

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

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The solutions suggested by New Jersey Bell are cumbersome and do nothing for individual women who don't contact our programs. Given the nature of domestic violence and the way victims respond, there is no way for the Coalition to know how many abusers are using Caller ID to isolate and control their victims. The following incidents have been reported by domestic violence programs in New Jersey since the summer of 1990.

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- Hotlines are receiving calls from males wanting to know where the phone number they're calling originates. In the space of ten days, one shelter received three such calls. This program works with victims on a non-shelter basis who are still with their batterers. They have been forced to revise their intake procedures to include asking clients if they have Caller ID and if it is safe to call them at home. In addition they ask if they know how to erase the number from the tape and provide instruction on how to do so if they do not know. Many of our programs are now adopting this procedure.
- Several shelters have reported that men calling asking where this number originates have been very nasty and verbally abusive.
- A resident used the shelter phone to speak with her landlord. At some later point he called the shelter and asked to speak with her. He was told they could not confirm or deny her residence. He informed them he knew she was there because she had called him, and he had Caller ID. He also said he was a government worker and if they didn't let him speak with her, he could easily find the shelter and her. They did not comply.
- A volunteer made a personal call from one of the direct shelter lines that is unpublished. She called her son who was not home. When he returned, he called the number that showed up on his Caller ID tape. His mother answered the phone and was shocked to hear her son's voice. It became immediately apparent to one volunteer how dangerous Caller ID could be for the shelter. The program has now instituted a new policy that does not allow personal calls on the house phone.
- A student researcher from a local university contacted a client, with permission from the client and shelter, to interview her for a research project. When the woman's husband returned home, he found the number on the Caller ID tape. He called the number and told the student to leave his wife alone. He was very abusive and threatening. This program is near a major university and frequently has students involved as interns and researchers. Caller ID puts this work in jeopardy.
- Counselors from another program often call clients from home to cancel or re-schedule support groups or meetings with clients. A counselor did not know the client had Caller ID. Later that evening the client now having the counselor's home phone number, called her. While this situation did not present a particular problem for this counselor, it did illustrate the potential for possible abuse, harassment or disruption of the counselor's private life. This will certainly have a chilling effect on a program's ability to employ counselors who may not be able to do all their work from the program offices. New Jersey Bell has not given us any indication that they will change phone numbers for people caught in this situation for free.

Another program which offers batterers counseling had a man participating who had been referred by his employer. His wife was not part of the program for victims and may have been unaware that he was doing this. A counselor had occasion to call the man, and the program number showed up on the Caller ID machine. The wife called the number and upon discovering what it was, became very upset about what the program might be telling her husband. When her husband returned they got into an argument and a fight ensued. The police were called. Both husband and wife were arrested and now both are court ordered into counseling.



# Alaska Women's Resource Center

111 W. 9th Avenue • Anchorage, Alaska 99501 • (907) 276-0528 • Fax: (907) 278-8944

April 27, 1992

The Honorable Ted Stevens  
United States Senate  
522 Hart Building  
Washington, D.C. 20510-0201

Dear Senator Stevens:

I am writing to alert you to problems which I believe will be created for Alaska's substance abuse and domestic violence program providers under the provisions of S. 652, the Telephone Privacy Act of 1991.

Most people don't have a clue to the fact that when they call an 800 or a 900 number, the number they call from and the name/address of the phone they use are -- or soon will be -- readily available to the owner of the number.

I understand this is true even if the call is made from an 'unlisted' number and that the situation will get even worse if the only remedy for Caller ID is per call blocking as proposed in S. 652 for states like Alaska which have taken no action on such services.

Safety is the first and most important issue domestic violence victims must address for themselves and their children. It has been clearly documented that violence often increases when a victim first takes steps to prevent continued battering. The requirement to enter a special code prior to making any call in order to protect the privacy of the location from which one is calling (per call blocking) is an absurd concept for a victim of domestic violence. In addition, as a service provider, AWRC would have to start warning its clients that even incidental calls made from the Center might help their batterer to track them down.

Legally, the situation would be even worse for AWRC and its substance abuse clients. New Dawn, AWRC's halfway house for women in recovery and their children, presently has a pay telephone in the residence for the use of residential clients. Under federal law we are required to maintain the identity of such clients in absolute privacy and may not even acknowledge that someone is, or has been, a client.

The location of that phone (111 W 9th) and the name of the account, even if we managed to use a name less well-known than

"New Dawn," established through Caller ID would clearly undermine our efforts to comply with federal confidentiality requirements.

Caller ID is being promoted as a way to keep people safe, but I believe it will have just the opposite effect for a great many. The anecdote for Caller ID must not be costly or impractical to use. It appears that Alaska is in a particularly vulnerable position since there has been no regulatory debate on Caller ID or decision concerning its availability.

I urge you to examine the proposals of S. 652 carefully and work to assure that privacy interests are not sacrificed through it.

Sincerely,

A handwritten signature in cursive script that reads "Theda Pittman".

Theda Pittman  
Executive Director

**ALASKA NETWORK**  
**ON**  
**DOMESTIC VIOLENCE**  
**AND**  
**SEXUAL ASSAULT**

419 6th Street, No. 116 • Juneau, Alaska 99801 • (907) 586-3650

Abused Women's Aid In Crisis (AWAIC); Advocates for Victims of Violence (AVV);  
Aiding Women In Abuse and Rape Emergencies (AWARE);  
Alaska Women's Resource Center (AWRC); Arctic Women in Crisis (AWIC);  
Bering Sea Women's Group (BSWG); Emmonak Women's Shelter;  
Kodiak Women's Resource & Crisis Center (KWRC);  
Manilaq Regional Women's Crisis Program; Parent Aid Family Support Center;  
Safe & Fear-Free Environment (SAFE); Seward Life Action Council (SLAC);  
Sitkans Against Family Violence (SAFV); South Peninsula Women's Services (SPWS);  
Standing Together Against Rape (STAR);  
Tongass Community Counseling Center; Tundra Women's Coalition (TWC);  
Unholaskans Against Sexual Assault & Family Violence (USAFV);  
Valley Women's Resource Center (VWRC);  
Women in Crisis Counseling & Assistance (WCCA);  
Women in Safe Homes (WSH); Women's Resource & Crisis Center (WRCC)

AUG 31 1992

August 26, 1992

Rosemary Karish  
Rep. Kay Brown  
3111 "C" Street, Suite 435  
Anchorage, AK 99503

Dear Rosemary:

Sorry for the delay in sending this material to you.

As I explained, Caller ID provides recipients of phone calls with the phone number of the caller through a device installed on the telephone. I understand that one company has begun listing the account name as well. This concerns the Network because it will place domestic violence victims in immediate danger. I've enclosed several statements and memos from other State coalitions on that point. Other groups, such as doctors, attorneys, and counselors, are also likely to oppose unrestricted Caller ID-- not to mention the great number of Alaskans that currently have unlisted numbers for privacy.

For some time, the Network has been following the problems raised by Caller ID for domestic violence victims. We were prompted to look into action here in Alaska when a piece of federal legislation was introduced which prevented State regulation of Caller ID more restrictive than that outlined in the bill. That legislation eventually stalled. It is only a matter of time before this service is marketed in Alaska.

Rosemary Karish  
Page Two

The Network would like to look at legislation that, at a minimum, requires companies marketing Caller ID in Alaska to provide free per call and per line blocking. This solution was adopted by the Oregon Utilities Commission after hearings on the issue there. I have asked Fran Ulmer's staff to see if she might be interested in sponsoring such legislation, and have not yet heard back from them. I'll let you know as soon as I hear anything.

I hope you're having a great summer!

Best wishes,

A handwritten signature in cursive script that reads "Cindy".

Cindy Smith  
Executive Director

# ALYESKA PIPELINE SERVICE COMPANY COVERT OPERATION

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## OVERSIGHT HEARINGS BEFORE THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS HOUSE OF REPRESENTATIVES

ONE HUNDRED SECOND CONGRESS

FIRST SESSION

ON

ALYESKA PIPELINE SERVICE COMPANY COVERT OPERATION

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HEARINGS HELD IN WASHINGTON, DC  
NOVEMBER 4, 5 AND 6, 1991

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Serial No. 102-13

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Printed for the use of the Committee on Interior and Insular Affairs



U.S. GOVERNMENT PRINTING OFFICE

51-877 =

WASHINGTON : 1991

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For sale by the U.S. Government Printing Office  
Superintendent of Documents, Congressional Sales Office, Washington, DC 20402  
ISBN 0-16-037574-6

TESTIMONY OF WILLIAM L. RICHEY

Mr. Chairman, Mr. Young, Members of the Committee:

Good Afternoon. My name is William Richey and I am a partner at the Miami law firm of Richey, Munroe, Fine, Goodman and Armstrong. I am a graduate of Harvard Law School and have practiced law for the past seventeen years. Before entering private practice, I was a prosecuting attorney with the Florida State Attorney's office, where I served as the Chief of the Organized Crime and Public Corruption Unit and later was appointed Chief Assistant State Attorney. Since leaving that position in 1981, my practice has focused primarily on commercial fraud litigation and white collar criminal defense.

I am here to testify today about my knowledge of facts relating to the Wackenhut investigation. Let me begin by describing my initial involvement in that investigation and my perceptions about its purpose. I first became involved in the investigation on May 17, 1990, when Wayne Black called to retain our services in connection with what he described as an undercover operation. He gave me a brief overview of the investigation on the telephone, and later that day he met with me and my partner, Jonathan Goodman, to provide additional background on the case.

He explained to us that sensitive, highly confidential materials, including documents protected by the attorney-client privilege, were being systematically stolen from Alyaska and that

periodically called us for legal advice on specific matters, which we provided. We also attended meetings on August 3 and September 20, 1990, where the status of the investigation was reviewed. We also discussed potential strategies at these meetings, including pursuing both civil and criminal remedies against Mr. Hamel. Since it was contemplated that the fruits of the investigation would be made public and used in court, it was my impression that everyone present understood the importance of conducting the investigation entirely within legal bounds.

I would like to comment on some of the investigative techniques used in this case. I fully understood that Wackenhut was collecting abandoned trash, purchasing telephone toll call records, and videotaping and recording its encounters with Mr. Hamel. Each of these practices can be undertaken legally, and I was confident that Mr. Black, who I knew had substantial experience in such matters, understood how to do so. These techniques may seem intrusive, but the fact is that they are common investigative practices in cases involving fraud and criminal wrongdoing, and in my opinion, were wholly appropriate in this case. You simply cannot rely on traditional investigative techniques or the civil discovery process to obtain information from individuals who, like Mr. Hamel, are known to be trafficking in stolen goods or information.

These status conferences also reinforced my impression that the only purpose of the investigation was to determine the source

discussed with counsel various options, including whether Alyeska could file a civil lawsuit against Mr. Hamel.

On September 25, 1990, I met with representatives of several Alyeska Owner Companies in Denver to discuss these options. After discussion, the owners directed that the investigation be halted. The owners reiterated this directive at a subsequent meeting in La Costa, California on October 3, 1990. I complied at once with the owners' instructions.

The investigation into the stolen or leaked documents stopped, and Wackenhut was directed to disengage from Mr. Hamel as quickly as possible.

In retrospect, while the Wackenhut investigation was legal, its implementation may not have been wise. It is not enough for Alyeska to operate within the law. The company must also operate within the limits of a public consensus about the conduct of large corporations.

It is now clear that the damage to Alyeska's reputation in Alaska and in Congress outweighs the benefits that have resulted from the investigation.

At the time, however, I believed that the investigation was justified by the extremely serious harm that Alyeska had suffered and was suffering from the theft or leaking of its highly confidential documents. Indeed, whatever else may be said about the investigation, it confirmed the seriousness of the problem Alyeska faced: Mr. Hamel, in fact, had in his possession hundreds of pages of stolen or leaked Alyeska documents, including highly confidential legal documents, and he appeared intent on using those documents.

I want to reiterate that at no time during the investigation into the stolen or leaked Alyeska documents did I believe that anything done was unlawful or improper. Had I thought so, I would have halted the investigation immediately.

Moreover, it was never my intention to interfere in any manner with the workings of this committee, with its chairman, or with any other Member of Congress. I hold the Congress as an institution in the highest respect, and I have particular regard for this committee and the work it does. It is my hope we can put this matter behind us and work together on the pressing issues we face. I'd be happy to answer questions, Mr. Chairman.

The CHAIRMAN. Thank you.

[Prepared statement of Mr. Hermiller follows:]

STATEMENT OF JAMES B. HERMILLER  
TO THE COMMITTEE ON  
INTERIOR AND INSULAR AFFAIRS  
UNITED STATES HOUSE OF REPRESENTATIVES  
NOVEMBER 5, 1991

My name is James B. Hermiller. I am President of the Alyeska Pipeline Service Company. I am appearing before the Committee on Interior and Insular Affairs to tell you what I know about the investigation by the Wackenhut Corporation into thefts or leaks of highly confidential and privileged Alyeska documents. As you know, Alyeska has cooperated fully in furnishing information to the Committee--including a significant amount of material which would never be produced in litigation because it is subject to the attorney-client privilege.

Let me briefly outline my professional background. In 1966, I joined Sohio as a chemist. Over the next 18 years, I served at Sohio in a variety of positions. In 1984, I was appointed Vice President-General Manager of Industrial Chemicals for Sohio. In August 1986, I was appointed Vice President, Refining for BP Oil. In May 1989, I became Executive Vice President and Chief Operating Officer of Alyeska.

In October 1989, I became President of Alyeska. As President, I was responsible for a whole range of issues and problems, including not only the day-to-day management and operation of Alyeska, but also, beginning in early 1990, the complete reorganization of the company. I became President of Alyeska shortly after the Exxon Valdez spill. Public confidence in the large oil companies and in Alyeska was low. I considered it a top priority to do everything in my power to restore that

public confidence. I took aggressive steps to deal with the aftermath of the Valdez spill, including the development of a spill prevention response plan in Prince William Sound, which I consider to be the finest such plan in the world. I believe that I have been open and attentive to the concerns of all Alaskans, and that I have been successful in demonstrating to them that Alyeska shares their determination to protect and preserve our environment.

The Valdez spill gave rise to an extraordinary amount of litigation. Alyeska and the other companies found themselves defending literally dozens of lawsuits. In the course of deciding how to deal with those lawsuits, Alyeska--like any other defendant in litigation--consulted with legal counsel. Among those counsel were lawyers from the Los Angeles law firm Gibson, Dunn & Crutcher. Those consultations with counsel were, of course, highly privileged and confidential.

To my great distress, and to the distress of the owners of Alyeska, we learned at the beginning of 1990 that certain legal documents containing our confidential communications with our counsel in the Valdez litigation had been stolen or leaked. One such document was actually shown on a British television program called The Scottish Eye. The owners of Alyeska and I viewed the unauthorized dissemination of these highly confidential documents as intolerable. The theft or leaking of these documents, coupled with my preexisting concern over previous unauthorized dissemination of technical and legal

documents, led me to conclude that steps should be taken to determine who was stealing or leaking the documents from within Alyeska.

In early February of 1990, I spoke about this matter with Mr. J. Patrick Wellington, Chief of Security for Alyeska, and subsequently with his immediate supervisor, Mr. Steven Dietrich, Vice President, Administration. Mr. Wellington had been at Alyeska for twelve years; before that, he had served as Director of the Alaska State Troopers and as Commissioner of the Alaska Department of Public Safety. As I recall, I asked Mr. Wellington what could be done about the theft or leaking of Alyeska's documents. Mr. Wellington made contact with the Wackenhut Corporation, which had long provided security to Alyeska through a subsidiary. Mr. Wellington informed me that Wackenhut could undertake an investigation into the theft or leaking of the Alyeska documents, and I authorized the investigation. I understood Wackenhut to be one of the world's most prominent and reputable investigative firms. At all times it was my intention that the investigation proceed in strict compliance with the law.

The Wackenhut investigation began in March 1990. Mr. Wellington briefed me periodically on the progress of the investigation. During the course of the investigation, Mr. Wellington informed me that Wackenhut had confirmed that Mr. Charles Hamel was in possession of numerous stolen or leaked Alyeska documents, including legal documents prepared for Alyeska

by lawyers at Gibson, Dunn & Crutcher. Mr. Wellington also told me that certain Wackenhut representatives were posing as members of an environmental organization, that Mr. Hamel's trash was being collected and searched, and that certain conversations between Wackenhut representatives and Mr. Hamel were being recorded--all in an effort to learn how Mr. Hamel had obtained confidential documents from Alyeska's files. I wish to stress that I was told, and I believed, that all of these investigative techniques were lawful and proper.

In May 1990, the Miami law firm of Richey, Munroe, Fine & Goodman, P.A. was retained to furnish advice in connection with the investigation. The two members of that firm principally involved in advising Alyeska--Messrs. William Richey and Jonathan Goodman--both are former prosecutors with a wealth of criminal law experience. It was my understanding that the Richey, Munroe firm remained involved in the investigation until its conclusion. Also, in approximately July 1990, Mr. Wellington and I advised then-Alyeska General Counsel Alfred T. Smith about the investigation. Mr. Smith, in turn, involved one of his top attorneys, Mr. Lon Trotter. Mr. Smith also retained the prominent law firm of Baker & Hostetler McCutchen Black and Alaska attorney Edward Boiko. To my knowledge, none of these lawyers ever indicated any doubt about the legality of the activities undertaken by Wackenhut in the course of the investigation. I felt comfortable in the conduct of the

investigation given the involvement and oversight of these experienced attorneys.

By the end of August 1990, it had become apparent to me and others that the investigation would produce little additional information on the source of the stolen or leaked Alyeska documents. I discussed with counsel various options, including whether Alyeska could file a civil lawsuit against Mr. Hamel. On September 25, 1990, I met with representatives of several Alyeska owner companies in Denver, Colorado to discuss these options. After discussion, the owners directed that the investigation be halted. The owners reiterated this directive at a subsequent meeting in La Costa, California on October 3, 1990. I complied at once with the owners' instructions. The investigation into the stolen or leaked documents stopped, and Wackenhut was directed to disengage from Mr. Hamel as quickly as possible.

In retrospect, while the Wackenhut investigation was legal, its implementation may not have been wise. It is not enough for Alyeska to operate within the law. The company must also operate within the limits of a public consensus about the conduct of large corporations. It is now clear that the damage to Alyeska's reputation in Alaska and in Congress outweighs the benefits that have resulted from the investigation. At the time, however, I believed that the investigation was justified by the extremely serious harm that Alyeska had suffered and was suffering from the theft or leaking of its highly confidential documents. Indeed, whatever else may be said about the

investigation, it confirmed the seriousness of the problem Alyeska faced: Mr. Hamel in fact had in his possession hundreds of pages of stolen or leaked Alyeska documents, including highly confidential legal documents, and he appeared intent on using those documents.

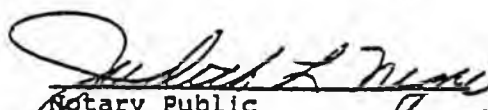
I want to reiterate that at no time during the investigation into the stolen or leaked Alyeska documents did I believe that anything done was unlawful or improper. Had I thought so, I would have halted the investigation immediately. Moreover, it was never my intention to interfere in any manner with the workings of this Committee, with its Chairman, or with any other Committee or Member of Congress. I hold the Congress as an institution in the highest respect, and I have particular regard for this Committee and the work it does. It is my hope that we can put this matter behind us and work together on the pressing issues we face.

  
James B. Hermiller

Sworn to and subscribed before me this 7th day of

October, 1991.



  
Notary Public

My Commission Expires:  
JUDITH L. NIGRO  
NOTARY PUBLIC DISTRICT OF COLUMBIA  
My Commission Expires March 31, 1993

## RICHEY, MUNROE, FINE &amp; GOODMAN, P.A.

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PRIVILEGED ATTORNEY/CLIENT INFORMATION  
PRIVILEGED WORK PRODUCT INFORMATION  
CONFIDENTIAL & PERSONAL

May 22, 1990

Mr. J.P. Wellington  
 Director of Security  
 Alyeska Pipeline Service Co.  
 c/o Mr. Wayne Black  
 Wackenhut Corporation  
 Special Investigations Division  
 1500 San Remo Avenue  
 Coral Gables, FL 33146

Re: Alyeska Pipeline Service Co.  
Investigation of Stolen Documents/

Dear Mr. Wellington:

The law firm of Richey, Munroe, Fine & Goodman, P.A. has been asked to provide a preliminary assessment concerning a possible investigation into allegations that a U.S. Congressman has been encouraging and/or requesting the theft of confidential attorney-client, trade secret and proprietary documents from the Alyeska Pipeline offices. In particular, we have been advised that Alyeska is considering an investigation which may use covert operatives who may assume different identities when dealing with the Congressman.

Our firm was first provided with some background information about the investigation on Thursday evening, May 17, 1990, when we met with Wayne Black. Based on the information provided to us by Wayne Black, we believe that an undercover investigation of these sensitive allegations is risky. Although Alyeska is more than justified in wanting to vigorously investigate these allegations, there are several significant, difficult issues underlying the proposed plan. We believe that neither Alyeska nor its agents

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THE  
FOLLOWING  
DOCUMENTS  
ARE  
POOR  
ORIGINAL  
COPIES

Mr. J.F. Wellington  
c/o Mr. Wayne Black  
May 23, 1990  
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should approach the Congressman as part of an undercover investigation until these issues have been adequately researched and analyzed and until you make an informed policy judgment that the potential benefits are worth the risks and associated costs.

As explained later in this memorandum, pursuing an undercover operation against a Congressman in a matter which he may claim relates to a Congressional investigation may expose the company and its investigators to a claim that the federal obstruction of justice statutes are being violated. These statutes are extremely broad. Although Alyeska and its expert investigators might be able to tailor the proposed undercover operation so that it does not violate these expansive federal criminal statutes, the Congressman could easily raise the specter of a criminal violation. Regardless of the legitimate motivation underlying the proposed investigation, it will be exceedingly difficult to arrange an undercover investigation which could not be made to appear to be interfering with a Congressional investigation.

The problem arises because the proposed undercover investigation is a private operation. Making misrepresentations to a Congressman as part of an official law enforcement investigation is significantly different than making those misrepresentations as part of a purely private operation. Similarly, having an undercover operative make misleading statements to a private individual is distinct from making those identical misrepresentations to a Congressman who can claim he is pursuing a legislative investigation.

In lieu of a private investigation using undercover agents, you may want at a later time to present the allegations and your proposed plan to the FBI and request its assistance. We recognize that the FBI may be reluctant to look into the allegations. We also appreciate that the FBI bureaucracy is inherently inefficient --- which obviously interferes with an ability to monitor and supervise a streamlined undercover investigation. Permitting the FBI to supervise the undercover investigation also leads to a loss of control. Nevertheless, we believe that it is an option which should simultaneously be considered with the internal operation when the time is right.

Assuming the FBI is willing to investigate the allegations against the Congressman, Alyeska may well be able to persuade the FBI to use the same undercover operatives it was considering for the purely internal operation. As you may know, Mr. Wackerhut and Mr. Wayne Black have significant connections with the FBI. They both enjoy a good reputation with the FBI. Accordingly, their involvement might enhance the possibility of persuading the FBI to

RICHEY, MUNROE, FINE & GOODMAN, P.A.

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Mr. J.P. Wellington  
 c/o Mr. Wayne Black  
 May 22, 1990  
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investigate the allegations against the Congressman and to authorize an undercover operation.

We have been told that sensitive, confidential documents, including documents which are clearly marked as being encompassed by the attorney-client privilege, are being systematically stolen from your offices. The theft of these documents should be fully investigated, regardless of whether a U.S. Congressman has been encouraging, requesting or knowingly using these stolen documents.

We recognize that you and other company officials are properly outraged over the theft of confidential, privileged documents. This letter, however, will primarily focus on the allegations about the Congressman.

Before assessing the risks associated with a private undercover operation investigating a Congressman, a threshold issue must be determined: does the photocopying of documents and the distribution of them to the media and others constitute the crime of theft? Unlike a classic case of theft of property (e.g., actually taking money or tangible property), photocopying documents which Alaska employees may have been entitled to read in the first place does not fall into the traditional notion of theft.

If the employee who is photocopying and leaking the documents is entitled to see them in the first place, then the employee or the Congressman might argue that no crime has been committed. The employee and the Congressman might argue that the employee was entitled to read the documents and talk about them (to his friends and colleagues) and that photocopying documents is not substantively different. Nevertheless, we believe that this argument will probably fail --- and that photocopying and distribution of proprietary, confidential documents would probably be a crime. Florida Statute §12.081 (Florida Trade Secrets Law) makes this type of conduct a crime. We have not researched the specific laws of Alaska, Washington D.C., Virginia, Maryland or other jurisdictions, however.

Before discussing the potential applicability of federal criminal statutes to the proposed covert operation, it is appropriate to discuss, in general terms, the nature of the allegations against the Congressman.

In order to demonstrate that the Congressman is acting improperly, you will need to show more than the mere receipt of stolen documents. Regardless of the substantive content of the stolen documents, the Congressman would not be acting illegally if he received stolen documents for the purpose of using them in an

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Mr. J.P. Wellington  
 c/o Mr. Wayne Black  
 May 22, 1990  
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official investigation. This conduct is immoral and may be unethical, but it is not illegal without more. The distinction between the simple receipt of stolen documents and the affirmative step of encouraging or requesting stolen documents is critical. You should understand this distinction at the outset.

Similar to a police officer or a prosecutor, a Congressman has investigatory powers. He and other committee members, along with their aides, are empowered to conduct investigations, hold hearings, take testimony, receive evidence and otherwise look into all sorts of allegations. A Congressman's power to participate in investigations is broad. Understanding the consequences flowing from a Congressman's power to conduct investigations will be made easier by comparing a congressional investigation to an investigation run by police or federal prosecutors.

If a police officer passively receives evidence which a private party (i.e., someone not working for law enforcement) has stolen, then the police officer is usually permitted to use the information as evidence. This evidence may even be introduced at trial. For example, if John Q. Citizen runs into a police station with a batch of documents and a kilo of cocaine in his arm and tells a narcotics detective that he stole the cocaine and documents from a drug dealer's house during a burglary, then the detective may keep the evidence. A prosecutor can then introduce the narcotics and documents into evidence at a trial. The mere fact that the police officer and the prosecutor know that the information was stolen does not render the materials inadmissible at trial, nor does it demonstrate that they have been acting improperly. This doctrine is sometimes known, albeit on an informal basis, as the "silver platter" doctrine.

If, on the other hand, a narcotics detective asks a citizen to break into a suspected drug dealer's house in order to obtain narcotics, documents and other evidence via theft, then the police officer would be acting improperly. Accordingly, the evidence would most likely be excludable at trial. Beyond that, the police officer would be subject to disciplinary sanctions and could be prosecuted for committing crimes such as conspiracy to commit burglary and theft, solicitation to commit burglary and theft and, perhaps, burglary and theft pursuant to the "principals" doctrine.

As you can well imagine, obtaining evidence that a police officer actively encouraged the theft of documents or other evidence would be difficult. Similarly, obtaining the critical evidence that a Congressman knowingly requested or encouraged the theft of documents from Alyeska would require a carefully planned and well-executed effort. Analysis of exactly which state and

FEB 13 1990

Mr. J.P. Wellington  
c/o Mr. Wayne Black  
May 22, 1990  
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federal criminal statutes he has violated needs to be undertaken as well.

The Congressman alleged to be involved in the use and possible encouragement of stolen documents is also an attorney. Consequently, he is also subject to disciplinary sanctions from the courts of the states where he has his license to practice law. If the Congressman's activities do not rise to the level of a crime, they may constitute violations of his ethical duties as an attorney.

Obtaining the evidence necessary to show that the Congressman did more than simply receive documents stolen from Alyeska is an inherently difficult task because you must insure that your investigators do not interfere with a Congressional investigation. The Congressman will react strongly if he learns that we have uncovered information proving, or suggesting, that he was involved in such criminal activity. His probable response will be to accuse the investigators of interfering with a Congressional investigation. He will no doubt allege that his receipt of stolen and privileged documents is part of a legitimate, important investigation serving the public interest. He will almost certainly launch a full scale attack against you to save himself from harm for his misconduct. It is essential, to counteract his self-serving attack on the investigation, that all communications with him be tape recorded and preserved for evidence. His actual words must be available rather than the word of investigators. He will claim they are lying for "big oil."

Before recording conversations, however, you must determine whether this type of electronic surveillance is legal. Although federal law permits a conversation to be recorded or otherwise electronically intercepted if one party to the conversation consents, the law of electronic surveillance varies among states. In Florida, for instance, it is illegal to record conversations without the consent of all parties, in the absence of a valid court order. In Georgia, on the other hand, one party consent is an exception to the electronic eavesdropping statute and is legal. We have been advised that Alyeska has already determined that Alaska law permits recordings and electronics intercepts with one party consent. Your ability to legally record and intercept conversations with the Congressman will depend on the location of the conversation.

It is our understanding that conversations with the Congressman might take place in Washington, D.C., Virginia and Maryland. Recording conversations with one party's consent is legal in the District of Columbia and Virginia. It is illegal in Maryland.

F2R413431

Mr. J.P. Wellington  
c/o Mr. Wayne Black  
May 22, 1990  
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However, the lawyers in our office are not licensed to practice in Washington, D.C., Maryland or Virginia. We believe it is essential to obtain expert opinions on the propriety of recording and electronic surveillance from attorneys licensed to practice in those jurisdictions. With the authorization of Wayne Black, we have already taken steps to obtain these opinions. If you anticipate the need to record conversations in additional states, then we should also obtain opinions from attorneys licensed to practice in those states.

The logistics of operating an investigation involving electronic surveillance must be handled by someone familiar with electronic hardware and undercover investigations. Wayne Black and his staff are well-trained and very experienced in this area. We have worked with Mr. Black on sensitive investigations for many years. He and his staff are familiar with the proper handling of evidence and with the best methods available for undercover operations involving electronic eavesdropping. In addition, Mr. Black is familiar with court rules. He has testified in court dozens, if not hundreds, of times in his career. If the allegations against the Congressman are true and are reflected in recorded conversations, then Mr. Black and his staff will be able to obtain and preserve that evidence in a manner designed to ensure its admissibility at a trial or other proceeding should you want to use it for such purposes. This discussion, of course, assumes that you have analyzed the risks associated with performing a private investigation of a Congressman and have decided to proceed.

Assuming that the Congressman is encouraging or requesting that documents be stolen from Alyeska, then you might be able to use this information to successfully argue that the evidence (the stolen documents themselves) should be suppressed in any Congressional hearing (or any other type of legislative or judicial proceeding, for that matter). The mechanics and strategy required to persuade Congress or a judge to exclude the documents and not consider their contents are premature at this time. Nevertheless, the possibility of acquiring a congressional or judicial order excluding, suppressing or limiting the use of the stolen documents is one of the main potential benefits of an investigation (whether internal or in conjunction with the FBI).

Assuming that the Congressman is involved in more than moral and ethical improprieties, a successful investigation might lead to a criminal indictment against the Congressman and others who knowingly participated in the theft of privileged, confidential documents from Alyeska. Although it is too early to determine whether Alyeska would want to seek criminal charges against the Congressman if the investigation produced evidence that he was

FZR-13432

B. Physical Surveillance.

1. Facts.

Face-to-face conversations with Hamel were audiotaped (through the use by the Wackenhut operative of a body microphone) on August 18, 1990 at the Hamel home and in the Charthouse restaurant in Alexandria, Virginia, on August 19, 1990 at the Howard Johnson's restaurant in Crystal City, Virginia (attempt to record unsuccessful) and on August 24, 1990 at the Hamel home. On August 30, 1990 Black spoke by telephone with Hamel's home from the National Airport in Washington, D.C. This conversation was audio-taped. This tape was not provided to PHJ&W. Black stated that this tape was not provided because Hamel was not home and Black spoke only with Mrs. Hamel on non-substantive matters. Face-to-face conversations with Hamel were videotaped on June 20, 1990 at the Hyatt Regency Hotel in Crystal City, Virginia and on August 18, 19, 23 and 30 at the Ecolit office in Crystal City, Virginia. Visual surveillance of Mr. and Mrs. Hamel and the Hamel home was conducted on April 30-May 2, 1990.

2 Applicable Law.

a. Criminal Law Relating to Physical Surveillance

(1) Federal Law.

The Omnibus Crime Control Act provides, in part, that any person who intentionally intercepts, or procures any other person to intercept any oral communication, through electronic means, may be punished by fine and imprisonment up to five years. 18 U.S.C. § 2511(1) (a) & § 2511(4) (a) (1988). However, if one party consents to that communication, the interception is not unlawful "unless such communication is intercepted for the purpose of committing any criminal or tortious act in violation of the Constitution or laws of the United States or any State." 18 U.S.C. § 2511(2)(d) (1988).

For the interception of an oral communication to constitute a federal offense, three elements must be established: first, there must be a willful interception, second, the oral communication must be uttered by a person exhibiting an expectation that the communication would be private, and third, the communication must have been under circumstances justifying the expectation of

privacy and without consent of any party. United States v. Carroll, 337 F. Supp. 1260 (D.D.C. 1971).

The single party consent exception to 18 U.S.C. § 2511 (1988) substantially protects Wackenhut's activities under federal law. Furthermore, even though 18 U.S.C. § 2511(2)(d) (1988) abrogates single party consent if the interception is for the purpose of committing any criminal or tortious act, federal courts have interpreted this provision so narrowly that it would not appear to be applicable to the Wackenhut investigation. See Meredith v. Gavin, 446 F.2d 794 (8th Cir. 1971); Park v. El Paso Bd. of Realtors, 764 F.2d 1053 (5th Cir. 1985), cert. denied, 474 U.S. 1102 (1986).

Although the taping recorded Hamel's side of telephone conversation(s) between Hamel and third parties, this fact should not constitute an offense. First, Hamel could not have had a reasonable expectation of privacy in his conversation so long as Black was within hearing distance. Second, by established case law, telephone conversations picked up in "bugging" of closed spaces is not illegal if the wiretap is not designed to bug the telephone conversation itself. See United States v. Williams, 527 F. Supp. 859 (S.D.N.Y. 1981); Smith v. Wunker, 356 F. Supp. 44 (S.D. Ohio 1972).

3. Conclusion

No crime has been committed [ out of the trashing activities of Wackenhut.

D. Obtaining Telephone Toll Records

1. Facts. Hamel's Virginia home telephone toll records covering the period from January 1990 through at least June 1990 were purchased by Wackenhut subcontractor Rick Lund from a source described by him to PHJ&W as a company that contracts with the Virginia telephone company to investigate fraud against the telephone company. We also understand that Lund purchased Scott's home telephone toll records for at least the months of January and February, 1990. Lund may also have sought to obtain telephone toll records for a Hamel telephone number in Connecticut but we have no evidence that these records were ever obtained. It is not known whether Lund's source(s) has the permission of the telephone company to sell such toll records. Certain telephone toll records in the possession of Wackenhut were observed to be marked "AT&T Proprietary."



R. Bruce Barr  
Director -  
Auditing and Security

Room 129A-3220  
80 Columbia Turnpike  
Morristown, NJ 07962  
201 829-7430

October 25, 1991

Linda J. Chase  
Chief Counsel on Investigation  
United States House of Representatives  
Committee on Interior and Insular Affairs  
483 Ford House Office Building  
Washington, D.C. 20515

Dear Ms. Chase:

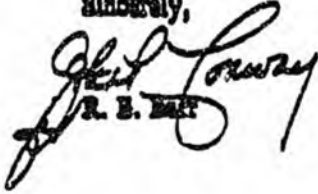
I am Director, Auditing and Security for American Telephone and Telegraph Company (AT&T). In that position, I am responsible for insuring that AT&T's policies, including policies related to the confidentiality of customer records, are complied with internally. I have been informed that billing data disclosing calls made from the telephones of individual customers have been disclosed to the House Interior Committee by a private investigation firm. As a result of that disclosure, the House Interior Committee has asked AT&T to provide a description of its current policy regarding disclosure of such information to persons other than AT&T and others acting at AT&T's request. I am happy to provide that information to you for use by the House Interior Committee.

A variety of third parties, including private investigators and law enforcement agencies, sometimes request that the billing data for individual customers be disclosed. AT&T, as a matter of policy, does not comply with such requests unless AT&T receives appropriate legal process, such as a subpoena or court order, or the customer's consent.

In addition to the records of billing data maintained by AT&T, such records often are also maintained by local exchange carriers which in many parts of the country serve as AT&T's billing agent for a number of long distance services. AT&T and the local exchange carriers agree that the local exchange carriers will treat individual customer billing records related to long distance charges as confidential and will not disclose such records at the request of third parties unless appropriate legal process is received.

I appreciate this opportunity to address your question and trust that this letter proves responsive to your needs.

Sincerely,

  
R. E. Hart



# Telemarketing: Consumer Privacy and Commerce

by Edwin N. Lavergne

**Y**ou hesitate at first, but decide that it may be important—important enough to run out of the shower with shampoo in your hair and a towel barely covering your wet and shivering body. You grab the receiver only to hear, “Hello, my name is Susan and I’m with Acme Corporation. We have some fantastic products I’d like you to hear about.”

Although many people appreciate the convenience of ordering goods and services via the telephone, more and more consumers are becoming frustrated with the endless barrage of telephone solicitations. In response, the U.S. Congress recently enacted the Telephone Consumer Protection Act of 1991 (TCPA).

This act directs the Federal Communications Commission (FCC) to start a mechanism to protect residential phone subscribers from unwanted solicitations. It will not be an easy task; the FCC must balance consumer demands for privacy with telemarketer free speech and financial concerns.

### Privacy and consumer concerns

Courts have defined the right of privacy as the right to be “left alone” and the right to be “free from wrongful intrusion into one’s private activities.” However, being left alone does not mean that all unwanted tele-solicitations should be prohibited. Indeed, Congress exempted from the requirements of the



TCPA calls from “tax exempt nonprofit” entities and organizations that have “established business relationships” with the called party.

Nonetheless, many consumers feel that all unwanted tele-solicitations—both automated and operator initiated—are an invasion of privacy and merely nuisances which should be stopped. The FCC acknowledges these concerns, but seems hesitant to impose sweeping restrictions on telemarketers, especially those involving live solicitors.

The FCC views live solicitations as less intrusive to the privacy of the called party than automated calls. Auto-dialers are unable to determine whether

a number is unlisted or whether the number is to a hospital, police precinct, or fire station. Moreover, with a live operator, you can express your frustrations and tell the operator, among other things, to stop calling.

### Commercial considerations

Some telemarketers argue that onerous restrictions on the dissemination of information infringe upon their right of free speech. Although commercial speech is protected under the First Amendment, some restrictions including time, place, and manner limitations are permissible.

Telemarketers are also concerned about the financial impact of the TCPA. If the FCC adopts regulations which impose significant

monetary obligations on telemarketers, many companies may reconsider their current marketing strategies. As a result, the quantity and variety of convenient and useful services available via the phone may diminish.

### FCC’s “do not call” proposals

In an effort to balance the interests of consumers and telemarketers, the FCC is considering various ways to reduce unwanted tele-solicitations. The legislative history of the TCPA suggests that Congress would prefer the start-up of a national “do not call” data base. Under this proposal, consumers who do not want to receive tele-solicitations would



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September 1992, Vol. XVIII, No. 11

## HOUSE KILLS CREDIT-REPORTING REFORMS, AFTER 'PREEMPTION' VOIE

Sponsors of legislation with pro-consumer changes to the Fair Credit Reporting Act withdrew their bill September 24 after a close loss on a key amendment in the U.S. House of Representatives. The amendment would have deleted a provision that would have preempted any stronger state laws regulating credit reporting. About a dozen states have laws regulating credit bureaus that are stronger than the federal law.

The amendment to delete preemption was leading 204-202, and the Democratic leadership was ready to end the voting. But presiding in the Speaker's seat was Rep. Edward F. Feighan, a retiring Democrat who represents Cleveland, the hometown of TRW (whose TRW Credit Data in Orange, Cal., is one of the major credit bureaus in the U.S.). Feighan let the vote continue and preemption prevailed 207-203. Although 26 Republicans voted against preemption, 74 Democrats voted for it.

House Banking chair Henry B. Gonzalez, D-Tex., then moved to withdraw the bill, HR 3596. Most pro-consumer supporters of the bill had decided beforehand that no bill was preferable to a bill that preempted state laws. The fate of HR 3596 is uncertain this year, amid intense pressure for Congress to adjourn this fall.

HR 3596 would have prohibited a fee for a consumer to have a copy of his or her report and required a reinvestigation of disputed information within 30 days, a toll-free number for resolving problems, and a certification of accuracy whenever a credit bureau provide a report to a credit grantor.

## 'DO-NOT-CALL' FOR TELEMARKETERS

The Federal Trade Commission has taken the most narrow option possible under a new federal law requiring it to create a list of consumers who do not want unsolicited telephone sales calls at home. On September 17, the FTC announced that it will do no more than require telemarketers to create their own do-not-call lists.

Originally, the Telephone Consumer Protection Act of 1991, as drafted by Rep. Edward J. Markey, D-Mass., would have required the FCC to maintain a national list, but the White House said that President Bush would not sign the bill with that provision. As a compromise the law as enacted permitted the FCC to choose the method of enforcement [see PJ Jan 92]. Industry participants had thought that the FCC's options ranged from the Markey alternative to having a trade association, like the Direct Marketing Association, maintain a national list. The DMA was delighted with the FCC's choice; Markey called it "the path of least resistance." The law also limits unsolicited fax messages, recorded sales pitches, and hours for calling. The law and the new rule become effective December 20.

# **CORRECTION**

**THIS DOCUMENT  
HAS BEEN REPHOTOGRAPHED  
TO ASSURE LEGIBILITY**



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by Edwin N. Lavergne

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Some telemarketers argue that onerous restrictions on the dissemination of information infringe upon their right of free speech. Although commercial speech is protected under the First Amendment, some restrictions including time, place, and manner limitations are permissible.

Telemarketers are also concerned about the financial impact of the TCPA. If the FCC adopts regulations which impose significant

monetary obligations on telemarketers, many companies may reconsider their current marketing strategies. As a result, the quantity and variety of convenient and useful services available via the phone may diminish.

## FCC's "do not call" proposals

In an effort to balance the interests of consumers and telemarketers, the FCC is considering various ways to reduce unwanted tele-solicitations. The legislative history of the TCPA suggests that Congress would prefer the start-up of a national "do not call" data base. Under this proposal, consumers who do not want to receive tele-solicitations would

be listed in a national data base. Before dialing consumers, telemarketers would be required to purge their calling lists of the telephone numbers appearing in the data base.

The FCC believes, however, that consumers may be dissatisfied with the effectiveness of such a data base. The data base would only be updated every three to six months. As a result, months may pass before consumers notice any reduction in the number of unwanted calls. More significantly, consumers would continue to receive calls exempt from the TCPA, including those from police benevolent associations, state and local governments, election campaigns, and pollsters.

Moreover, the FCC is concerned about the cost of building and maintaining a national data base. According to the FCC, the data base would cost at least \$70 million to develop and \$20 million a year to maintain. Since the TCPA prohibits charging consumers to participate in the data base, and it is unlikely that the data base would receive federal funds, the financial burden would be imposed on the telemarketers.

Many telemarketers prefer an alternative FCC proposal—company specific "do not call" lists. Under this proposal, companies would have to establish their own lists of persons who have informed the company that they do not want to be solicited.

An advantage of company-specific "do not call" lists to telemarketers is their relatively low cost to implement and maintain. In fact, many companies already maintain their own "do not call" lists. These companies understand that some consumers do not want to be bothered by telemarketers. Moreover, they recognize the unprofitability of calling consumers who are not interested in purchasing products or services via the phone.

The Direct Marketing Association, representing 3,500 businesses, supports company "do not call" lists. DMA also suggests that this program be reinforced by voluntary industry "do not call" lists

like DMA's Telephone Preference Service. This is a free service which enables consumers to request that their names be removed from calling lists. Telemarketing participation in the service, however, is voluntary and telemarketers must pay a fee to receive the list.

Consumer advocacy groups argue that company lists would be an administrative and regulatory nightmare. Consumers would be forced to notify each and every company that might call them. Such a system, they say, would burden consumers and offer only a patchwork of protection.

#### Striking a balance

The FCC is attempting to balance the legislative concerns of consumers and telemarketers as it implements TCPA. However, Congress and consumer groups are dissatisfied and believe that the FCC is not proposing to go far enough in protecting consumers. Both Sen. Pressler (R-S.D.) and Sen. Hollings (D-S.C.), co-authors of the TCPA, have threatened to introduce a tougher telemarketing bill if the FCC fails to adopt appropriate rules. Telemarketers, meanwhile, are opposed to proposals which are unduly burdensome.

Although the primary concerns of consumers and telemarketers differ, they are not necessarily conflicting. Most telemarketers are not interested in soliciting or bothering persons who want to be left alone. Moreover, many companies are sensitive to consumers and are willing to respect their concerns as long as the financial burden is not too significant. Therefore, the FCC must select a cost effective means which safeguards both consumers and telemarketer interests. Failure to strike a balance will lead to heightened consumer and industry dissatisfaction. □

*Lavergne practices law at Ginsburg, Feldman and Bress, Washington, D.C. He can be reached at 202-637-9191. Jay Newman contributed to this article.*

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See especially Item 3, page 2.

SUMMARY OF OREGON'S TELEPHONE SOLICITATION LAWS *Mike*

Prepared by  
Myron B. "Mike" Katz, Chairman  
Oregon Public Utility Commission

1. Automatic Dialing and Announcing Devices

The 1989 Legislature passed a law prohibiting the use of automatic dialing and announcing devices (e.g., sequential or random dialing that plays a recorded message when the call is answered) for commercial solicitation. The law does not apply to charities, political organizations or preexisting business relationships.

(Oregon Revised Statutes 759.290)

2. "One-Bite" Provision for Telephone Solicitations

The 1989 Legislature made it a violation of Oregon's Unlawful Trade Practices if, during a telephone solicitation, a called residential party states its desire not to be called again and the solicitor makes a subsequent telephone solicitation to that party. The Oregon Attorney General is responsible for enforcement.

Calls made by charities, political organizations or business-to-business contacts are exempted.

An offended residential customer may take the offender to court to obtain maximum \$200 damages plus court and attorney fees. The Oregon Attorney General may request a court to impose a maximum \$25,000 civil penalty upon the offender.

The OPUC must adopt a rule requiring phone companies to inform customers of the provisions of the law by annual bill inserts or conspicuous publication in the consumer information pages of the local telephone directories.

(ORS 646.561 to 646.565)

3. Telephone Directory Non-Solicitation Identification Symbols

The 1989 Legislature made it a violation of Oregon's Unlawful Trade Practices if a telephone solicitation call is made to a residential party identified in the telephone directory as a party that does not wish to receive solicitation calls. The Oregon Attorney General is responsible for enforcement.

Calls made by charities, political organizations or business-to-business contacts are exempted. Charity solicitations in Oregon are closely regulated by the Attorney General.

Phone companies may provide for such identification in their telephone directories (e.g., solid circle, asterisk, stacked "S", diamond symbol. etc.).

Here, too, an offended residential customer may take the offender to court to obtain maximum \$200 damages plus court and attorney fees. The Oregon Attorney General may request a court to impose a maximum \$25,000 civil penalty upon the offender.

And here, too, the OPUC must adopt a rule requiring phone companies to inform customers of the provisions of the law by annual bill inserts or conspicuous publication in the consumer information pages of the local telephone directories.

US WEST is entering its second year of a trial in the Salem, Oregon exchange (see attached sample page) and its first year in the Bend, Oregon exchange. In the Salem trial, a one-time nonrecurring fee of \$5 was charged; in the Bend trial, customers will be charged 40 cents per month.

(ORS 646.567 to 646.571)

*state-wide charge will be 25¢/month.*

4. Registration of Certain Telemarketers

The 1989 Legislature passed a law requiring certain telemarketers to register with the Oregon Department of Justice at least 10 days before making solicitations. There is an annual registration fee of \$400. Affected telemarketers are conducting business in Oregon if any phone solicitation is made from a location in Oregon or to any prospective purchaser located in Oregon.

(ORS 646.551 to 646.557)

5. Requirements Imposed Upon Telephone Solicitors

The 1979 Legislature enacted a law that requires telephone solicitors, within 30 seconds after beginning a conversation, to provide identification, the purpose of the call, and a description of the goods and services offered for sale; to inquire if the called party is interested in listening to a sales pitch; and to discontinue the solicitation immediately if the called party gives a negative response. The Attorney General is responsible for enforcement.

Here, too, an offended residential customer may take the offender to court to obtain maximum \$200 damages plus court and attorney fees. The Oregon Attorney General may request a court to impose a maximum \$25,000 civil penalty upon the offender.

(ORS 646.611)

Note: On December 19, 1989, the OPUC authorized initiation of rulemaking with respect to notification of customers about the "one-bite" phone solicitation law and the option of phone companies to provide for no-solicitation symbols in phone directories.

Evidence and comments have been received on a draft rule. Among other things, the draft rule provides that phone companies cannot give or sell lists without including such symbols. The parties are now negotiating a settlement and a stipulation is considered likely. In any event, the OPUC is expected to issue an order on the rule in late autumn.

October 1990

STERBA R—STOKES

SALEM-KEIZER

STEWART PL

365-5444

COMMERCIAL SOLICITATIONS CALLS ARE NOT DESIRABLE

STERBA Ronald T 362-7575
STEREO DUNGEON 362-6808
STERETT Clark A Mrs 1760 John S 364-9084
STERGIOSS Jerry 4013 Lucile Av SE 364-0062
STERLING BODY & PAINT WORKS 2475 Commel NE 588-1639
STERLING MAINTENANCE SERVICE 7415 Bayles Rd S 585-7705
STERMER Ben 4546 Liberty Pk S 364-6746
STERN Charles 534 Mandrin Dr W 390-2053
STERNWHEELER COLUMBIA GORGE 606 NW Front Portland 223-3928
STERREBERG V 399-1535
STERRETT L 393-4622
STERRY Dennis 1135 13th St 371-3418
STESNEY M E 376-8846
STETSON Joseph H 365 Winter NE 585-9028
STETTLER A 362-5848
STETTLER SUPPLY CO 1810 Lons Av NE 585-5550
STEUSSLOFF Claude 245 13th St 363-4364
STEVANOV Gabriel 374 Valdo Av SE 370-7373
STEVELEY W G 2120 Regatta Ln S 362-4248
STEVENIN Effie J 1165 Chemeketa NE 363-1403
STEVENOR Jay & Brenda 8-9 Owen Ct SE 362-6132
STEVENS-- See Also Stellen, Stephen, Stephens
STEVENS Alex 451 Gerth NW 364-4222
STEVENS E J 1955 Allendale Wy NE 390-8545
STEVENS EQUIP CO 110 Division NE 581-2511
STEVENS George 1810 32d Place NE 581-7330
STEVENS J S 3852 Auburn Rd NE 371-3609
STEVENS K 581-0502
STEVENS L B 581-5789
STEVENS LARRY 362-5258
STEVENS LARRY & KATHY 3685 Duquesne Ct SE 585-3284
STEVENS LARRY 393-1353
STEVENS LARRY & JOAN 196 Oter Wy N 393-3492
STEVENS LARRY 378-1352
STEVENS LARRY 393-2889
STEVENS SHARON 364-1913
STEVENS SHARON 370-8992
STEVENS & SON JEWELERS 831 Lancaster Dr NE 500-0062
SUN-FRI 9 TO 5 SAT-10 TO 6 MON-12 TO 5
STEVENS Theresa 3170 Lansing Av NE 362-1325

STEVENS THOMAS R MD PC 655 Medical Center Dr NE 581-5287
STEVENS Tony A 373-3472
STEVENSON Arthur 1616 5th NE 585-4318
STEVENSON Arthur D 4813 Switters Dr NE 393-8306
STEVENSON C & L 364-4254
STEVENSON CHARLES N JR 153 4th Place NE 585-5274
STEVENSON D 1330 7th Av SE 399-9104
STEVENSON D L 585-1730
STEVENSON Dale E 363-2736
STEVENSON Donna 1129 Arabella Av SE 364-3770
STEVENSON Edward L & Cheryl S 6330 Woodlawn Dr NE 393-3233
STEVENSON Frances D 730 McCallum St S 362-0220
STEVENSON G 393-1305
STEVENSON James H 2144 M. Marquette NW 370-0905
STEVENSON Jeffrey D 1156 Applethorpe S 585-9018
STEVENSON Lonnie 170 Ivywood Dr SE 588-5539
STEVENSON R 362-2136
STEVENSON Robert C 1676 Cottage Bl 362-3517
STEVENSON Robert L 362-4125
STEVENSON Ronald & Denise 679 Dearborn Av NE 390-9049
STEVENSON Steve 3871 Langley SE 371-8843
STEVENSON T L 2702 Highland NE 585-9566
STEVE'S AUTO REPAIR 4475 River Rd N 390-6049
STEVE'S KARAMEL CORNER 831 Lancaster Dr NE 585-4071
STEVIE MC 371-6236
STEVINSON C 393-7484
STEWART Donovan R 564 Sierra Dr NE 362-9830
STEWART Ella M 6998 Sunnysd Rd SE 364-6519
STEWART Heidi 581-6841
STEWART Henry A 1657 Kingston Wy NE 390-6417
STEWART Lawson C 363-8152
STEWART-- See Also Stuart
STEWART A E & Melbra 4915 Sycamore Rd NE 364-4542
STEWART A G & M V 1757 Church SE 371-4452
STEWART A J 4953 Sycamore Rd NE 364-9613
STEWART Arthur J 538 Statesman NE 399-7770
STEWART B J 781 Weeks Dr NE 393-2685
STEWART Beth 393-3522
STEWART Bruce E & Fran 3831 Seneca Av SE 585-8866
STEWART Bruce M 2225 37th Av NW 364-7633
STEWART C J 4260 45th Av NE 393-9389
STEWART C L 3373 Larchwood NE 393-9057
STEWART Charles Gordon 4527 Barrett S 371-3532
STEWART Clarice C 393-9675
STEWART Donald E 4062 Watson Av NE 362-5204
STEWART Dorothy & Morso 2120 Robins Ln SE 363-1186
STEWART E A 399-1491
STEWART E H 1655 Fir S 581-4563
STEWART E L 3100 Turner Rd SE 581-3533
STEWART Elaine E 127 Connecticut Av SE 363-9992
STEWART Emil C & Nova M 2259 Aldine Dr NE 390-5552
STEWART ERIC 1599 State 581-5498
STEWART Fred C & Carole 364-8338
STEWART Gary 3065 Byron NE 585-7515
STEWART Glenn C 364-7175
STEWART Gordon 4527 Barrett S 371-3532
STEWART Gordon 3100 Turner Rd SE 363-1297
STEWART GORDON SIGNS 1121 Boone Rd SE 371-3549
STEWART Jack 535 Junction Dr SE 581-8359
STEWART Jack & Bev 390-8608
STEWART Jack R 390-1150
STEWART Jack & Toni 343 16th SE 364-2886
STEWART James K 132 Huntington Ct N 393-5101
STEWART Jerry & Diane 4765 Buffalo Dr SE 364-2206
STEWART John R Rev 3929 9th Ct SE 585-1232
STEWART Joseph S & Jan 3625 Scenic Vw Dr SE 363-0308
STEWART K & D 1551 Center NE 371-3669
STEWART K J 5685 Wilbur NE 390-3936
STEWART Kelly 2151 Natl Ct SE 585-5067
STEWART Kenneth W 2163 47th Ct NE 364-0722
STEWART Larry & Martha 5424 Verda Ln NE 390-6157
STEWART M 1776 Evergreen Av NE Salem 371-3568
STEWART M D 1757 Church SE 371-3971
STEWART M E 4103 Columbia Av NE 370-9209
STEWART M E J 90 Columbia Dr N 390-2817
STEWART Marlin M 362-0201
STEWART Michael D 237 Turnage NW 370-7460
STEWART Michael S 4241 Vermont Pl N 390-7967
STEWART Muriel 390 Columbia Dr N 390-2817
STEWART N J 581-4336
STEWART Olive 4374 41st Av NE 393-7210

STEWART PL 365-5444
STEWART RE 370-1913
STEWART R S 399-1464
STEWART Randy 4129 Arden NE 364-6756
STEWART Richard Rev 72 Duane Pl NE Brooks 393-6366
STEWART Richard H 3997 9th Ct SE 364-3969
STEWART Robert 4131 River Rd N 390-4129
STEWART Robert W 1243 11st Ct NW 364-7057
STEWART Rodney C 1156 Devonshire Ct NE 370-9508
STEWART Roger 3125 Park Av NE 588-7691
STEWART Roland G 3275 Dugway Dr S 588-2052
STEWART Ron 1304 Wilderdy SE 399-7537
STEWART S D 585-0367
STEWART S P 362-0812
STEWART Samuel P 585 Winter NE 399-8214
STEWART Stephen C 364-5883
STEWART STEPHEN R MD 371-3512
STEWART T & R 869 Mandrin Dr NE 393-6838
STEWART Tim 3817 Meadowlark Pl SE 505-2437
STEWART Tonia 581-1398
STEWART Vern Mrs 1366 Sierra Dr NE 363-6333
STEWART Wiley J & Elaine 1041 Hermitage Wy S 585-0309
STEWART A L 4406 46th Av NE 393-8847
STEWART R 393-7122
STEWART Barney 990 Cordun Rd NE 364-0967
STEWART DR 371-2893
STEWART E L 362-5722
STEWART Howell C 150 4th Place NE 364-8138
STEWART Harold 137 Hubbel Rd SE 362-9235
STEWART Lowell & Margie 399-7056
STEWART R A & M A 4170 Million NE 393-0624
STEWART Richard 5315 Gallin Rd SE 364-5374
STEWART STICH Andrew T & Leslie 4124 Yellowstone Ct NE 505-1940
STEWART STICHA Robert R 1356 Camelia Dr S 371-9775
STEWART STICKA James R 4320 Sunnysd Rd SE 362-0698
STEWART STICKLES M 393-0615
STEWART STICKLEY Crystal 2231 Lee SE 364-2941
STEWART F A 4708 Deepwood Ln NE 364-7859
STEWART Larry 2053 Lone Star Ct SE 585-1277
STEWART STICKNEY A L 1425 Joplin S 581-5440
STEWART Bruce 6170 Lake Shore Ct N 393-3216
STEWART D L 364-9091
STEWART STIODE Robert L & Sharon A 4544 Pacific Ct NE 362-8926
STEWART STIDIAM Jeff 354 Liberty HJS 371-6425
STEWART STIEDER Conrad 2309 State 362-3620
STEWART STIEGLEITER John & Kyle 3936 Parady Ln NE 393-7907
STEWART STIEH Edmund A 7011 Knottwood Dr SE 362-0030
STEWART STIERS Frank A 4256 Lone Fir Av SE 364-9262
STEWART Frank K Jr 501-9129
STEWART Gary & Patsy 364-6964
STEWART Janius S 2121 Brookline Rd NE 393-1575
STEWART Michael 1612 Chomwa Rd NE 393-4969
STEWART STIFF Greg A 1657 Golder Av NW 585-1870
STEWART Herbert L 805 Winter NE 363-7030
STEWART STIFFLER D E 735 Engel Av NW 362-3850
STEWART J D 362-3400
STEWART Neal M 363-1344
STEWART Wayne 4782 Indiana Av NE 371-8846
STEWART STIGEN DL 364-0003
STEWART Sharon 394 Annette Ct NE 370-9553
STEWART STILES Dean A 1094 Swingwood Dr NE 393-5105
STEWART Jack L 250 Hoyt S 363-4600
STEWART Ken 2052 Baxter Rd SE 362-0375
STEWART Michael 4892 Silverton Rd NE 362-7342
STEWART P A 371-7304
STEWART STILTS WILLIAM K MD PC pht & sur 411 Mission St 585-5505
STEWART STILL Donald Cdr USN Ret 7780 Duncker Hill Rd S 363-8813
STEWART Frances E 1025 Kamela Dr S 581-4133
STEWART STILLIGAN Kelly 4110 Brookline Rd NE 390-3427
STEWART STILLINGER James L 2047 Sunnysd Av NW 363-5564
STEWART STILLINGS Edwin J & Mary 1676 Church SE 378-1115
STEWART STILSON James & Nadine 2217 Cole Rd S 364-7237
STEWART STILWELL IL 585 Winter NE 581-6320
STEWART STIMAC Joseph 393-3113
STEWART K 505-7935
STEWART STIMELI Waller 4918 Sadler Farm Ct SE 585-5201
STEWART STIMSON Maude M 3715 Jefferson St 581-3587
STEWART STINCHFIELD Frederick H (Rick) 144 Madison Av SE 364-5759

STINCHFIELD FREDERICK H (RICK) Boldt, Carlisle & Smith CPA 2001 Front NE 581-
STINER Edward V 4652 Westlawn Ct SE 58
STINGEL A R Howard J 1124 Chippewa Ln NE 397
STINGLEY Harry J 307 Kenton Pl 397
STINNETT Anna 397-8214
STINNETT Charles 4149 Gary NE 390
STINNETT CONSTRUCTION 7335 62d Av SE 364
STINNETT R J 1145 Spruce NE 395
STINNETT Ralph L 1296 7th NE 362
STINNETT Ray & Melanie 393
STINNETT Richard M 1040 Cedar St SE 581
STINNETT Rudy 1145 Spruce NE 364
STINNETT S & C 3274 Hollywd Dr NE 581
STINNETTE Dornice 581
STINSON Jan & Mike 3420 Gullport NE 397
STINSON Lance 4313 25th Av NE 397
STINSON M 3234 Pioneer Ct SE 371
STINSON M 3561 Silverth Place NE 395
STINSON M Drew 1152 Orchard Ct NE 397
STIRLING N 378
STITES Carl 2000 Brown Rd NE 581
STITES Cliff A 2967 Mendocino Dr NE 362
STITES Greg 581
STITES Paul & Ida 344 21st SE 378
STITES Tim 5781 Lord St 581
STJOHN Perry & Karol 371
STOKES Dean W 3458 Carnoustie Ln S 371
STOKES A E 790 Belmont NE 364
STOBBE Calvin & Leona 1038 Ibsen SE 378
STOBBE Larry L 362
STOCK D G 2493 Hyde St 581
STOCKARD Owen G 363 16th NE 397
STOCKBERGER Lewis 1075 Larmer Av NE 581
STOCKDALE Randolph B Elizabeth S 342 Sierra Ct NW 581
STOCKENBERG Bob 4074 Market NE 364
STOCKFLETH J 397
STOCKHAM Dell & Ramona 1480 5th NE 581
STOCKING Dale C 3750 Midway Av NE 371
STOCKMANS'S FARM & GARDEN 295 W Ellendale Dallas 622
STOCKS Alvin & Cynthia 581
STOCKSTILL Steve & Gail 1752 Cumulus Ct NW 581
STOCKTON Dwight & Loretta 364
STOCKTON Kelly & Ashley 581
STOCKTON Marlon P 581
STOCKTON Weldon R 362
STOCKWELL Amber 378
STOCKWELL Mel & Barb 2056 Turnage NW 395
STODDARD Benjamin F 1325 U Northeast 581
STODDARD F L 3464 Chiefs Ct NE 364
STODDARD Frank 5684 Tumbleweed Cir NE 397
STODDARD Imogene 3828 5th Av N 397
STODDARD J 397
STODDARD J & N 36
STODDARD S 397
STODDARD Todd & Shannon 4969 Rickman Dr NE 397
STODOLA Joseph 1980 Walker Rd NE 581
STOEHR R 5087 Sunnysd Rd SE 581
STOELTING F E 2232 42d Av SE 378
STOENNER Diane 274 Lake Rd SE 364
STOENNER Mark 1954 Winchester NW 364
STOENNER Michael 2438 Four Pl NE 364
STOENNER P 1931 Madison Dr N 397
STOGSDILL Ed & Connie 2525 Naudus NW 581
STOGSDILL Elisha 5495 Hallowell Pl NE 581
STOGSDILL Ann Marie 581
STOHL Kristina K 1244 W. 4th NW 581
STOHL Mary Ann 36
STOKER Roger & Margaret 3753 Bayou Dr SE 371
STOKER William 581
STOKES H Clarke Jr 371
STOKES Henry D 7105 Autumn Hills NE 364
STOKES Larry 1488 W. Miller Dr 364



**Securities Industry Association**

120 Broadway • New York, NY 10271-0080 • (212) 608 1000 • Fax (212) 608 1604

March 3, 1993

Representative Bill Hudson  
Alaska State Legislature  
State Capitol - Room 108  
Juneau, Alaska 99801-1182

Dear Representative Hudson:

I am writing on behalf of the Securities Industry Association (SIA)\*, to comment on two bills that are before the House Labor and Commerce Committee, namely, HB 113 and HB 54, both relating to telemarketing.

As the attached correspondence will indicate, I have discussed SIA's position on HB 113 with Jim Forbes at the Attorney General's office. Mr. Forbes was very helpful and has addressed our concerns. Therefore, SIA will not oppose HB 113, once the amendment that has been agreed to has been incorporated into the bill.

SIA opposes sections three and four of HB 54, relating to unlawful telephone solicitations. New federal regulations have gone into effect that regulate telemarketing activities (see attached memorandum). SIA believes that states should forego placing additional burdens on legitimate telemarketing in light of the new federal regulations which were adopted after extensive study.

The Federal Communications Commission has specifically rejected the option of a directory based "do not call" listing that has been called for in section four of HB 54. It rejected such an option on the basis that it would be expensive and ineffective.

The new federal regulations provide that telemarketers must have a system whereby a company must maintain a list of consumers who do not wish to receive additional phone calls from that company. This will avoid repeated calls from any given telemarketer, while allowing a consumer to receive calls that he or she may wish to receive. Additionally, the regulations restrict the hours during which telemarketing calls may be made and prohibit calls utilizing prerecorded messages, the source of most complaints with respect to telemarketing.

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\*SIA is the industry's trade association, representing the business interests of nearly 700 securities brokerages and investment banking firms in the United States and Canada. Collectively, they account for more than 90 percent of the securities activity in North America.

- 2 -

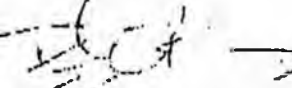
It would be very difficult for the securities industry to comply with sections three and four of HB 54. It is likely that many firms will discontinue doing business in Alaska except for servicing already existing accounts of their own firm. This would prove to be a disservice to Alaska consumers.

Therefore, SIA urges that HB 54 be amended by deleting sections three and four.

Finally, in the event that HB 54 progresses, SIA would urge that an exemption be included for persons selling securities or commodities. Besides being subject to the federal telemarketing regulations, such persons must comply with various laws, regulations and standards relating to sales practices.

If you have any questions or comments on SIA's position, please call me at (212) 618-0532. Thank you.

Sincerely,



Daniel J. Barry  
Attorney

2940W

**Securities Industry Association**

120 Broadway • New York, NY 10271-0080 • (212) 608-1400 • Fax (212) 608-1804

February 22, 1993

Mr. James Forbes, Esq.  
Office of the Attorney General  
Capitol Building  
Juneau, Alaska 99811

Dear Mr. Forbes:

Thank you for taking the time to discuss House Bill No. 113 with me. Anti-telemarketing legislation is of great concern to the securities industry.

Pursuant to our conversation, I have enclosed language that would change the securities industry exemption from one that excludes the sale of securities to one that excludes sales by broker-dealers registered with the SEC. This would provide for exemption when a broker sells his or her services, rather than merely covering sales of specific securities.

As you know, securities industry sales practices are subject to extensive regulation on the federal and state level, as well as rules and standards imposed by the securities exchanges and self-regulatory organizations. An additional layer of regulation would increase compliance costs - which are passed along to investors - without providing any meaningful, additional protection for consumers.

I will also be sending a copy of the suggested amendment to Representatives Larson and Hudson, the sponsor of H.B. 113 and the Chair of the Labor and Commerce Committee, respectively.

I am confident that our agreement to change the language of the exemption will provide for adequate consumer protection while avoiding unnecessary and overly burdensome regulation on the securities industry.

Thank you again for your cooperation.

Sincerely,

Daniel J. Barry  
Attorney

DJB/mz  
Att.  
2928W

PROPOSED AMENDMENT TO H.D. 113

**Sec 45.63.080 Exemptions.** This chapter does not apply to a sale or attempted sale

(1) by a person registered with the United States Securities and Exchange Commission, when acting within the scope of his or her license.

OR

(1) of securities or related services by a person registered with the United States Securities and Exchange Commission.

2928W-2



## Securities Industry Association

120 Broadway • New York, NY 10271 0080 • (212) 608-1400 • Fax (212) 608-1604

**The Securities Industry Association (SIA)\* opposes legislation that further restricts legitimate telemarketing activities.**

In the securities industry, virtually all business is conducted over the telephone. All sales practices are subject to a myriad of regulations on the federal and state levels, as well as rules and regulations imposed by the stock exchanges and self regulatory organizations.

### **New National Regulations Help Prevent Unwanted Calls**

Telemarketing regulation has increased in recent years. This trend culminated in enactment of national legislation - the Telephone Consumer Protection Act of 1991. Under this Act, the Federal Communications Commission (FCC) was required to extensively study the various methods by which telemarketing activities could be regulated and to promulgate regulations to provide for consumer protection. After a thorough study of the objectives of such restrictions, the many different methods that could be used to achieve those objectives, and the practicality of the various methods, the FCC issued new regulations that became effective December 20, 1992.

Specifically, the new federal regulations:

- o restrict telemarketing to the hours of 8:00 a.m. to 9:00 p.m.
- o require telemarketers to maintain a list of consumers that indicate they do not wish a telemarketer to call them again, and train their employees in the use of that list
- o require telemarketers to identify themselves, the company for whom they are calling and give the company's address or telephone number
- o prohibit solicitations to the residence of a consumer when an artificial or prerecorded message is used. This last category is the one that generates the most consumer complaints by far.

SIA believes the new FCC rules effectively provide for consumer protection from unwanted telephone solicitations. Further, they provide for uniformity in the regulation of telemarketing, which is beneficial to both legitimate telemarketers and to consumers.

SIA recommends no further consideration be given to restriction of telemarketing activities at the state level, because new federal rules now address consumer protection concerns.

SIA represents nearly 700 securities brokerage and investment banking firms in the U.S. and Canada. Members account for some 90% of the securities activity in North America.

2917W

Bill No.: HB 54

Date: March 8, 1993  
Contact: Marcia Lynn McKenzie  
465-4356

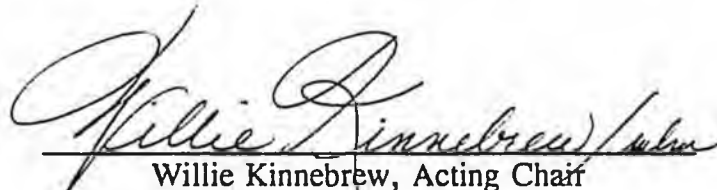
Title: "An Act relating to eavesdropping, telephone caller identification, and telephone directory listings and solicitations."

The Council on Domestic Violence & Sexual Assault supports HB 54 which would ensure that telephone caller identification (caller ID) service must be accompanied by a service, without charge to the customer, that prevents the caller's number from being read by the party with caller ID service.

The availability of unrestricted caller ID service would jeopardize the lives and safety of victims of domestic violence. A battered woman may have physically escaped her perpetrator but have need to contact him concerning child visitation or financial support. If the perpetrator subscribed to caller ID service, when a victim called him, he would easily be able to track down where she was through the use of a reverse telephone directory. This would not only endanger the victim herself, but could result in harassment or danger for those sheltering her, such as a safe home provider or shelter staff and other residents.

At least thirty-seven states have dealt with the issue of privacy and caller ID services. In New Jersey, which is one of only a very few states which allows caller ID service without blocking, shelters have reported that confidentiality of clients' whereabouts have been breached and that shelter staff have received abusive phone calls as a result of the caller ID service. Thus it is critical that caller ID service be accompanied by a blocking service.

The Council is also concerned that the blocking service be made available at no charge to the customer. Victims of domestic violence who flee their homes for protection often have little or no money. Also, shelter programs are non-profit community-based agencies with minimal financial resources. The additional financial burden of having to pay for caller ID blocking services will only reduce resources available for direct services for victims.



Willie Kinnebrew, Acting Chair  
Council on Domestic Violence  
& Sexual Assault

## Nonlisted Telephone Customers in Alaska

(Nonlisted includes "nonpublished")

### Anchorage Telephone Utility (ATU) - 1990:

Residential Lines 76,982

Nonlisted 18,560

24%

#### Serving:

Anchorage, Bird, Indian, Girdwood  
Hope

### Telephone Utilities of Alaska (TUA) - 1992:

Access Lines 22,715

Nonlisted 7,675

34%

Juneau, Douglas, Ft. Wainwright

### Telephone Utilities of the Northland (TUNI) - 1992:

Access Lines 43,723

Nonlisted 13,503

31%

Coffman Cove, Delta Junction, False Pass,  
Halibut Cove, Homer, North Pole, Pedro Bay  
etc.

### GTE Alaska - 1992:

Access Lines 14,253

Nonlisted 2,743

19%

Barrow, Bethel, Haines, Hyder  
Nome, Petersburg, Seward, etc.

### Interior Telephone Company - 1992:

Access Lines 3,146

Nonlisted 935

30%

Cold Bay, Cooper Landing, Ft. Yukon  
Galena, King Cove, Port Lions, etc.

#### Sources:

Directory Assistance, Docket R-89-2, APUC

ATU Cost of Service Study, Docket U-92-6, APUC

**Exhibit 3  
Per-Call Blocking Has Emerged as the Dominant Scheme**

Source: the Yankee Group, 1993

RBOC	Caller ID Approved Without Blocking	Caller ID Approved With Free Per-Call Blocking	Caller ID Approved With Per-Line Blocking	Caller ID Rejected or Tariffs Withdrawn	Caller ID Decision Pending
Bell Atlantic	Virginia, New Jersey, and West Virginia	District of Columbia, Delaware*, and Maryland*		Pennsylvania	
BellSouth	Louisiana, Mississippi, and Tennessee	Alabama*, Georgia, Florida*, South Carolina, Kentucky*, and North Carolina	South Carolina#, North Carolina†, and Georgia†		
Meritech		Illinois, Ohio*, Indiana*, and Michigan			Wisconsin
NYNEX		New York*, New Hampshire*, Maine*, Massachusetts*, and Vermont*	New York†, New Hampshire†, Massachusetts†, and Vermont†		Rhode Island
US WEST		Arizona*, Colorado*, Idaho*, Iowa*, Nebraska*, New Mexico*, Oregon*, Washington*, and Wyoming*	Arizona†, Colorado†, Idaho#, Iowa#, Nebraska#, New Mexico†, Oregon†, Washington†, and Wyoming†		
Southwestern Bell		Oklahoma, Arkansas*, and Kansas*		Texas	Missouri
Pacific Telesis		Nevada	Nevada†	California	

Note: Tariff tentatively approved, pending legal review or trial results.

- # Per-line blocking available for a one-time fee.
- \* Per-line blocking must be offered to special organizations, such as law enforcement.
- † Free upon request

# Who Am I?



You remember me don't you? You spent thousands or perhaps millions of dollars to get me to buy your product or service, call your 800 number, or purchase out of your catalog.

And as you continue to invest millions of dollars each year to reach customers like me, it is more important than ever that you understand precisely who I am...

The first step to knowing me better is as easy as retrieving my phone number in an Automatic Number Identification environment. Within seconds, you can search your internal database to see if I've purchased from you before. And if it's not to be found, there's only one place to go — to MetroNet®.

MetroNet® gives you immediate access to information on 117 million consumers in 83 million households nationwide: recent addresses; phone numbers; specific demographics and household information.

By matching my telephone number against the MetroNet® system, you can discover my name and address in just moments. This vital information can then be used to increase operator productivity by reducing the amount of information you need to take from me during a sales pitch. Or use it to develop detailed customer profiles for future marketing strategies.

What used to be a monumental task is now as simple as matching my phone number against the extensive data resources of the MetroNet® system.

For more information about MetroNet®, call us at (708) 620-3012 or 1 (800) MMM-MAIL.

**|||||METRONET**

SERVICE STATISTICS  
NUMBER OF SERVICES PROVIDED  
FY91

ALL PROGRAMS

CLIENT SERVICES PROVIDED:

ADVOCACY:

Medical Accompaniment	788
Transportation	2,569
All Other Advocacy	5,113

COUNSELING:

Group	28,130
Crisis Counseling	8,499
Other Counseling	43,190

LEGAL ASSISTANCE:

Temporary Restraining Order	1,852
Divorce/Dissolution	609
Court Services (includes accompaniment & representation)	897
Advocacy to Law Enforcement	598
All Other Legal Assistance	4,611

OTHER:

Follow-up	2,647
Safety Checks	3,792
Child Care	7,073
Other	2,847
Report to DFYS	640
Consultations	19,901

REFERRALS:

Number from:

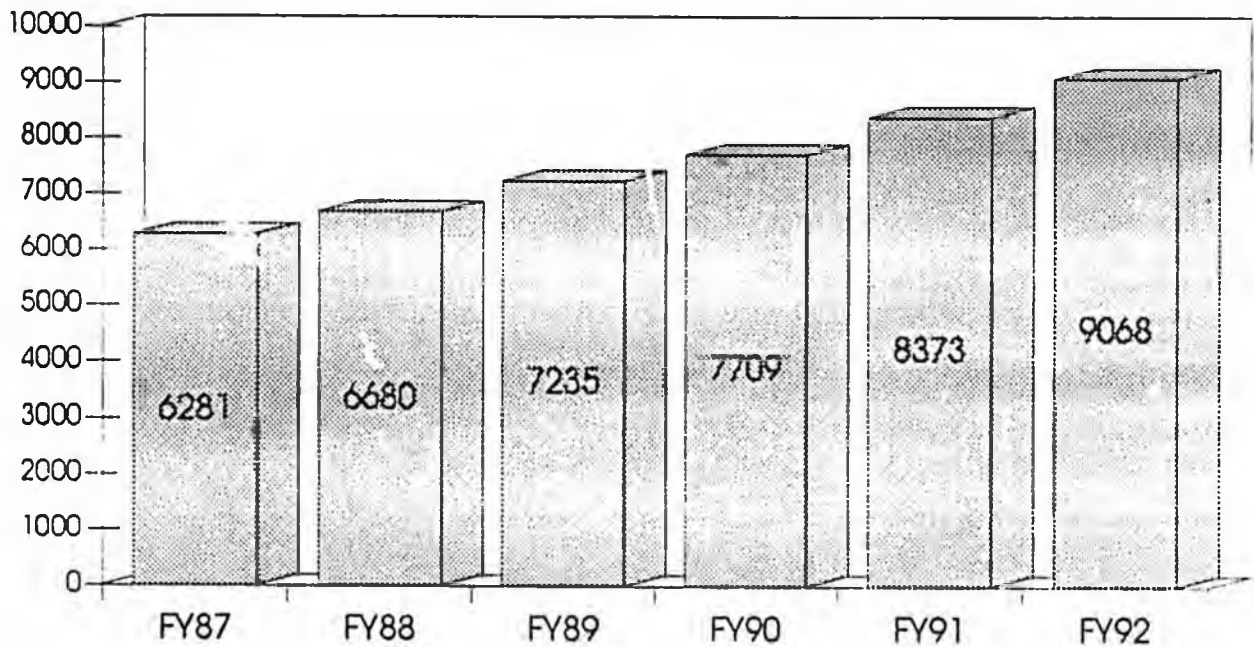
Social Services	106
DV/SA Agency	360
Medical	171
Mental Health	92
Alcohol Agency	2,407
Program Outreach	753
Criminal Justice	860
All Other	880

Number to:

Social Services	295
DV/SA Agency	1,169
Medical	2,086
Mental Health Agency	1,569
Alcohol Agency	295
Criminal Justice	1,160
All Other	2,066

## Victims Served by Council-Funded Programs FY1987 to FY1992

### Number of Victims Served



Percent Change from FY87 to FY92 = 44% Increase

Provided by the Alaska Network on Domestic Violence and Sexual Assault  
Source: Council on Domestic Violence and Sexual Assault



## NEW JERSEY GENERAL ASSEMBLY

DAVID C. RUSSO  
 ASSEMBLYMAN 40TH DISTRICT  
 BERGEN-PASSAIC COUNTIES  
 22 PATERSON AVENUE  
 MIDLAND PARK, NJ 07433  
 (201) 444-9719  
 FAX (201) 444-9732

COMMITTEES  
 VICE CHAIRMAN,  
 ENVIRONMENTAL  
 QUALITY  
 ENERGY & HAZARDOUS  
 WASTE  
 STATE GOVERNMENT  
 NJ HISTORICAL  
 COMMISSION

\*\*\*FOR IMMEDIATE RELEASE\*\*\*

February 1, 1993

### ASSEMBLYMAN RUSSO INTRODUCES LEGISLATION TO BLOCK CALLER ID

Assemblyman David C. Russo, R-Ridgewood, has introduced legislation that will require New Jersey Bell to provide its customers with the no-cost option of having Caller ID blocked. Caller ID is a service that provides the date, time, and telephone number of an incoming call.

Approximately 200,000 of New Jersey Bell's 3 million customers have Caller ID. The service costs \$6.50 a month.

Since the service was introduced to subscribers in 1988, New Jersey Bell has offered it only in unrestricted form. The service was introduced to New Jersey Bell customers as a way to discourage obscene callers and other harassers. But others believe that it invades the privacy of those who have their telephone numbers unlisted. Some even cite instances where it has been harmful to women who are seeking shelter from their abusive boyfriends or husbands.

The State Board of Regulatory Commissioners recently voted to reconsider its 1988 decision approving unrestricted Caller ID. The case will be sent to a state administrative law judge. However, the board will still have the authority to accept or reject the decision of the judge.

Russo's proposal will offer blocking of Caller ID as a no-cost option to the telephone subscriber. Of the 26 states that currently provide Caller ID, all but six offer the blocking option. In fact, Pennsylvania banned the service outright, after a court ruling there found caller identification services to be an illegal invasion of privacy and violation of the state's wiretap law.

"It's important that New Jersey Bell offers the no-cost option to block Caller ID for those individuals that may want their privacy protected," explained Russo. "Telephone companies in other states offer blocking of Caller ID service. I don't see why we can't have the same option here in New Jersey."

The measure, A-2236, has been referred to the Assembly Transportation and Communications Committee for review.

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Computers, yes.  
Information, no



## U.S. Concerned About Use of Information

A recently released Harris Poll indicates that Americans are concerned about how credit and other information about themselves is being used by the multitude of people with access.

By Owen M'Neil  
New York

The overwhelming majority of the nation's public is concerned about threats to their personal privacy posed by computer records, and perceives that consumers have lost control over the use of personal information they provide to businesses, according to a poll released last November.

The poll was conducted by Louis Harris and Associates for Equifax, a company that sells names and addresses for mailing lists. It found that nearly 80 percent of Americans are concerned, or very concerned, about threats to their privacy due to the increased use of computerized records.

Three out of four respondents said that consumers have lost all control over how personal information is used by companies, and 55 percent said that they expect privacy to be even more at risk by the turn of the century. A solid majority of 63 percent said that computer use must be sharply restricted in the future if privacy is to be preserved.

But the public seemed a little more lenient when questioned about specific uses of personal data,

and majorities approved record access in the following categories:

- Auto insurance companies checking an applicant's driving record (77 percent)
- Employers checking criminal convictions when a person applies for a job (75 percent)
- Businesses checking bankruptcy and other financial records when a consumer applies for credit (71 percent)

between the consumer and business," he said.

Fewer than one-third of all the respondents (29 percent) agreed that the privacy of personal information in computers is adequately safeguarded — a figure down by five percentage points from the 1991 survey.

Sixty-seven percent agreed that if privacy is to be preserved, the use of computers must be sharply

restricted for government records to be available without restrictions or controls in the following circumstances:

- For a private individual to obtain public record information about another person (80 percent)
- For companies to obtain public record lists in order to mail people information about products and services (67 percent)
- For private investigators to obtain public record information on individuals for "leads" (53 percent)

On the other hand, the poll found that 89 percent agree that computers give people more convenient access to useful information and services. Nearly 80 percent agreed that computers have improved the quality of life in our society, and 78 percent agree that computers provide customers with more individualized service than before.

The public's belief that computers have improved life has been growing over the last several years. In 1978, for example, only 63 percent of the respondents were in agreement with the statement.

Pollsters conducted telephone interviews with 1,254 randomly selected adults last June. All regions of the country were covered, and the margin of error was plus or minus 3 percent.

Nearly 80 percent of Americans are concerned, or very concerned, about threats to their privacy due to the increased use of computerized records.

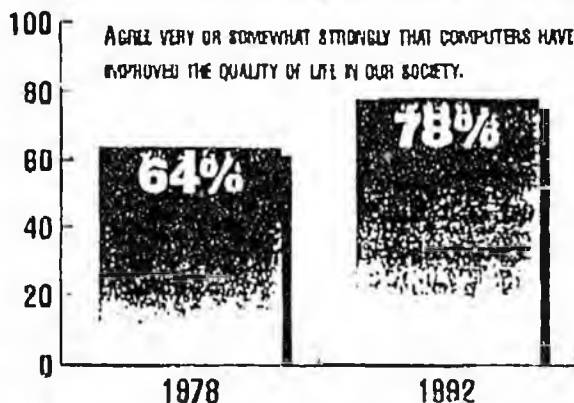
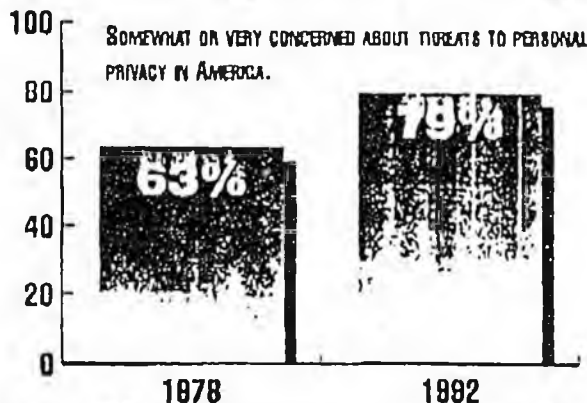
According to Columbia University Professor Dr. Alan Westin, who was an advisor for the poll, the figures show a sophisticated public that approves of the use of personal data if there is a justifiable purpose behind it.

"Their approval for these categories rest on the idea that the consumer initiated the transaction, and it is an appropriate procedure

restricted in the future." This figure remained unchanged from the previous years poll.

Another finding was that only one-third of the public feels comfortable using personal information in government records that is freely accessible.

In fact, a solid majority of the respondents feel that it was either a "cause for concern" or "not permis-



## on PRIVACY

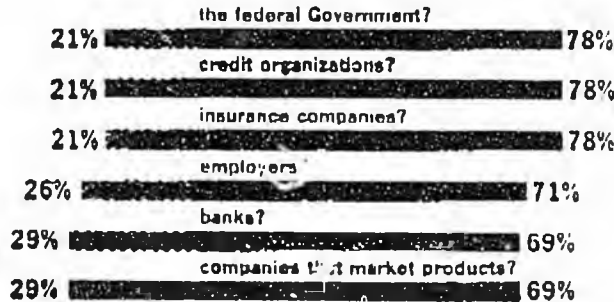
From a telephone poll of 500 Americans aged 18 and over Oct. 27 to November 1, 1991. Margin of error is plus or minus 3.5%.

### Are you concerned about the amount of computerized information that business and the government collect and store about you?

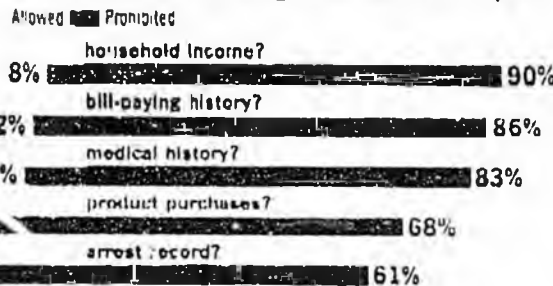
Not very concerned  Very/somewhat concerned

23%  76%

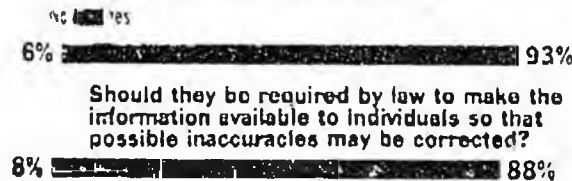
### In detail, how concerned are you about the amount of information collected by:



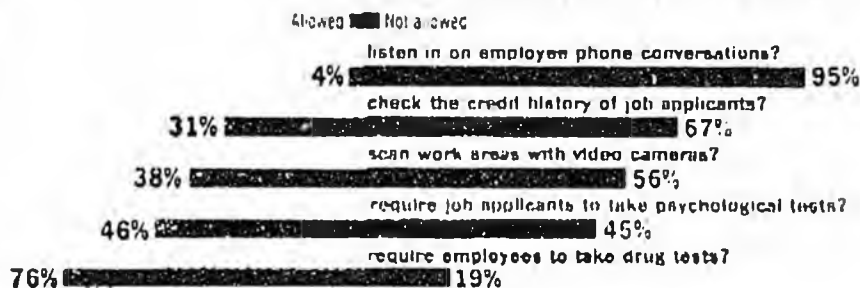
### Companies that collect and sell information: Should they be allowed to sell or prohibited by law from selling information about you?



### Legal protection: Should companies that sell information to others be required by law to ask permission from individuals before making the information available?



### Employers: Should employers be allowed or not allowed to:



### Movie rentals: Many video stores compile information about the types of movies people rent. Should they be allowed to sell or prohibited by law from selling this type of information?

38%  54%

sold to government agencies, mortgage lenders, retailers, small businesses, marketers and insurers. When making loan decisions, banks rely on credit-bureau reports about the applicant's bill-paying history. Employers often refer to them in making hiring decisions. Marketers use information about buying habits and income to target their mail-order and telephone pitches. Even government agencies are plugging in to commercial data bases to make decisions about eligibility for health-care benefits and Social Security.

"In the not too distant future, consumers face the prospect that a computer somewhere will compile records about every place they go and everything they purchase," says Democrat Bob Wise of West Virginia, who heads the House subcommittee that oversees the government's use of data. "I'm not sure this is the vision of the future that will make Americans comfortable."

Because computer information is stored on small disks, it tends to be more enduring than paper records of old, which had to be discarded from time to time to make room for new files. As a result, long-ago personal setbacks can now embed themselves in the permanent record. Two influential trade groups, the American Business Conference and the National Alliance of Business, have even joined with the Educational Testing Service, which conducts the Scholastic Aptitude Tests, in creating a pilot program for a nationwide data base of high school records. It would give employers access to a job applicant's grades, attendance history and the ancient evaluations of teachers. Just like Mother warned you—a ninth-grade report card could follow you for life.

Privacy watchdogs are warning that the combination of invasive technologies and lax laws threatens to make the U.S. a nation of people who live in glass houses, their every move open to scrutiny by outsiders. "I see no reason why McDonald's needs to know my Social Security number or my previous job title," complains New York Law School professor E. Donald Shapiro, a privacy specialist. "The danger is not that direct marketing companies will clog your mailbox or call you during dinner to hawk commemorative coins," says David Linowes, former chairman of the U.S. Privacy Protection Commission. "The danger is that employers, banks and government agencies will use data bases to make decisions about our lives without our knowing about it."

At the same time, privacy is not an absolute value. With U.S. banks being used as a conduit for drug money, for example, law-enforcement officials have pressed them to report any suspicious movement of cash. Though that may involve a conflict with traditional notions of banker-client confidentiality, many banks have been willing to comply. "The social value of helping to fight drugs outweighs, at least to some extent, the privacy issue," says Jack Kil-

H B

G 2

# HOUSE COMMITTEE REPORT

(7)

Date Referred: January 15, 1993

FURTHER REFERRALS:

Judiciary

Date of Committee Action: 2/16/93

The LABOR AND COMMERCE Committee considered:

HB 62

HOUSE BILL NO. 62

EMPLOYEE'S RIGHT TO USE LAWFUL PRODUCTS

"An Act prohibiting employers from discriminating against individuals who use legal products in a legal manner outside of work."

- RECOMMENDATIONS:  the same title  
 be replaced with \_\_\_\_\_  a new title  
 have attached amendments(s)  
 do pass  
 do not pass  
 no recommendations  
 individual recommendations  
 additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW/ FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact \_\_\_\_\_

fiscal note(s) \_\_\_\_\_

zero fiscal note Adm., Labor.

zero fiscal note(s) \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Joe Sutton</i>	✓	<i>Brian D. Porter</i>		✓	
<i>John H. ...</i>	✓	<i>...</i>		✓	
<i>W. F. Williams</i>	✓				
<i>Bill Hinds</i>	✓				

*Bill Hinds*  
 CHAIRMAN'S SIGNATURE

# Alaska State Legislature

REPRESENTATIVE  
BEN GRUSSENDORF  
1221 HALIBUT POINT ROAD  
SITKA, ALASKA 99836  
(907) 747-8458

FINANCE COMMITTEE

DISTRICT 2  
KUPREANOF  
PETERSBURG  
SITKA  
WRANGELL



WHILE IN JUNEAU  
STATE CAPITOL  
JUNEAU, ALASKA 99801-1102  
(907) 465-3824

## House of Representatives

### MEMORANDUM

To: Rep. Bill Hudson  
Chairman  
House Labor & Commerce Committee

From: Rep. Ben Grussendorf

Date: February 2, 1993

Re: House Bill No. 62  
"An Act prohibiting employers from discriminating  
against individuals who use legal products in a legal  
manner outside of work."

This is to request a Labor & Commerce Committee hearing on the above-referenced bill, of which I am the prime sponsor.

The bill is identical to HCS CS SB 340 (JUD), which died in the House Rules Committee at the end of the Seventeenth Alaska Legislature.

The basic purpose of the measure is to protect an employee from workplace discrimination based solely on that employee's use of a legal product in a legal manner while on that employee's own time.

Attached to this memorandum are a number of letters of support, a newspaper editorial, and the results of a survey on workplace privacy conducted by the National Consumer's League. Alaska was one of four states (Arizona, Utah and Washington were the others) participating in the survey, and the results clearly show that residents of Alaska have a strong interest in protecting employees' privacy rights.

I will be available to testify on this bill at your convenience. Thank you for your consideration in this matter.

HOUSE CS FOR CS FOR SENATE BILL NO. 340 (JUDICIARY)  
 IN THE LEGISLATURE OF THE STATE OF ALASKA  
 SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 5/12/92

Referred: Rules

Sponsor(s): SENATORS DUNCAN, Eliason, Jones, Uehling, Rodey, Shultz

A BILL

FOR AN ACT ENTITLED

1 "An Act prohibiting employers from discriminating against individuals who use legal  
 2 products in a legal manner outside of work."

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

4 \* Section 1. AS 23.10 is amended by adding a new section to read:

5 Sec. 23.10.440. NONDISCRIMINATION FOR LAWFUL USE OF PRODUCTS. (a)

6 An employer may not refuse to hire, discharge, or otherwise discriminate against an individual  
 7 with respect to compensation, privileges, terms, or conditions of employment because the  
 8 individual uses a lawful product in a lawful manner during nonworking hours and for the  
 9 individual's personal consumption when not wearing or carrying clothing or other items that  
 10 identify the individual as an employee of the employer and when in places other than the work  
 11 site or the premises or vehicles of the employer.

12 (b) It is not unlawful or an unfair employment practice under this section for an employer  
 13 to

14 (1) discharge an individual or otherwise disadvantage an individual with respect

1 to compensation, terms, conditions, or privileges of employment if that decision is based on the  
2 individual's failure to meet job performance standards including job performance standards based  
3 on the use of lawful products;

4 (2) offer, impose, or have in effect a health, disability, or life insurance policy that  
5 makes distinctions between employees for the type of coverage or the coverage based upon the  
6 employees' use of legal products; if differential premium rates apply,

7 (A) the differential premium rates charged employees must reflect a  
8 differential cost to the employer; and

9 (B) the employer shall provide employees with a written statement setting  
10 out the differential rates used by the insurance carriers.

11 (c) This section does not apply to a religious corporation, association, educational  
12 institution, or society with respect to the employment of individuals who perform work connected  
13 with the carrying on, by the religious entity, of its activities.

14 (d) This section does not supersede a federal or state law that protects the health, safety,  
15 or well-being of the general public.

16 (e) In this section,

17 (1) "employee" means a person employed by an employer;

18 (2) "employer" means a person, including the state and political subdivisions of  
19 the state, that employs 10 or more persons in the state.

FOR IMMEDIATE RELEASE  
March 23, 1992  
Contact: Pete Carran

**STATE SENATE APPROVES EMPLOYEE RIGHTS BILL  
SPONSORED BY SENATOR JIM DUNCAN**

The State Senate today approved legislation sponsored by Senator Jim Duncan of Juneau that strengthens employee rights. Senate Bill 340 forbids Alaskan employers to discriminate based on the use of legal products in a legal manner outside the work place.

"The criteria for hiring, firing, and promotions should be based exclusively on work performance," Senator Duncan said. The use of legal products consumed on their own time in a legal fashion should not be a factor in these decisions. It is a right of privacy issue. Even though our state constitution recognizes privacy as an 'inherent right', I feel it also needs to be spelled out in the appropriate state statute." The bill includes the prohibition in Title 23 of Alaska law that deals with labor and workers' compensation.

Senator Duncan said the legislation is in response to a nationwide trend on the part of some employers to forbid the use of products, such as alcohol and tobacco, outside the work place as a condition of employment. The bill has no effect on employer's ability to establish such policies on the work place during working hours, according to Senator Duncan.

The measure contains language preventing employers from discriminating in this fashion "...with respect to compensation, terms, conditions or privileges of employment."

SB 340 now moves to the State House.

Gerald E. Grilly  
Publisher



Howard Weaver  
Editor

Michael Carey, Editorial Page Editor

Patrick Cougherty, Managing Editor

Katherine Fanning, Editor and Publisher 1971 to 1983  
Lawrence Fanning, Editor and Publisher 1967 to 1971

Founded in 1946 by Norman C. Brown

## Nose out

*For once, the tobacco lobby is right*

American tobacco firms routinely bombard the public with transparently bogus or self-serving rhetoric.

Listening to the industry line, you'd think that there's still some doubt smoking causes cancer; that tobacco firms are disinterested guardians of the First Amendment and that smokers have made rational, fully informed decisions to take up their addictive and life-shortening habit.

But there is one instance where the tobacco industry has a legitimate point. The move by some firms to ban all smoking by all employees — not just at work, but off the job, too — is an illegitimate intrusion on workers' privacy.

Some 6,000 firms refuse to hire smokers, according to The New York Times. A case from Indiana drew national attention earlier this year when a woman was fired because a random drug test showed she'd been smoking cigarettes at home.

Smoking isn't the only unhealthy habit that gets workers in trouble with nosy employers. Best Lock Corporation of Indianapolis bars its workers from drinking alcohol — any time, anywhere. The city of Athens, Ga., even went so far as to reject job applicants with high cholesterol levels.

How do employers rationalize trying to run their workers' private lives? The best answer they can give is that bad habits like smoking or drinking can drive up their health insurance bills.

When that's the case, firms have good reason to charge those workers higher insurance premiums. But they don't have any grounds to tell employees how to live their lives outside of working hours.

In the workplace, only one question should matter: How well do workers do their jobs? As long as what employees do on their own time doesn't affect their job performance, it's none of their employers' business.

# ALASKA STATE AFL-CIO

2501 Commercial Dr.  
Anchorage, Alaska 99501  
(907) 258-6284



819 1st Ave.  
Fairbanks, Alaska 99701  
(907) 456-2030

MANO FREY  
Executive President

GARY BROOKS  
Secretary / Treasurer

FEBRUARY 11, 1992

TO: MEMBERS OF THE SENATE JUDICIARY COMMITTEE

FROM: PAT SMUTZ, BUSINESS REPRESENTATIVE *Pat*

RE: SENATE BILL 340

The Alaska State AFL-CIO has always supported the right of privacy for individuals. We have always believed that what an individual does on their own time is their own business as long as it doesn't interfere with the rights of others or doesn't present a danger to anyone.

With this in mind the Alaska State AFL-CIO would like to go on record as being in support of Senate Bill 340. Thank you for your consideration.

Statement by the AFL-CIO Executive Council

on

Employee Privacy

February 19, 1991

Bal Harbour, FL

Employers in increasing numbers are seeking to probe--and then to regulate--the most private aspects of their employees' lives away from work. The AFL-CIO opposes these invasions of employee privacy.

Employers continue to interrogate employees about their union sympathies, political beliefs, financial status and other personal matters.

Random drug testing policies applied without any requirement of reasonable suspicion of wrongdoing--which are inconsistent with a basic regard for worker dignity and autonomy--is now endemic in American workplaces.

To shift the blame for rising health care and compensation costs to their employees--and to further their personal agendas--employers are increasingly seeking to regulate workers' off-the-job behavior. These restrictions make use of the employer's economic leverage to prohibit workers from engaging in perfectly lawful activities. Employers go so far as to specify whether employees can smoke at home and what employees can eat or drink at their own dinner tables.

As a matter of course, employers also conduct medical exams and genetic tests to screen out employees thought to be at increased risk of developing a disease in the future. Medical screening reveals the most intimate details of employee health, including those that have no relation to job performance.

Secret employer telephone eavesdropping on employee-customer calls permitted through a little known loophole in the federal wiretap code, is yet another often-used technique that has no place in a free society.

These employer surveillance tactics undermine basic privacy and due process rights. Yet to date, there has been only limited legislative protection for these rights; the polygraph bill and the Americans with Disability Act are the most conspicuous exceptions. The AFL-CIO is committed to enhancing the dignity of working men and women and to preventing intrusions into workers' privacy. We support legislation that would go further than present law to preserve and enhance worker privacy and to outlaw management practices which intrude on those privacy interests.

###



# THE NATIONAL BLACK CAUCUS OF STATE LEGISLATORS

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President

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EXECUTIVE DIRECTOR  
C. Ayo Bryan

**NBCSL GENERAL ASSEMBLY MEETING  
DECEMBER 6, 1991  
LAS VEGAS, NEVADA**

## RESOLUTION ON EMPLOYEE PRIVACY

**WHEREAS:** It has come to the attention of the National Black Caucus of State Legislators that individuals have been fired from their jobs or disadvantaged in other employment and compensation decisions for smoking tobacco products in the privacy of their homes; and

**WHEREAS:** There is a growing trend in job classification notices published in daily newspapers to stipulate "smokers need not apply" and "nonsmokers only"; and

**WHEREAS:** Twenty-one state legislatures have enacted legislation protecting employee privacy; and

**WHEREAS:** The National Black Caucus of State Legislators believes in individual privacy; and

**WHEREAS:** The National Black Caucus of State Legislators believes that employment decisions should be based solely on an individual's job skills, training and performance

**THEREFORE BE IT RESOLVED:** The National Black Caucus of State Legislators supports legislation that would make it unlawful for employers to refuse to hire or to discharge any individual, or otherwise disadvantage any individual, with respect to compensation, terms, conditions or privileges of employment because the individual is a smoker or non-smoker; and

The National Black Caucus of State Legislators supports legislation that would make it unlawful for an employer to require as a condition of employment that any employee or applicant for employment abstain from smoking or using tobacco products during nonworking hours, provided the individual complies with applicable laws or policies regulating smoking on the premises of the employer during working hours.



National  
Consumers  
League  
Founded 1899

315 15th Street NW • Suite 928-N • Washington, DC 20005 • (202) 639-8140

Linda F. Golodner, Executive Director

January 15, 1992

Dear Editor:

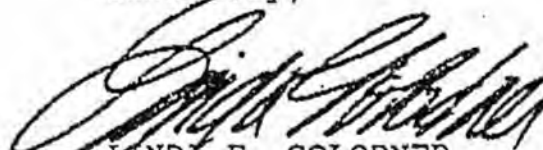
Attached are a news release and report on a special survey commissioned by The National Consumers League on vital issues of workplace privacy in Alaska. The survey is being released in Alaska by the Older Persons Action Group.

The vast majority of those polled in Alaska believe that employers and prospective employers have no business asking applicants and employees about religion, smoking habits, lifestyle, outside hobbies and activities, and other personal, off-the-job factors which have nothing to do with their ability to perform a job. They also believe an employer has no right to force an employee to change diet, stop smoking, or quit a second job. Those polled in Alaska were also opposed to credit checks on job applicants and monitoring of personal telephone calls.

In spite of their opposition to such intrusions on their personal lives, many respondents reported that they or someone they knew had had such an experience.

Because of the importance of this issue and the overwhelming reaction of people in Alaska to the questions we have put to them, we have taken the unusual step of expressing the survey results to you.

Sincerely,



LINDA F. GOLODNER  
President

LFG:jb  
Attachments

Officers: Robert R. Nathan, Honorary Chairman • Esther Peterson, Honorary President • Jack Blum, President •  
Ruth Jordan, Vice President • Bert Seidman, Vice President • Jane King, Secretary • Barbara Warden, Treasurer

FOR IMMEDIATE RELEASE  
January 16, 1992

CONTACT: Linda Golodner  
202-639-8140  
Vera Gazaway  
907-276-1059

WORKPLACE PRIVACY SURVEY

ALASKA FEATURED IN MAJOR PUBLIC OPINION POLL  
ON WHAT THE BOSS NEEDS TO KNOW ABOUT EMPLOYEES

WASHINGTON, D.C. ---- People in Alaska value their privacy, on the job and outside the workplace. The vast majority says that the boss has no business asking questions about the private lives, lifestyles, and off-work activities of job applicants and employees. Although most Alaskans believe employers should not ask these questions, many of those polled reported that an employer has done such things either to them or to someone they know.

Alaska was one of four states participating in the survey released today by the National Consumers League and the Older Persons Action Group in Anchorage.

The other states were Arizona, Utah, and Washington.

According to the Penn and Schoen Associates poll for the National Consumers League, Americans clearly believe:

- o Employers have no right to ask intrusive questions during job interviews.
- o It is inappropriate for employers to hire and fire an employee for personal matters unrelated to the job.
- o Employers have no right to try to change personal habits and lifestyles of employees.

Linda F. Golodner, executive director of the National Consumers League, said: "This poll confirms what we have found in many other states - that Americans believe they have a right to privacy on the job and off the job. It also shows that a significant number of employers are not respecting those rights."

In releasing the report, Vera Gazaway, executive director of the Older Persons Action Group, said: "The poll also reveals the vast majority of workers in Alaska are adamantly opposed to attempts by employers to force upon them a company-blessed lifestyle. Those 65 and over who were polled are in agreement with the rest of the state's population. As far as they are concerned, it's none of the boss's business who employees date, how much they eat, whether they smoke, take part in a political demonstration, hold a second job, drive a motorcycle, or have pending workers' compensation claims.

"As far as Alaska senior citizens and the general public are concerned, the ability to perform the job should be the sole criterion for winning and holding a job," she said.

#### I. NO RIGHT TO ASK

Overwhelmingly, those interviewed in Alaska said a prospective employer has no right to ask the following questions:

- o 88 percent, about an applicant's religion;
- o 87 percent, whether applicant lived with member of opposite sex;
- o 84 percent, if applicant had elderly parents;
- o 82 percent, whether applicant planned to have children;
- o 77 percent, if applicant smoked after work hours;
- o 59 percent, about hobbies and outside activities; and
- o 53 percent, about applicant's marital status.

#### II. NO JUSTIFICATION FOR HIRING OR FIRING

Those surveyed in Alaska were presented with nine examples of activities that employees may pursue on their own time away from work, their physical condition, and controversial opinions they may hold. Respondents were asked if they thought it was appropriate for the employer to base a decision to hire or fire on these criteria:

- o 98 percent said it was inappropriate for an employer to base hiring or firing on whether an individual dated a person of a different race.
- o 98 percent said whether an individual drives a motorcycle should not be a criterion.
- o 91 percent said participating in political demonstrations should not be a basis for hiring or firing.

- o 91 percent said it was inappropriate for employers to consider whether an employee participates in gambling at a racetrack.
- o 74 percent said holding an unusual second job should not be a consideration for employers.
- o 84 percent said being overweight should not be a consideration in hiring or firing an individual.
- o 95 percent said it was inappropriate to base hiring or firing on an individual's support for abortion.
- o 97 percent said it was inappropriate to base hiring or firing on an individual's opposition to abortion.
- o 94 percent said it was inappropriate to base hiring or firing on whether an individual smoked after work hours.

### III. NO RIGHT TO FORCE A CHANGE IN LIFESTYLE

The vast majority of Americans believe that employers have no right to force employees to change their lifestyles.

Here's the level at which survey respondents in Alaska opposed employer rights in the following categories:

- o 77 percent opposed employers monitoring personal telephone conversations.
- o 86 percent opposed a prohibition of employees dating rival firm employees.
- o 81 percent opposed an employer's refusal to hire an overweight person.
- o 78 percent opposed an employer's refusal to hire a smoker.
- o 92 percent opposed an employer's requirement that an employee or job applicant change his or her diet.
- o 85 percent opposed requiring an employee to quit smoking.
- o 68 percent opposed an employer requiring an employee to quit a second job.
- o 67 percent opposed employers performing a credit check on a prospective employee.

### IV. PERSONAL EXPERIENCE

The poll also asked Alaskans if they or anyone they knew had ever been asked any of the types of questions they objected to from employers. Sixty percent said they had been asked about their marital status;

- o 45 percent, about outside hobbies and activities;
- o 21 percent, about their religion;
- o 15 percent about whether or not they planned to have children;

- o 15 percent, about whether or not they smoked away from the workplace;
- o 7 percent, whether they had elderly parents; and
- o 6 percent, whether they lived with a non-family member of the opposite sex.

Seventeen percent reported personal experience with monitored personal telephone conversations;

- o 17 percent, credit checks on prospective employees;
- o 15 percent, required to quit a second job;
- o 13 percent, refused to hire an overweight person;
- o 10 percent, refused to hire a smoker;
- o 7 percent, required an employee or applicant to quit smoking;
- o 6 percent, forbid an employee or applicant from dating an employee from a rival firm; and
- o 4 percent, required an employee or applicant to change diet.

Nine percent of those polled indicated they or someone they knew had been denied a job or fired because of a weight problem;

- o 7 percent because of an unusual second job;
- o 7 percent because of participation in a political demonstration;
- o 3 percent for smoking away from the workplace;
- o 4 percent for dating a person of a different race;
- o 2 percent for driving a motorcycle;
- o 2 percent for gambling at a racetrack; and
- o 1 percent for supporting or opposing abortion.

The Penn and Schoen poll, conducted in December 1991 on behalf of the National Consumers League, was based on a random sample of 609 respondents in Alaska. The margin of error in the survey is +/- four percent.

The National Consumers League, founded in 1899, is a private, non-profit consumer advocacy organization concerned with workplace and marketplace issues.

**INDIVIDUAL PRIVACY  
AND EMPLOYMENT RIGHTS  
IN ALASKA**

**A Survey by  
Penn + Schoen Associates, Inc.  
Conducted for the National Consumers League  
January 2, 1992**

## INTRODUCTION

Interviews were held in December 1991 with 609 residents of Alaska for the purposes of determining citizens' attitudes toward privacy, their knowledge of employment rights, and the extent to which employers have acted to limit these rights. All respondents were 18 years of age or older. The survey was commissioned by the National Consumers League.

Interviewing was done by telephone from the central telephone facilities of Penn + Schoen Associates at the headquarters in New York City. The margin of error for the entire sample is +/- 4.0%, but is higher for sub-groups.

## EXECUTIVE SUMMARY

### Summary of Key Finding

Despite the fact that the vast majority of respondents in Alaska believe that employers do not have the right to ask questions about, make job decisions based on, or take actions that infringe upon an individual's right to privacy, up to two out of ten people -- and in some cases more -- report that an employer has done such things to either them or someone they know. This finding supports the notion that while most Alaskans believe in the right of privacy in employment, a significant number of employers are not fully respecting these rights.

### Purpose and Format of Study

The purpose of the study is to determine the attitudes and knowledge of the general public concerning individual rights of privacy in employment and measure the extent to which these rights have been limited by employers. Specifically, this survey seeks to assess how the public feels

about certain actions employers might take and questions employers might ask as determinants of prospective or continued employment.

The public was first asked a general question concerning individual privacy in employment. This was followed by three series of questions.

The first set (Section I) were questions prospective employers might ask a job applicant. The second set of questions (Section II) concerned things employees might do and asked whether or not it was appropriate to deny a job to or fire someone for doing these things. The last set of questions (Section III) asked whether or not employers have the right to take certain actions against employees. For each set of questions, people were first asked whether or not employers should have the right to ask these questions or behave in this manner, and secondly, if such a question has ever been asked or such an action has ever been taken against either the respondent personally or someone the respondent knows.

At the end of the questionnaire (Section IV), respondents were asked whether or not businesses in Alaska should be allowed to refuse to hire a person who has a worker compensation claim. In addition, they were asked whether or not they worked outside the home or if they smoked. They were also asked their age, political party affiliation, income, race,

senatorial district, the job title of the head of the household, and whether or not they were registered to vote.

## SUMMARY OF FINDINGS

### Section I: Questions Posed to Job Applicants

Generally speaking, 69% of Alaskan residents say prospective employers *should not* be allowed to ask questions about the private lives of job applicants. At the same time, two out of three (67%) people report that either they or someone they know has been asked such questions by a potential employer.

As for specific questions, a majority believe employers should not have the right to ask prospective employees about their living arrangements, religion, outside activities, marital status, plans for children, age of parents, or smoking behavior.

Residents of the Northwestern district, Hispanics, and women are all more likely to believe that employers should not have the right to ask these specific questions. On the other hand, people 65 and over,

executives, high-level professionals, former smokers, and men are more likely to think employers should have this right.

Occasional smokers, people aged 25 to 34, those earning between \$20,000 and \$31,000, African-Americans, and Hispanics are more likely to report that either they or someone they know has been asked some of these specific questions.

These findings are reported in detail in Section I, beginning on page nine.

## Section II: Employee Behavior Outside of Work

The public was then asked whether or not they thought it is appropriate for employers to deny a job to or fire someone for specific activities. At least 91% say it is inappropriate for employers to deny a job to someone or fire an employee for dating a person of a different race, driving a motorcycle, participating in political demonstrations, gambling at a racetrack, supporting or opposing abortion, or smoking away from the workplace. More than four out of five (84%) think it is not appropriate to deny a job to someone or fire an employee for being overweight, and 74% say it is inappropriate to deny a job or fire someone who holds an unusual second job.

At the same time, almost two out of ten people (19%) report that an employer has denied a job to or fired either them or someone they know for one of these reasons.

High-level professionals and semi/unskilled laborers are more likely to feel it is appropriate for employers to deny someone a job or fire them for some of these behaviors. Executives, high-level professionals, salespeople, former smokers, people aged 35 to 49, Republicans, Hispanics, and African-Americans are all more likely to report that either they or someone they know has been denied a job or fired for exhibiting one of these behaviors.

These findings are explained in detail in Section II, beginning on page seventeen.

### Section III: Actions Taken by Employers

People also were asked whether they believe employers have the right to take certain actions concerning an individual's privacy. At least three out of four (77%) say employers do not have the right to monitor personal telephone conversations, forbid an employee from dating someone from a rival firm, refuse to hire someone who is overweight or a smoker, or require an employee to quit smoking or change diets. More than two out of

three people (67%) say employers do not have the right to require an employee to quit a second job or to do a credit check on a prospective employee. People aged 50 to 64 are far more likely than any other subgroup to say that employers *do* have the right to take such actions.

In spite of these opinions, more than one out of three respondents (37%) reports that an employer has taken at least one of these actions against either the respondent or someone the respondent knows. Former smokers, Republicans, residents of the Central district, people aged 50 to 64, high-level professionals, salespeople, and Hispanics are all more likely to report these things occurring.

These findings are explored in detail in Section III, beginning on page twenty-two.

#### Section IV: Worker Compensation Claim

Nearly three out of four respondents (73%) oppose allowing businesses in Alaska to refuse to hire a person who has a worker compensation claim, while 17% favor allowing them to do so.

This finding is examined in Section IV, on page twenty-seven.

Section I: Questions Posed to Job Applicants

"Should prospective employers be allowed to ask questions about the private lives of job applicants?"

	<u>Should (%)</u>	<u>Should not (%)</u>	<u>Don't Know (%)</u>
<u>ALL</u>	23	69	8
<u>AGE</u>			
18-24	22	73	6
25-34	18	73	9
35-49	23	70	7
50-64	28	58	14
65 +	39	55	5
<u>PARTY</u>			
Democrat	15	79	6
Independent	20	72	8
Republican	33	57	10
<u>INCOME</u>			
< \$20,000	19	69	12
\$20-\$30,999	16	79	5
\$31-\$40,999	22	69	9
\$41-\$50,999	25	66	9
\$51,000 +	27	65	8
<u>OCCUPATION</u>			
High-level prof.	31	65	4
Mid-level prof.	18	71	11
Executive	35	61	4
Sales	20	75	5
Other white collar	15	81	4
Skilled labor	22	71	6
Semi/unskilled	14	69	17
Retired	31	62	7
<u>RACE</u>			
White	24	68	8
African-American	33	67	0
Hispanic	11	75	14

Respondents were asked whether prospective employers should be allowed to ask questions about the private lives of job applicants. More than two-thirds (69%) say they should not be allowed to probe the private lives of job applicants, while 23% say they should and 8% are undecided. At the same time, however, two-thirds of the people (67%) report that a potential employer has asked either them or someone they know one or more of these personal questions.

Those age 65 and over (39%), executives (35%), Republicans (33%), blacks (33%), retirees (31%), and high-level professionals (31%) are groups more likely to say employers should be allowed to ask about the private lives of job applicants.

Among those who are most likely to say employers should not be allowed to ask about job applicants' private lives are white collar workers other than professionals or salespeople (81%), Democrats (79%), those in the \$20,000-\$30,999 income bracket (79%), regular smokers (76%), Hispanics (75%), and salespeople (75%).

Those most likely to say that an employer has asked either them or someone they know at least one of these questions include occasional smokers (77%), blacks (74%), Hispanics (74%), those aged 25 to 34 (73%) and those earning between \$20,000 and \$31,000 (73%).

Respondents were read a series of questions prospective employers might ask a job applicant. For each, they were asked whether employers should or should not have the right to ask that question, and whether or not they or someone they know has ever been asked that question.

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**SHOULD PROSPECTIVE EMPLOYERS HAVE THE  
RIGHT TO ASK JOB APPLICANTS CERTAIN QUESTIONS  
ABOUT THEIR PRIVATE LIVES?**

All Respondents

Ranked by "Should Not"

All numbers expressed as percentages

	<u>Should</u>	<u>Should Not</u>	<u>Don't Know</u>
About applicants' religion	12	88	0
Live with member of opposite sex	13	87	0
If applicants have elderly parents	15	84	1
Whether they plan to have children	17	82	1
If they smoke after work hours	21	77	2
About hobbies and activities	38	59	3
About applicants' marital status	46	53	0

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"Has a potential employer ever asked you or someone you know...?"

	<u>Yes (%)</u>	<u>No (%)</u>
About your marital status	60	40
About your outside hobbies and activities	45	55
About your religion	21	79
Whether you plan to have children	15	85
If you smoke away from the workplace	15	85
Whether you have elderly parents	7	93
Whether you live with a non-family member of the opposite sex	6	94
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NONE OF THESE	33	67

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"Asking whether the job applicant lives with a non-family member of the opposite sex."

o Eighty-seven percent (87%) say employers should not have the right to ask this question and 13% say they should. Those over 65 (21%) are more likely to say that employers should have the right to ask this question, while blacks (94%), Hispanics (94%), people from the Northwestern district (94%), and those making between \$20,000 and \$31,000 (94%) are more likely to say that employers should not have the right to ask.

o Six percent (6%) of respondents report that either they or someone they know has been asked this question. Hispanics (20%) and people in sales (15%) are more likely to say either they or someone they know has been asked this question.

**"Asking whether the job applicant has elderly parents."**

o 84% say employers should not be allowed to ask this question; 15% say they should. Those age 65 and over (28%), retirees (26%), and blacks (26%) are more likely than other groups to believe employers have the right to ask this question, while Hispanics (100%) and people from the Northwestern district (93%) more often believe employers do not have the right.

o Seven percent (7%) say either they or someone they know has been asked this question. Retirees (13%), those over 50 (11%), and salespeople (15%) are more likely to report this occurring.

**"Asking the job applicant about their religion."**

o 88% say employers should not be allowed to ask job applicants this question. 12% say they should. Retirees (25%) and those age 65 and over (22%) are more likely to say they have the right to ask. African-Americans (25%) are more likely than whites (11%) to say employers have the right to ask about a job applicant's religion.

- o One out of five respondents (21%) say that either they or someone they know has been asked about their religion by a potential employer. This figure is generally consistent across all sub-groups.

**"Asking the job applicant about whether they plan to have children."**

- o More than four out of five people (82%) say employers should not be allowed to ask this question, while 17% say they should. Executives (32%), high-level professionals (26%), semi/unskilled workers (25%), and people 18-24 (24%) are more likely than others to think employers have the right to ask whether job applicants plan to have children, while retirees (91%) and those from the Northwestern district (89%) are more likely to feel they do not.

- o Almost one out of six respondents (15%) report that either they or someone they know has been asked whether they plan to have children. Executives (28%) and Hispanics (26%) are more likely to report this occurring.

**"Asking the job applicant if they smoke after work hours, at home, or otherwise away from the workplace."**

- o 77% say employers should not be allowed to ask job applicants this question, while 21% say they should. Executives (34%), high-level professionals (30%), and former smokers (28%) are more likely to say

employers have the right to ask if a job applicant smokes after work hours, while regular (91%) or occasional (87%) smokers, Hispanics (89%), and residents of the Northwestern district (89%) are more likely to believe that employers do not have this right.

- o Almost one out of six respondents (15%) report that either they or someone they know has been asked if they smoke away from the workplace. Executives (22%), salespeople (22%), those earning between \$20,000 and \$31,000 (21%), and people aged 25-34 (20%) are more likely to say that either they or someone they know has been asked this question.

**"Asking the job applicant about their off-the-job hobbies and activities."**

- o Almost three out of five (59%) say employers should not be allowed to ask this question; 38% say they should be allowed to ask it. Among the groups most likely to say employers should not be allowed to ask about hobbies and activities outside of the job are retirees (78%), residents of the Northwestern district, those over 65 (71%), mid-level professionals (69%), and Hispanics (66%). Conversely, those most likely to feel employers should be allowed to ask this question include executives (60%), Republicans (49%), high-level professionals (48%), those earning over \$51,000 (46%), and former smokers (45%). Men (44%) are more likely than women (32%) to believe that employers should be able to ask this question.