Public Safety authority to require standardized recording and collection of statistics by local departments statewide.

The juvenile crime rate, as cited by Division of Family and Youth Services (DFYS), is measured by the number of arrests made and reported to the Department of Public Safety (DPS), compared to the annual population statistics developed by the Department of Labor (see Appendix A for the narrative and graphs used in DFYS's analysis). Arrest statistics have traditionally been used by social scientists and policy makers as a measure of criminal activity.

DPS gathers information and reports on arrest statistics annually. DPS develops their statistics based on reports from over 20 police jurisdictions throughout the State. These various jurisdictions report to DPS in two different ways:

1. On an incident-by-incident format.
2. In a summary format.

Most of the local police departments that elect to participate in the DPS system use the incident format. As the name implies, these departments keep a log of all police calls they answer, coded in accordance with uniform standards, and submit this information to DPS monthly. DPS keypunches this raw data and produces various informational reports that are returned to the reporting police localities. Additionally, DPS maintains the information on their computer files and uses it to develop an annual statewide crime report.

The State's two largest police departments, Anchorage and Fairbanks, along with the Alaska State Troopers submit their arrest information in a summary format. These agencies do their own processing of incident data, using slightly different definitions or classifications systems, and submit the data to DPS already summarized. DPS then "fits" this information together with the incident format data and prepares their annual publication Crime In Alaska.

Due to the size of the jurisdiction, procedures and methodologies used in Anchorage, in the collection and classification of juvenile arrests, could distort the statewide crime statistics.

We contacted the Anchorage Police Department (APD) and interviewed two officers regarding the department's policies and recordkeeping procedures. Besides minor differences in how crimes are logged and counted, we also identified two other more policy type reasons why arrest statistics, as recorded and compiled by APD, may not necessarily reflect the level of juvenile "crime":

1. Juveniles are dealt with more informally, without arrest. With the exception of the more serious crimes, juveniles are generally not formally arrested by APD. Often, unless a juvenile is spotted in the act of committing a crime, APD does not usually actively pursue or arrest juveniles.

This attitude, according to APD personnel we spoke with, is brought on in large part by the way DFYS handles juveniles brought to them at McLaughlin Youth Center (MYC). Due to the crowded conditions at MYC, unless a juvenile was arrested for a major offense, they are either placed in a non-secured shelter on a temporary basis, or are placed with relatives or other adult. This perceived "revolving door" at MYC creates an indifferent attitude on the part of many officers, resulting in fewer juvenile arrests.

2. Runaways and Status Offenders. A lot of juveniles that cause problems, perhaps harass the public and are visible on the streets, are runaways. Their status as runaways is really not a violation of law, but they often cause a lot of problems. Status offenses are generally not counted as arrests in Anchorage, but usually are by other jurisdictions that report on an incident-by-incident basis. Status offenses are such things as minor consuming, curfew violation, etc. - petty crimes that are offenses only because of an individual's age or "status."

These factors represent some possible explanations why law enforcement officials in the State dispute DFYS's assertion that the juvenile crime rate is declining. Certainly, the statistics, as reported and analyzed by DFYS, support the agency's claim.

Currently DPS acts as the primary collector and reporter of arrest data for Alaska, for the Federal Bureau of Investigation under the terms, definitions, procedures, and requirements of the Uniform Criminal Reporting code. DPS inherited this function from the now defunct Criminal Justice Planning Agency and does not have statutory authority to require how arrest information will be classified and reported.

Given the impact on public policy issues of these possible inconsistencies in the classification and reporting of arrest data between local jurisdictions in the State, the Legislature may wish to consider legislation that would give DPS authority to establish a uniform system of recording and classifying collection of arrest data information.

APPENDIX

APPENDIX A

JUVENILE JUSTICE IN ALASKA
a report to
THE HONORABLE BILL SHEFFIELD
GOVERNOR
STATE OF ALASKA
from the
DIVISION OF FAMILY & YOUTH SERVICES
March 19, 1985

John R. Pugh
Commissioner
Department of Health & Social Services

Michael L. Price
Director
Division of Family & Youth Services

DESCRIPTIVE ANALYSIS OF JUVENILE CRIME IN ALASKA

Certain misperceptions about juveniles and crime are widely accepted by the public and many policy makers and have influenced public policy relating to juvenile justice. These misperceptions are enforced periodically by sensational news reports and the entertainment media. It is important to consider these persistent perceptions in light of available facts if significant policy decisions are to be made wisely.

Incidence of Juvenile Crime

The most widely accepted belief about juvenile crime is that it is widespread and increasing - that there is a juvenile crime wave far out of proportion with the number of juveniles and beyond the level of adult crime. Available facts, however, do not support this belief.

Conservative estimates of population growth indicate that the population of youth in Alaska (those 0 - 18 years of age) increased by approximately 15% from 1979 to 1983. As Chart 1 indicates this represents an increase of 19,000 juveniles from 134,000 to 153,000. The adult population is believed to have grown at about the same rate and to be slightly more than twice the size as the juvenile population - approximately 320,000 persons.

Despite the significant population increase juvenile crime as measured by arrests declined slightly. Chart 2 shows that juvenile arrests have remained relatively stable between 1979 and 1983, declining slightly - about 6%. In contrast adult arrests have shown a marked increase after 1980 and an overall increase during the five year period of about 13%. Juveniles arrests have declined despite population growth while increases in arrests of adults have essentially paralleled population growth.

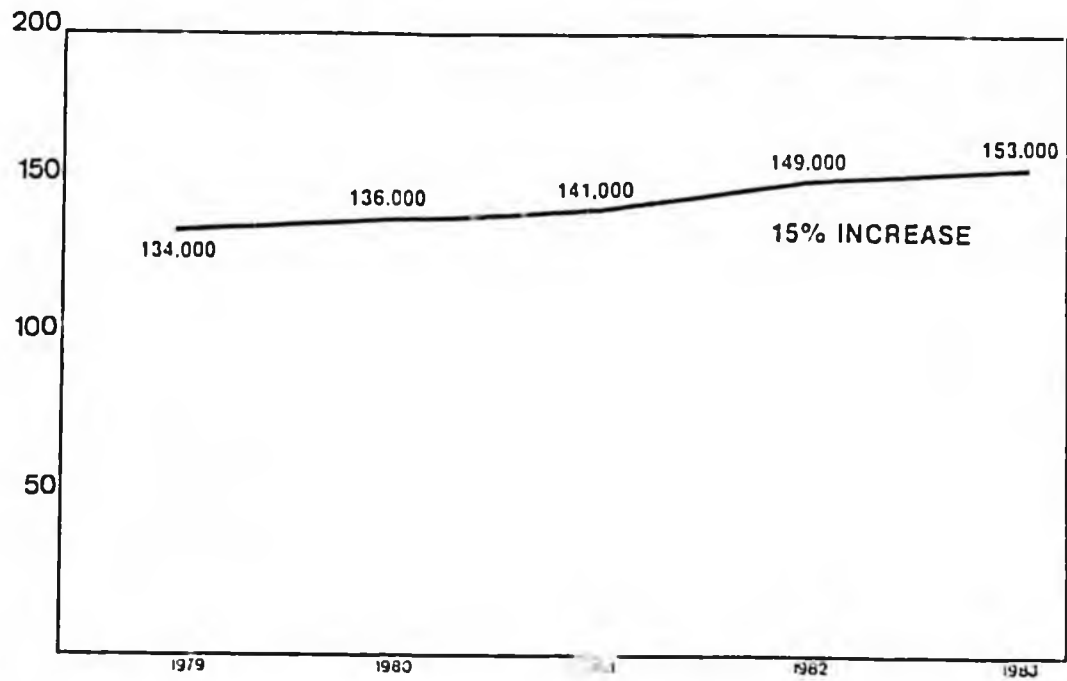
Chart 3 illustrates another important measure of crime, the rate of arrest. The rate of juvenile arrests (arrests per 1000 persons) was relatively stable until 1982 when it declined sharply. This decline continued in 1983 resulting in an overall decline of 24% during the period 1979 - 1983. This decline follows a national trend of decreasing juvenile arrest rates. However, Alaska's juvenile arrest rate, 32.24 per 1000, is less than one half the most recently calculated national rate. (1) In contrast Alaska's adult arrest rate does not show a similar trend although the 1983 level was slightly (8%) below the 1979 high of 46.56 arrests per 1000 persons.

In summary, juvenile arrests in Alaska are declining despite significant population increases and the rate of juvenile arrest has declined substantially. Alaska's juvenile arrest rate is far below the national juvenile rate and 25% lower than Alaska's adult arrest rate.

(1) Report to the Nation on Crime and Justice: The Data, U.S. Department of Justice, Bureau of Justice Statistics, 1983.

APPENDIX A

ALASKA YOUTH POPULATION (0 to 18 Years)

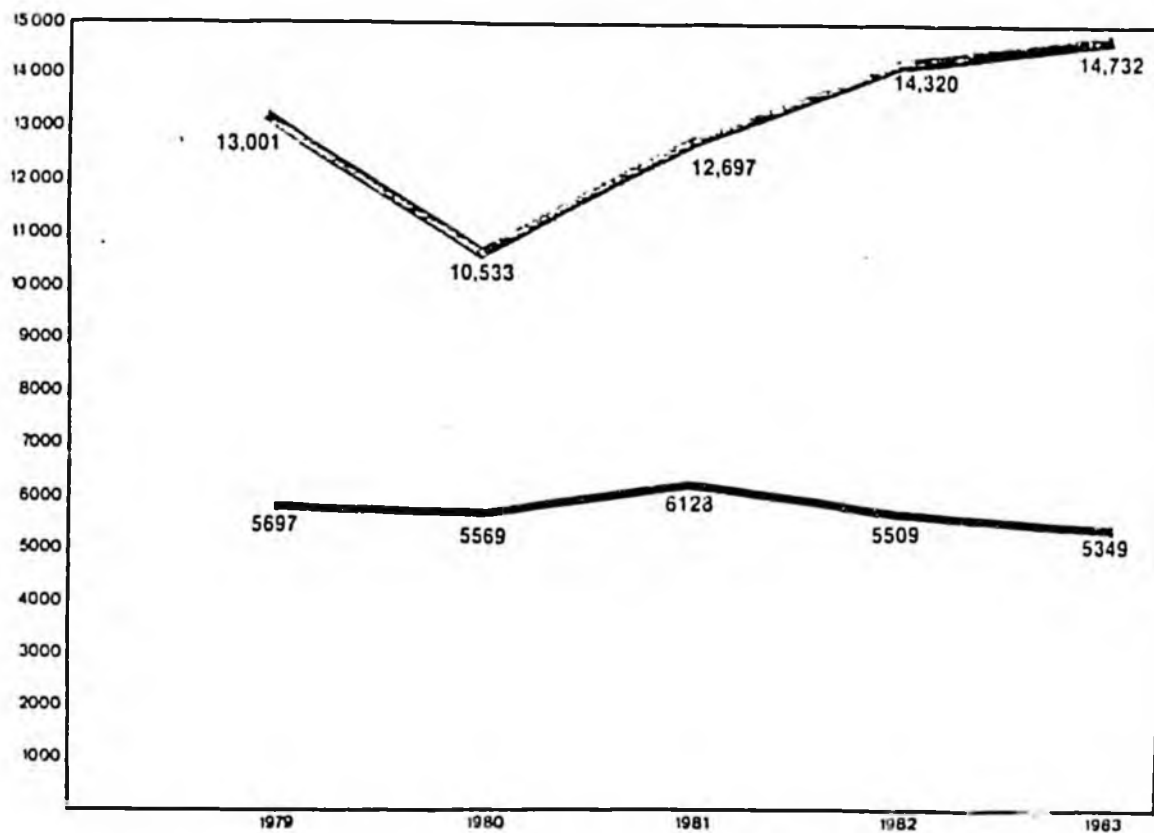


Source Data: Alaska Population Overview - 1981
Alaska Department of Labor
U.S. Bureau of Census 1980

CHART 1

APPENDIX A

ARRESTS IN ALASKA



Source: Crime in Alaska 1979-1983, Department of Law
Department of Public Safety

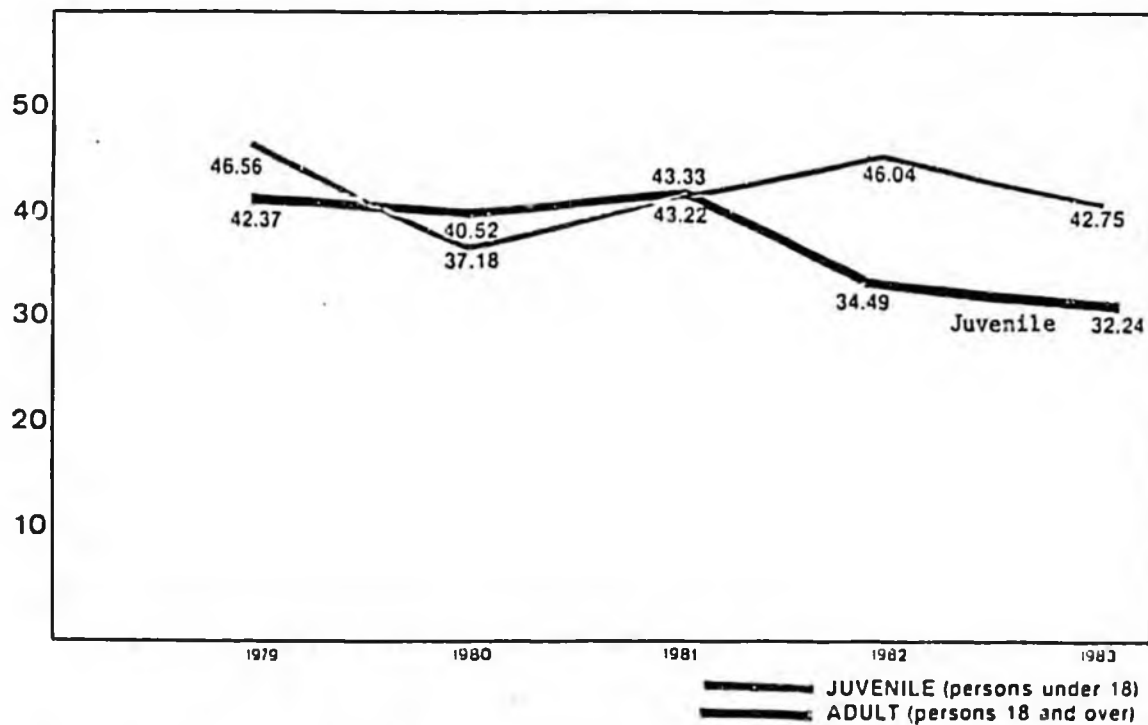
— JUVENILE (persons under 18)
— ADULT (persons 18 and over)

CHART 2

APPENDIX A

ALASKA ARREST RATES

ARRESTS
PER 1000
PERSONS



Data Sources: Arrest data: *Crime in Alaska - 1983* Alaska Department of Public Safety
Alaska Population Overview - 1983 Alaska Department of Labor

CHART 3

DEPT. OF HEALTH AND SOCIAL SERVICES

D. OFFICE OF THE COMMISSIONER

POUCH H 01
JUNEAU, ALASKA 99811
PHONE: 465-3030

May 9, 1986

Mr. Gerald L. Wilkerson
Legislative Auditor
Division of Legislative Audit
Pouch W
Juneau, AK 99811

MAY - 9 1986

Dear Mr. Wilkerson:

Concerning the preliminary audit report entitled "A Report on the Department of Health and Social Services, Division of Family and Youth Services, Juvenile Crimes Statistics, March 25th, 1986", our perspective does not differ greatly from that expressed by auditors. We agree with auditors that the conclusions we have drawn from available information on juvenile crime in Alaska are logical and appropriate. We believe also that our report on juvenile justice presented the best information from the most authoritative sources available. Similarly, we believe that the methodologies employed in our analysis of the information, though limited in level of sophistication by time and staff resources, were scientifically correct and defensible.

As the report pointed out there are minor differences in the collection and reporting techniques employed by Alaskan police agencies in compiling crime and arrest data. We believe, however, that the effect of these differences on the validity of the data is relatively insignificant. The FBI Uniform Crime Reporting System, used by the Department of Public Safety in compiling information for the report Crime in Alaska, was designed for use nationwide and to accommodate such differences among police agencies and jurisdictions. In any event, the effect of these differences would apply equally to both adult and juvenile crime data and would not affect the relative levels of juvenile and adult crime or trends reflected by the data.

Similarly, we believe the validity of the data used in our report clearly withstands anecdotal criticism of the two Anchorage police officers noted in the audit report. Though we recognize the value of practitioner experience in testing or confirming policies or practices in any field, we believe the limitations of individual experience and anecdote must be weighted carefully against other information when the sample of practitioners is small. In this instance we believe the assertions of the two officers are more representative of their personal philosophies, attitudes, and dissatisfaction with Alaska law regarding detention of juveniles than of policy or practice of the Anchorage Police Department or police agencies in general.

Though the audit report does not discuss official APD policy concerning response to reported juvenile crime or arrest of juvenile suspects, we are certain that APD policy neither endorses nor permits the practice of ignoring reported or witnessed crime simply because the alleged

perpetrator is a juvenile. Nor do we believe APD policy encourages officers to arrest juveniles only when the offense involved is of the most serious nature. Even if these approaches were sanctioned by policy APD's statistical reports clearly show they are not practiced.

The assertion that juveniles are not usually arrested in Anchorage except for serious crimes is convincingly disproven by APD's own arrest reports. These show that arrests of juveniles for less serious offenses (such as thefts, liquor law violations, vandalism, and status offenses) comprise the vast majority of juvenile arrests in Anchorage. Arrests for violent crimes accounted for an average of only 1.6% of juvenile arrests in Anchorage from 1977 through 1984. In fact, the number of curfew arrests alone averaged more than three times the number of violent crime arrests from 1977 through 1983.

In practice, then, Anchorage police (and police statewide) do routinely arrest juveniles for petty offenses and report status offense arrests. And, though police certainly exercise discretion in making arrest decisions, this occurs with adults as well as juveniles and informal police action affects arrest data for both groups. In fact, contrary to conventional wisdom, national studies indicate that police may be less inclined to deal informally with juveniles than with adults who have committed the same or similar offenses. Other studies show that juveniles are probably more likely to be apprehended than adults because of the types of offenses they most commonly commit and their generally lower level of experience or sophistication in criminal activity. These studies seem to indicate that the upper limits of juvenile crime may be more accurately reflected by arrest data than is true for adult crime.

We support the recommendation that consideration be given to empowering the Department of Public Safety to require uniform collection and reporting of crime data by all Alaska police agencies. Uniformity in data collection and reporting would be beneficial to the planning efforts of all criminal justice agencies and to policy makers by ensuring comparability, reliability and continuity in data. Standardization in the measurement and reporting of crime and the results of police activity would seem to be complementary to establishment of standards for the qualification and training of police personnel (recognized as an important need by the legislature in creation of the Alaska Police Standards Council.)

We could not, of course, comment definitively on the costs involved or the problems which may be encountered by individual police agencies in implementing a standardized reporting system. However, since most of Alaska's police agencies already participate in the FBI's Uniform Crime Reporting system, it seems likely that implementation of a mandatory system would not be overly burdensome.

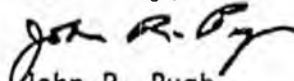
May 9, 1986

In summary, we believe that, though there are minor differences in the collection and reporting techniques among police agencies, these are insignificant in their effect on the validity of reported arrest data.

Further, we believe that the attitudes expressed in interviews with two Anchorage police officers, though they may be strongly held, are not reflective of Anchorage Police Department policy or the actual practice of the majority of Anchorage police officers as it relates to the arrest of juvenile offenders.

Most importantly, we agree with auditors that despite whatever limitations may exist in arrest data, it represents one of the best available measures of the level of criminal activity and has almost universal acceptance among social scientists and policy makers as a primary source for use in making significant public policy decisions. We also agree with auditors that empowering the Department of Public Safety to establish uniform standards for the collection and reporting of arrest data should be considered by the legislature. With standardization, reliability and validity could be increased and important public policy decisions based on arrest data could be more confidently made.

Sincerely,


John R. Pugh
Commissioner

STATE OF ALASKA



Executive Proclamation by Steve Cowper, Governor

Confining children in adult jails is not in the best interest of Alaska's children or the public. In 1986 as many as 427 children were detained in adult jails and lockups throughout the state. Alaska statutes prohibit confinement of children in adult jails and lockups unless they are assigned to separate quarters so that they not view or communicate with adult prisoners.

The practice of jailing children with adults often leads to depression or suicide attempts. The risk of those children experiencing emotional, physical and sexual abuse is also increased.

The federal Juvenile Justice Delinquency Prevention Act mandates that states improve their juvenile justice systems by:

1. eliminating the practice of detaining children charged with status offenses;
2. separating children from adults by sight and sound when both are detained in the same jail, lockup, or other correctional facility;
3. identifying and monitoring all facilities which detain children;
4. eliminating the practice of detaining children in any adult jail, lockup, or correctional facility.

NOW, THEREFORE, I, Steve Cowper, Governor of the State of Alaska, do hereby proclaim my support for the Department of Health and Social Services to work with the Departments of Corrections and Public Safety, the public, and municipalities to develop regulations which reduce detention of children in adult facilities, ensure safe and appropriate conditions for children who are detained, and provide for collection and maintenance of accurate records on each youth admitted, detained and released.

DATED: April 14, 1989

Done by —

A handwritten signature in cursive script, reading "Steve Cowper".

Steve Cowper, Governor,
who has also authorized
the seal of the State of
Alaska to be affixed to
this proclamation.



Originals sponsors: Faiks and Sturgulewski

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exposural
etc

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 HOUSE CS FOR SENATE BILL NO. 23 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the recording and collection of
7 crime statistics."

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

9 * Section 1. AS 44.41.020 is amended by adding a new subsection to
10 read:

11 (c) The department shall establish, and may require state and
12 local law enforcement agencies to use, standardized methods of col-
13 lecting and recording law enforcement and crime statistics.

14 * Sec. 2. AS 44.41 is amended by adding a new section to read:

15 Sec. 44.41.027. CRIME STATISTICS INVOLVING JUVENILES. (a) In
16 order to collect and record statistics on juvenile offenses and of-
17 fenders, the Department of Public Safety shall establish and require
18 state and local law enforcement agencies to use a standardized form to
19 keep a record of each juvenile offender admitted to a jail or juvenile
20 detention facility. The record shall include the name of the juvenile
21 admitted, the juvenile's date of birth, the reason for admission, the
22 time admitted, the time released, the sex of the juvenile admitted,
23 the ethnic origin of the juvenile admitted, and other information
24 required by federal law or state statute or regulation. The record
25 shall be prepared at the time of admission from information provided
26 by the juvenile. If the information cannot be obtained from the
27 juvenile, the person responsible for preparation of the information
shall obtain it from a relative of the juvenile or from another source
who has the information. The name and address of the person providing

1 the information must be made part of the record.

2 (b) Information and records obtained under this subsection are
3 confidential and are not public records, and may be disclosed under
4 regulations established by the department only for the purpose of
5 compiling statistics and only to a person doing research or main-
6 taining statistics who has assured the anonymity of the juvenile
7 offenders.

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p 2*

Originals sponsors: Faiks and Sturgulewski

*CS Incorporating
Legislative Amend*

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5 compiling statistics ^{(A) (4) may be disclosed} and only to a person doing research or main-
6 taining statistics, ^{(D) and (E) may be disclosed only in a manner assuring} who ~~has~~ assured the anonymity of ^{the} juvenile
7 offenders.