

HB

138

ALASKA CIVIL LIBERTIES UNION

An Affiliate of the American Civil Liberties Union
P. O. Box 201844 Anchorage, AK 99530-1844
Phone: 1-907-258-0044 Fax: 1-907-258-0288

February 14, 1995

The Honorable Representative Brian Porter
Chairman of House Judiciary Committee
State Capitol Building, Room 118
Juneau, AK 99601-1182

Dear Representative Porter:

I am writing to you on behalf of the Board of Directors and members of the Alaska Civil Liberties Union to express concerns about House Bill 138 which is currently pending before the House Judiciary Committee. The AKCLU has serious concerns about this bill and believes that it is unconstitutional and would be defeated if challenged in court.

One of the basic premises of the Fourth Amendment is that a person has the right to be free of governmental searches and seizures unless there is probable cause to believe that a crime has occurred. A determination of probable cause is made by a neutral and detached magistrate: it is the magistrate's responsibility for determining the reliability of the evidence upon which a warrant is based.

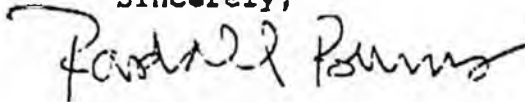
House Bill 138 seeks to take away the authority of the magistrate in determining probable cause. House Bill 138 anticipates that any person who makes an anonymous crime stopper report would be presumed to be a reliable source of information and would be placed in a category equal to that of a "citizen informant." The bill states that "once verified by law enforcement," the information provided by the informant would be considered reliable and anonymity would be guaranteed -- no additional inquiry by the magistrate would be required to determine the reliability of the informant.

This provision allows the police officer, not the magistrate, to make the crucial decision regarding the reliability of the informant and the informant's information that is necessary in determining probable cause to issue a warrant. This is a blatant violation of the Fourth Amendment's requirement that a neutral and detached magistrate, not a police officer, have the authority to issue the warrant.

The other part of the bill that is problematic is the requirement that a defendant be required to petition through an in camera proceeding to discover information about the informant. The right of confrontation requires that a defendant know his or her accuser and be able to defend against their charges. The defendant should not be placed in the position of having to ask permission from the court for information to which he is constitutionally entitled.

Enacting this bill into law would raise serious constitutional issues of concern to the AkCLU. Please do not allow this bill to pass out of committee.

Sincerely,



Randall Burns
Executive Director
Alaska Civil Liberties Union

Alaska State Legislature

Interim:
P.O. Box 1287
Soldotna, AK 99669
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Session:
State Capitol
Juneau, AK 99801
(907) 465-2693

Representative Gary L. Davis

SPONSOR STATEMENT House Bill 138

"An Act relating to crime stoppers organizations; to information received by crime stoppers organizations and to the issuance of search warrants based upon that information; and amending Alaska Rule of Criminal Procedure 37 and Alaska Rule of Evidence 509".

The intent of this bill is clearly identified, so there is an understanding of what the intent of the legislation is. This bill will provide legislatively for the presumption of reliability of Crime Stopper tips to the same extent that is provided to tips from people who are willing to identify themselves to the police, and the defendant, called "citizen informants".

In Section 2 search warrants may be issued based on information received from a Crime Stopper organization and confidentiality maintained. This bill will establish one set procedure for all courts to follow in reviewing Crime Stopper reports.

When the court determines a review of the records is allowed the Crime Stopper information involving the identity of an informant is removed.

In Section 3, HB 138 allows the Crime Stopper Organization to be exempt from registration for fund raising.

This legislation provides a means for statutory recognition of the Crime Stoppers organization.

This bill gives the trial courts and the supreme court some guidance relative to the underlying intent when they deliberate on cases coming before them on the issue of reliability of crime stopper informant information.

Attached is a letter from the Crime Stopper Organization giving additional information related to the this bill.

Representing House District 8 - Soldotna to Seward

Sectional Analysis
House Bill 138

"An act relating to crime stoppers organizations; to information received by crime stoppers organizations and to the issuance of search warrants based upon that information; and amending Alaska Rule of Criminal Procedure 37 and Alaska Rule of Evidence 509".

Section I: This section describes in the intent of the Legislature. It is the intent of the legislature to eliminate a higher standard of scrutiny for information received from a crime stoppers program & that the citizen informant standard be applied to crime stoppers for issuing search warrants.

Section 12.35.022: (New Section) - Information received from a Crime Stoppers organization shall be given same presumption of reliability afforded to information received from a citizen informant.

Section 12.35.023: (New Section) - This section allows the person charged with a crime to petition the court for an in camera inspection of law records. If the court determines the use of the records is necessary, crime stoppers informant code numbers, names and other information will be removed.

Section 3: This section adds the crime stoppers organization as a non-profit organization.

Section 4: This section provides a description of the crime stoppers organization as a non-profit organization.

Section 5: This section amends the court rule relating to informants in criminal cases and the review of search warrants as it relates to crime stoppers activity.

The State of Alaska, applying the Aquilar-Spinelli test, ruled that the search warrant was issued without probable cause. Calls to Crime Stoppers, over the preceding two years, were conclusory and related to past activities and not to the case at hand.

Federal Cases

U.S. v. Briley, 726 F.2d 1301 (8th Cir. 1984)

Defendant's conviction in federal court for robbery of First Federal in St. Paul, Minnesota is affirmed.

"We do not believe the district court's finding is clearly erroneous. The district court found that probable cause was partially established by the anonymous tip received from Crime Stoppers. An anonymous tip from an informer may serve as a basis for probable cause as long as its reliability is established through corroboration." (*)

(*) "the Aquilar-Spinelli test for determining the reliability of the informant's tip has now been largely discarded in favor of a totality of the circumstances approach. See Illinois v. Gates, 103 S.Ct. at 2332. This is a 'practical, common-sense' and 'non-technical' determination.

Howard v. Crimestoppers Program, 770 F.2d 1079 (5th Cir. 1985)

This is a per curiam opinion that is not published, but is available from the Clerk of the U.S. Court of Appeal, Fifth Circuit, 600 Camp Street, New Orleans, Louisiana 70130. The decision was in Cause No. 85-3103, August 9, 1985.

Prison inmates Howard and Duncan, without an attorney, filed a federal civil rights suit under 42 U.S.C. 1983 alleging

"in effect, that Crimestoppers violates constitutional rights of individuals by offering rewards of money to persons who provided anonymous tips and information leading to the arrest and conviction of criminal offenders."

The suit was dismissed by the District Court and the dismissal affirmed for

"failure to state a claim the Crimestoppers subjected or caused them to be subjected to the deprivation of any rights, privileges, or immunities secured by the Constitution or federal law."

"...the plaintiffs appear to be asserting merely and abstract claim against Crimestoppers, at most suing because they got caught."

The Court stated further that:

"Even if information obtained in this manner is unreliable, it is not the gathering of the

information itself that triggers constitutional concerns but its use by the state with respect to some state action."

And, the Court found no allegation which, if take as true, would support an inference that Crimestoppers played any role in using unreliable information to the plaintiffs' detriment.

Some other Federal Cases:

U.S. v. Zamora, 784 F.2d 1025 (10th Cir. 1986). Disclosure of informant's identity is denied.

U.S. v. Klein, 850 F.2d 404 (8th Cir. 1988). Crime Stopper tips were sufficiently corroborated, Informant's identity need not be disclosed.

U.S. v. Fitz, 898 F.2d 148 (4th Cir. 1990). Crime Solvers tip, followed by a controlled buy, established probable cause in drug case.

U.S. v. Smith, 917 F.2d 564 (6th Cir. 1990). Anonymous tip independently corroborated warrantless stop and search of automobile.

Fax Cover Page

SUBJECT:



To: Ann Carpeneti

From: Willet Bushnell

Attached is a copy of the Colorado law regarding Crime Stoppers, I hope this will help you on HB 138.

I will send other information under a separate cover.

Thank you.

To: Ann Carpeneti	From : WILLET BUSHNELL
For Information Call: 907-376-4195	At:
Pages: 8	My Fax Number : 907-373-2193

1994

An Act

HOUSE BILL 94-1122

BY REPRESENTATIVES George, Foster, Acquafresca, Agler, Fleming, Hagedorn, Kaufman, Lawrence, Pfiffner, Pierson, Reeser, Rupert, Taylor, Epps, Grampas, Nichol, and Snyder; also SENATORS Bishop, Cassidy, Gallagher, Hopper, Martinez, and Petersun.

CONCERNING CRIME STOPPER ORGANIZATIONS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Title 16, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 15.7 Crime Stopper Organizations

16-15.7-101. Legislative declaration. THE GENERAL ASSEMBLY FINDS THAT A SIGNIFICANT NUMBER OF CRIMINAL OFFENDERS REMAIN AT LARGE IN THIS STATE BECAUSE LAW ENFORCEMENT AGENCIES OFTEN LACK INFORMATION CONCERNING CRIMINAL ACTIVITY. IN MANY INSTANCES PRIVATE CITIZENS HAVE INFORMATION THAT, IF KNOWN TO LAW ENFORCEMENT AGENCIES, WOULD LEAD TO THE DETECTION AND APPREHENSION OF SUCH OFFENDERS. PRIVATE, NONPROFIT CRIME STOPPER ORGANIZATIONS THAT OFFER REWARDS FOR SUCH INFORMATION HAVE BEEN SUCCESSFUL AT ENCOURAGING SOME CITIZENS TO COME FORWARD; HOWEVER, EVEN WITH THE OFFER OF A REWARD, MANY CITIZENS DO NOT COME FORWARD BECAUSE THEY FEAR INVOLVEMENT AND SHUN PUBLICITY. IN ORDER TO REMEDY THIS SITUATION AND TO INCREASE THE EFFECTIVENESS OF CRIME STOPPER ORGANIZATIONS, THE GENERAL ASSEMBLY FINDS AND DECLARES THAT IT IS APPROPRIATE TO PROVIDE FOR THE ANONYMITY OF ANY PERSON WHO PROVIDES INFORMATION CONCERNING CRIMINAL ACTIVITY TO A CRIME STOPPER ORGANIZATION AND TO PROVIDE FOR THE CONFIDENTIALITY OF

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

CRIME STOPPER ORGANIZATION RECORDS.

16-15.7-102. Definitions. AS USED IN THIS ARTICLE. UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "CRIME STOPPER ORGANIZATION" MEANS A PRIVATE, NONPROFIT ORGANIZATION:

(a) WHOSE PRIMARY PURPOSES ARE TO ACCEPT DONATIONS FOR THE PAYMENT OF REWARDS TO PERSONS WHO PROVIDE INFORMATION CONCERNING CRIMINAL ACTIVITY AND TO FORWARD SUCH INFORMATION TO APPROPRIATE LAW ENFORCEMENT AGENCIES;

(b) IS INCORPORATED PURSUANT TO THE PROVISIONS OF ARTICLES 20 TO 29 OF TITLE 7, C.R.S.;

(c) IS HELD TO BE TAX EXEMPT BY THE UNITED STATES INTERNAL REVENUE SERVICE; AND

(d) HAS COMPLIED WITH THE REQUIREMENTS OF SECTION 16-15.7-103.

16-15.7-103. Requirements for articles of incorporation of crime stopper organizations. (1) IN ADDITION TO ANY OTHER REQUIREMENTS FOR ARTICLES OF INCORPORATION IMPOSED BY ARTICLES 20 TO 29 OF TITLE 7, C.R.S., THE ARTICLES OF INCORPORATION FOR ANY CRIME STOPPER ORGANIZATION THAT ELECTS TO AVAIL ITSELF OF THE CONFIDENTIALITY PROVISIONS OF THIS ARTICLE SHALL PROVIDE THAT THE ORGANIZATION SHALL:

(a) ESTABLISH A METHOD TO ENSURE THAT THE IDENTITY OF ANY PERSON WHO PROVIDES INFORMATION CONCERNING CRIMINAL ACTIVITY TO THE ORGANIZATION REMAINS UNKNOWN TO ALL PERSONS AND ENTITIES, INCLUDING OFFICERS AND EMPLOYEES OF THE ORGANIZATION;

(b) ESTABLISH A METHOD TO ENSURE THAT IF THE IDENTITY OF ANY PERSON WHO PROVIDES INFORMATION BECOMES KNOWN TO THE CRIME STOPPER ORGANIZATION, WHETHER THROUGH VOLUNTARY DISCLOSURE OR BY ANY OTHER MEANS, SUCH IDENTITY IS NOT FURTHER DISCLOSED;

(c) ASSIST LAW ENFORCEMENT AGENCIES IN THE DETECTION OF CRIME AND APPREHENSION OF CRIMINAL OFFENDERS BY PROMPTLY FORWARDING INFORMATION RECEIVED CONCERNING CRIMINAL ACTS TO SUCH AGENCIES;

(d) FOSTER THE DETECTION OF CRIME AND ENCOURAGE CITIZENS TO REPORT INFORMATION ABOUT CRIMINAL ACTIVITY; AND

(e) ENCOURAGE NEWS AND OTHER MEDIA TO PROMOTE LOCAL CRIME STOPPER ORGANIZATIONS BY INFORMING THE PUBLIC OF THE FUNCTIONS AND BENEFITS OF THE ORGANIZATION.

16-15.7-104. In camera review - confidentiality - records and information - criminal penalty. (1) (a) A CRIME STOPPER ORGANIZATION MAY NOT BE COMPELLED TO PRODUCE RECORDS CONCERNING A REPORT OF CRIMINAL ACTIVITY BEFORE A COURT OR OTHER TRIBUNAL EXCEPT ON THE MOTION OF A CRIMINAL DEFENDANT TO THE COURT IN WHICH THE OFFENSE IS BEING TRIED THAT THE RECORDS OR REPORT CONTAIN IMPEACHMENT EVIDENCE OR EVIDENCE THAT IS EXCULPATORY TO THE DEFENDANT IN THE TRIAL OF THAT OFFENSE.

(b) ON MOTION OF A DEFENDANT PURSUANT TO PARAGRAPH (a), THE COURT MAY SUBPOENA THE RECORDS OR REPORT. THE COURT SHALL CONDUCT AN EX PARTE IN CAMERA INSPECTION OF MATERIALS PRODUCED UNDER SUBPOENA TO DETERMINE WHETHER THE MATERIALS CONTAIN IMPEACHMENT EVIDENCE OR EVIDENCE THAT IS EXCULPATORY TO THE DEFENDANT.

(c) IF THE COURT DETERMINES THAT THE MATERIALS PRODUCED CONTAIN IMPEACHMENT EVIDENCE OR EVIDENCE THAT IS EXCULPATORY TO THE DEFENDANT, THE COURT SHALL PRESENT THE EVIDENCE TO THE DEFENDANT. IN THE EVENT THE MATERIALS CONTAIN INFORMATION WHICH WOULD IDENTIFY THE PERSON WHO WAS THE SOURCE OF THE EVIDENCE, THE COURT SHALL ENSURE THAT SUCH IDENTITY IS NOT DISCLOSED, UNLESS THE STATE OR FEDERAL CONSTITUTION REQUIRES THE DISCLOSURE OF THAT PERSON'S IDENTITY. THE COURT SHALL EXECUTE AN AFFIDAVIT ACCOMPANYING THE DISCLOSED MATERIALS SWEARING THAT, IN THE OPINION OF THE COURT, THE MATERIALS DISCLOSED REPRESENT THE IMPEACHMENT OR EXCULPATORY EVIDENCE THE DEFENDANT IS ENTITLED TO RECEIVE UNDER THIS SECTION.

(d) THE COURT SHALL RETURN TO THE CRIME STOPPERS ORGANIZATION ALL MATERIALS PRODUCED UNDER THIS SUBSECTION (1) WHICH ARE NOT DISCLOSED TO THE DEFENDANT. THE CRIME STOPPERS ORGANIZATION SHALL RETAIN SUCH MATERIALS UNTIL THE CONCLUSION OF THE CRIMINAL TRIAL AND THE EXPIRATION OF THE TIME FOR ALL DIRECT APPEALS IN THE CASE.

(2) (a) RECORDS AND INFORMATION OF A CRIME STOPPER ORGANIZATION CONCERNING CRIMINAL ACTS ARE CONFIDENTIAL AND NO PERSON SHALL DISCLOSE SUCH RECORDS OR INFORMATION. A CRIME STOPPER ORGANIZATION SHALL ONLY BE COMPELLED TO PRODUCE SUCH RECORDS OR INFORMATION BEFORE A COURT OR OTHER TRIBUNAL PURSUANT TO COURT ORDER FOR AN IN CAMERA REVIEW. ANY SUCH REVIEW SHALL BE LIMITED TO AN INSPECTION OF RECORDS AND INFORMATION WHICH ARE RELEVANT TO THE SPECIFIC CASE PENDING BEFORE THE COURT.

(b) ANY PERSON WHO KNOWINGLY OR INTENTIONALLY DISCLOSES CONFIDENTIAL RECORDS OR INFORMATION IN VIOLATION OF THE PROVISIONS OF THIS SUBSECTION (2) COMMITS A CLASS 1 MISDEMEANOR AND SHALL BE PROSECUTED AS PROVIDED IN SECTION 10-1-106 OF THIS SUBSECTION (2) SHALL BE BROUGHT WITHIN FIVE YEARS AFTER THE DATE THE VIOLATION OCCURRED.

SECTION 2. Part 1 of article 11 of title 16, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

16-11-101.7. Repayment of crime stopper reward - crime stopper reward reimbursement fund - created. (1) IN ADDITION TO ANY OTHER PENALTY AUTHORIZED BY LAW, AFTER A DEFENDANT HAS BEEN CONVICTED OF OR ENTERED A PLEA OF GUILTY OR NOLO CONTENDERE TO A FELONY OFFENSE, OR ENTERS INTO A PLEA BARGAIN AGREEMENT CONCERNING A FELONY OFFENSE WHICH IS REDUCED TO A MISDEMEANOR PURSUANT TO SUCH AGREEMENT, THE COURT MAY ORDER SUCH DEFENDANT TO REPAY ALL OR PART OF ANY REWARD PAID BY A CRIME STOPPER ORGANIZATION THAT LED TO THE DEFENDANT'S ARREST AND CONVICTION. THE AMOUNT OF SUCH REPAYMENT MAY NOT EXCEED THE ACTUAL REWARD PAID BY ANY CRIME STOPPER ORGANIZATION AND SHALL BE USED SOLELY FOR PAYING REWARDS.

(2) (a) UPON AN ORDER TO REPAY ALL OR PART OF A CRIME STOPPER REWARD, THE COURT SHALL ASSESS SUCH REPAYMENT AGAINST THE DEFENDANT IN THE SAME MANNER AS OTHER COSTS OF PROSECUTION ARE ASSESSED AGAINST A DEFENDANT. THE COURT SHALL ORDER THE DEFENDANT TO:

(I) PAY THE ENTIRE AMOUNT WHEN SENTENCE IS PRONOUNCED; OR

(II) PAY THE ENTIRE AMOUNT ON SUCH LATER DATE AS MAY BE SPECIFIED BY THE COURT.

(b) ANY ORDER FOR THE REPAYMENT OF ALL OR PART OF A CRIME STOPPER REWARD SHALL BE PRIORITIZED IN ACCORDANCE WITH THE PROVISIONS OF SECTION 16-11-204 (2.5).

(3) ALL MONEYS COLLECTED BY THE COURT PURSUANT TO THIS SECTION, TOGETHER WITH TRANSMITTAL INFORMATION WHICH INCLUDES THE COURT'S DOCKET NUMBER, THE DEFENDANT'S NAME, AND THE CRIME STOPPER ORGANIZATION WHICH IS DESIGNATED TO RECEIVE THE REPAYMENT OF REWARD, SHALL BE PROMPTLY FORWARDED TO THE DIVISION OF CRIMINAL JUSTICE CREATED BY SECTION 24-33.5-502, C.R.S. UPON RECEIPT, THE DIVISION OF CRIMINAL JUSTICE SHALL PROMPTLY TRANSMIT THE MONEYS TO THE STATE TREASURER WHO SHALL DEPOSIT THEM IN THE CRIME STOPPER REWARD REIMBURSEMENT FUND WHICH IS HEREBY CREATED. MONEYS IN THE FUND SHALL BE CONTINUOUSLY APPROPRIATED TO THE DIVISION OF CRIMINAL JUSTICE FOR THE PURPOSES OF THIS SECTION. THE DISBURSEMENT OF ANY SUCH MONEYS TO THE DESIGNATED CRIME STOPPER ORGANIZATION SHALL BE MADE BY THE DIVISION OF CRIMINAL JUSTICE WITHIN THIRTY DAYS AFTER THE DATE OF DEPOSIT IN THE CRIME STOPPER REWARD REIMBURSEMENT FUND.

(4) AS USED IN THIS SECTION, "CRIME STOPPER ORGANIZATION" HAS THE SAME MEANING AS PROVIDED IN 16-15.7-102 (1).

SECTION 3. 16-11-204 (2), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW

PAGE 4-HOUSE BILL 94-1122

PARAGRAPH to read:

16-11-204. Conditions of probation. (2) When granting probation, the court may, as a condition of probation, require that the defendant:

(e.6) REPAY ALL OR PART OF ANY REWARD PAID BY A CRIME STOPPER ORGANIZATION THAT LED TO THE DEFENDANT'S ARREST AND CONVICTION IN ACCORDANCE WITH ARTICLE 15.7 OF THIS TITLE:

SECTION 4. 16-11-204 (2.5), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

(2.5) The order of priority for any payments required of a defendant pursuant to paragraph (d), (e), ~~or~~ (e.5), OR (e.6) of subsection (2) of this section shall be as follows: Restitution or reparation, support of dependents and meeting other family responsibilities, including payment of a current child support order, child support arrearage, ~~or~~ child support debt order, OR SPOUSAL MAINTENANCE, costs of court proceedings or costs of supervision of probation, ~~and~~ any fines or fees imposed by a court, AND REPAYMENT OF ALL OR PART OF ANY REWARD PAID BY A CRIME STOPPER ORGANIZATION THAT LED TO THE DEFENDANT'S ARREST AND CONVICTION.

SECTION 5. Part 2 of article 11 of title 16, Colorado Revised Statutes, 1985 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

16-11-204.6. Repayment of crime stopper reward as a condition of probation. (1) AS A CONDITION OF EVERY SENTENCE TO PROBATION WHERE INFORMATION RECEIVED THROUGH A CRIME STOPPER ORGANIZATION LED TO THE ARREST AND FELONY CONVICTION OF A DEFENDANT, THE COURT MAY REQUIRE SUCH DEFENDANT, AS A CONDITION OF PROBATION, TO REPAY ALL OR PART OF ANY REWARD PAID BY SUCH ORGANIZATION. THE AMOUNT OF SUCH REPAYMENT SHALL NOT EXCEED THE ACTUAL REWARD PAID BY ANY CRIME STOPPER ORGANIZATION AND SHALL BE USED SOLELY FOR PAYING REWARDS. THE COURT SHALL FIX THE MANNER AND TIME OF REPAYMENT.

(2) IN THE EVENT THE DEFENDANT FAILS TO REPAY THE CRIME STOPPER REWARD IN ACCORDANCE WITH AN ORDER OF THE COURT, THE DEFENDANT SHALL BE RETURNED TO THE SENTENCING COURT AND THE COURT, UPON PROOF OF FAILURE TO PAY, MAY:

(a) MODIFY THE AMOUNT OF THE REPAYMENT;

(b) EXTEND THE PERIOD OF PROBATION;

(c) ORDER THE DEFENDANT COMMITTED TO JAIL WITH WORK RELEASE PRIVILEGES; OR

(d) REVOKE PROBATION AND IMPOSE THE SENTENCE OTHERWISE REQUIRED, BY LAW.

(3) WHEN, AS A RESULT OF A PLEA BARGAIN AGREEMENT, A DEFENDANT IS ORDERED TO REPAY A REWARD PURSUANT TO SUBSECTION (1) OF THIS SECTION, THE DEPARTMENT OR AGENCY SUPERVISING THE COLLECTION OF SUCH REPAYMENT MAY ASSESS A CHARGE OF FIFTEEN DOLLARS TO THE DEFENDANT FOR COLLECTION OF EACH BAD CHECK OR EACH BAD CHECK RECEIVED AS A REPAYMENT.

(4) ANY ORDER FOR THE REPAYMENT OF ALL OR PART OF A CRIME STOPPER REWARD AS A CONDITION OF PROBATION SHALL BE PRIORITIZED IN ACCORDANCE WITH SECTION 16-11-204 (2.5).

(5) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "BAD CHECK" HAS THE SAME MEANING PROVIDED IN SECTION 16-11-204.5 (3).

(b) "CRIME STOPPER ORGANIZATION" HAS THE SAME MEANING PROVIDED IN SECTION 16-15.7-102 (1).

SECTION 6. 17-24-121 (5), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

17-24-121. Venture agreements. (5) The wages of an inmate working under an agreement entered into pursuant to this section with a private person shall be distributed under guidelines established by the executive director in order to offset the cost of imprisonment and incidental expenses, pay court ordered restitution, pay the pro-rata share of child support cost as established by the department of social services, REPAY ALL OR PART OF A CRIME STOPPER REWARD ORDERED PURSUANT TO PART 1 OF ARTICLE 15.7 OF TITLE 16, C.R.S., and establish a savings account to assist the inmate upon release and to offset state costs at the time of release.


SECTION 7. 24-33.5-503 (1), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

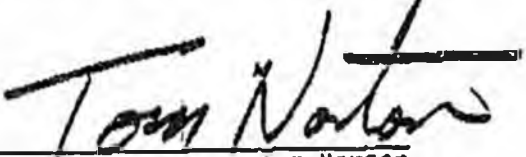
24-33.5-503. Duties of division. (1) The division has the following duties:

(m) TO CARRY OUT THE DUTIES PRESCRIBED IN SECTION 16-11-101.7 (3), C.R.S.

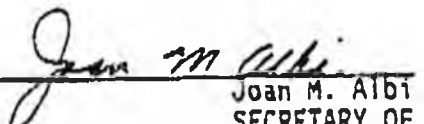
SECTION 8. Effective date - applicability. This act shall take effect upon passage and shall apply to offenses committed on or after said date.

SECTION 9. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.



Charles E. Werry
SPEAKER OF THE HOUSE
OF REPRESENTATIVES


Tom Norton
PRESIDENT OF
THE SENATE


Judith M. Rodriguez
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES


Joan M. Albi
SECRETARY OF
THE SENATE

APPROVED June 1, 1994 at 1:18 p.m.


Roy Romer
GOVERNOR OF THE STATE OF COLORADO



FAX COVER PAGE

To: Ann Carpeneti		From : WILLET BUSHNELL
Fax Number : 1-907-465-3834		Company :
Date : 2/23/95	Time : 15:08:44	For Information Call: 907-376-4195
Subject : letter to ann carpeneti		Fax Number : 907-373-2193

To: Ann Carpeneti

From: Willet Bushnell

Attached is some information that may help with HB 138.
I will transmit the Colorado bill under a separate fax.

Thank you

CRIME STOPPERS INTERNATIONAL, INC.
REGION IV
Willet Bushnell
PO Box 871684
Wasilla, Ak 99687

(907) 376-4195
Fax (907) 373-2193

February 23, 1995

Ann Carpeneti
Alaska State Legislature
House Judiciary Committee

Dear Ann,

Attached is a copy of a Crime Stopper law passed in Colorado in 1994. The law has a section that provides for in-camera review, and has a definition of a Crime Stoppers organization. The bill goes on to also provide for repayment of crime stopper rewards.

I am aware of legislation regarding Crime Stoppers having passed in 14 states. The Colorado law best fits the nature of the House Bill 138. Guam supposedly has a good bill, that conforms to the U.S. Constitution, but I do not have copies of it.

Another example of Crime Stopper law is from Kentucky. Kentucky passed legislation in 1992. Their law is very brief. The law provides for a definition of crime stoppers under 431.570 and 431.575. It also provides for protection of records and repayment of the reward. The section regarding protection of records reads as follows:

Kentucky Statute Sections

431.580 Circuit Court order required for production of reports; record of reports confidential.

- (1) Records of a crime stopper organization concerning a report of criminal activity shall not be compelled to be produced before a court of other tribunal except on the order of the Circuit Court.
- (2) Records of a crime stopper organization relating to reports of criminal acts shall be confidential.

431.585 Unlawful disclosure of information.

- (1) A person who accepts a report of criminal activity on behalf of a crime stoppers organization shall be guilty of unlawful disclosure of information if the person intentionally or knowingly divulges to a person not employed by a law enforcement agency the identity of the person who made the report with the consent of the person who made the report.
- (2) Unlawful disclosure of information under this section shall be a Class A misdemeanor.

Sections 431.590 & 431.595 of the Kentucky law provide for repayment of rewards.

These sections are subject to proposed amendment before the legislature this year.

I have also attached some Court Cites regarding Crime Stoppers.

I am the president of Mat-Su Crime Stoppers, Inc. in Wasilla. I also work with the other Crime Stoppers organizations in the State, because I am the Regional representative on the Board of Directors of Crime Stoppers International, Inc.

I am available to help you in working up wording changes to HB 138 so that the bill can move forward.

Please call me at (907) 376-4195 if you have questions. My Fax number is (907) 373-2193.

Thank you,

(via computer fax)

Willet Bushnell

Court Cites regarding Crime Stoppers:

These are some of the Alaska cases regarding Crime Stoppers. We do not have many cases that support or rule against us, because some cases are dismissed rather than give up the name of a caller. This information comes from a Case Digest published by Judge Richard Carter, Arlington, Tx.

Balentine v. State, 707 P.2d 922 (Alaska App. 1985)

Court denied full discovery of Anchorage Crime Stoppers records ruling that withheld documents would be of no use to the murder defendant and because "disclosure might very well adversely affect the rights and duties of citizens to report crime without being harassed."

At page 927, the appellate court stated the trial "judge's decision noted the semi-private nature of the program..."

Office of the Attorney General of the State of Alaska, File Number 663-88-0508 (June 28, 1988)

This case regards to the protection of the identity of informants who report fraud,

"...we conclude that it is probably permissible for the department to protect the identity of its informants. However, it is a close question, and you may want to consider proposing regulations or even legislation to clarify that the name of such informants are not public information and will be kept confidential."

"Another alternative is the establishment of a Crime Line - type program..."

Beuter v. State, 796 P.2d 1378 (Alaska App. 1990)

The appellate court refused to consider the defendant's claim that the trial court erred in not allowing discovery of Crime Stoppers records because the defendant had failed to challenge the validity of the search warrant during the trial itself, only at the suppression hearing. However, the case was remanded on other grounds.

Other Cases:

Nylund v. State, 716 P.2d 387 (Alaska App. 1986), Change of venue properly denied even though television re-enacted crime on Crime Stoppers.

Jerrel v. State, 756 P.2d 301 (Alaska App. 1988) Change of venue denied in Crime Stoppers case in small town. (Homer)

Latham v. State, 790 P.2d 717 (Alaska App. 1990) Credibility of Informant

Lost Case: Kvasnikoff v. State, 804 P.2d 1302 (Alaska App. 1990)



Alaska State Legislature

Please enter into the record my testimony to the House Judiciary
 committee name
 committee on HB 138 / CRIMESTOPPERS dated 2-23-95
 bill/subject

I URGE YOU VOTE NO ON HB 138. THE INFAMOUS "KNOCK & TALKS" ON KENAI PENINSULA IN MARCH 1994 WERE CARRIED OUT LARGELY ON CRIMESTOPPER TIPS. THE RECORD SHOWS THAT SEVERAL OF THESE TIPS PROVED TO BE UNRELIABLE, WHICH RESULTED IN INNOCENT RESIDENTS HAVING THEIR CONSTITUTIONAL RIGHTS VIOLATED & THEIR LIVES DEVASTATED. IN THESE CASES - IF THE THE POLICE HAD USED SEARCH WARRANTS FOR DYNAMIC ENTRY - AS WOULD BE THE CASE UNDER HB 138 - THOSE INNOCENT RESIDENTS WOULD PROBABLY HAVE BEEN SHOT - AS WELL AS SOME POLICE OFFICERS. THE POLICE OFFICERS PERPETRATING THESE UNCONSTITUTIONAL KNOCK & TALKS WERE NOT IN UNIFORM AND WOULD HAVE BEEN PERCEIVED AS INTRUDERS AND A THREAT TO A RESIDENT AND HIS FAMILY IF THEY ENTERED A HOME - AND LIKELY AN INNOCENT HOME - UNDER A SEARCH WARRANT AS PROVIDED UNDER HB 138. THIS IS A SET-UP TO GET INNOCENT PEOPLE KILLED. HB 138 IS ONE OF THE MOST DANGEROUS & IRRESPONSIBLE PIECES OF LEGISLATION I HAVE SEEN IN A LONG TIME.

Signed: Wesley Edgson Nuwomb
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