

ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 8672

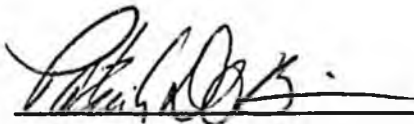
9155 HOUSE JUDICIARY



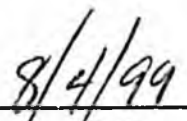
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Signature of Camera Operator



Date

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APSIN INVESTIGATION

CONFIRMATION: DR. CAROL ALLEY,
VIOLENCE CRIMES COMPENSATION BOARD

CONFIRMATION: BARBARA BRINK,
ALASKA PUBLIC DEFENDER

CONFIRMATION: JEFFERY FELDMAN,
COMMISSION ON JUDICIAL CONDUCT

CONFIRMATION: MARY MATHEWS,
COMMISSION ON JUDICIAL CONDUCT

CONFIRMATION: SHIRLEY McCOY,
ETHICS COMMITTEE

CONFIRMATIONS TO MISCELLANEOUS
BOARDS

MEETING: 1-5-99

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APPSIN
INVESTIGA-
TION

Alaska State Legislature

Senator Mike Miller
President of the Senate

during interim:
PO Box 55094
North Pole, AK 99705
voice: (907) 488-0862
fax: (907) 488-4271

during session:
State Capitol
Juneau, AK 99801-1182
voice: (907) 465-4976
fax: (907) 465-3883



Representative Gail Phillips
Speaker of the House

during session:
State Capitol
Juneau, AK 99801-1182
voice: (907) 465-2689
fax: (907) 465-3472

during interim:
PO Box 3304
Homer, AK 99603
voice: (907) 235-2921
fax: (907) 235-4008

April 30, 1997

Ron Otte, Commissioner
Department of Public Safety
Juneau, AK 99801

Dear Commissioner ~~Otte~~: *Ron -*

In response to the Department of Public Safety's preliminary findings regarding the misuse of the state's confidential computer system and the 4/21/97 spreadsheet outlining the APSIN security audit of unauthorized inquiries, we are formally requesting further investigation into this matter.

With the limited information provided to us, we found the overwhelming majority of accesses to the APSIN system were unexplained, unknown or not associated with any official duties of the employee and we were left with many more questions than answers.

The significance of the issue cannot be overstated because of the 1971 right to privacy amendment of the Alaska Constitution. In his "Citizens Guide to the Alaska Constitution", author Gordon Harrison notes, "in the early 1970's, the Alaska Department of Public Safety was developing the Alaska Justice Information System, a computerized database of information on the criminal history of individuals. Fearful that such a system was the precursor of a 'Big Brother' government information bureaucracy, legislators responded with this constitutional amendment, which was handily ratified by the voters."

Under Alaska Constitution, the right to privacy is one of the most fundamental rights of citizenship. It is therefore incumbent upon us, as elected officials, to do everything within our power to ensure that this basic right is not violated. Moreover, we believe the sheer scope of the recent abuses of the APSIN system present serious implications for the integrity of Alaska's criminal justice system.

APSIN, Otte
Miller/Phillips April 30, 1997

In addition, the need for a thorough investigation is further underscored by the fact that in 1994, after an Ombudsman investigation of a single APSIN abuse, the Legislature and the Governor worked closely together to pass needed reforms to the Alaska Public Record's Act to ensure that future abuses of the APSIN system would not occur. We are concerned that apparently sufficient safeguards were not put into place to prevent the widespread abuse that has occurred recently.

In short, we believe that given the significant policy and privacy considerations involved, a more thorough investigation is warranted. The findings of the department's investigation to date leaves too many questions unanswered. With the information provided, we are unable to determine exactly how many unauthorized APSIN accesses actually occurred. The documents indicate that the department's investigation has yet to establish the reason for as many as thirty-seven APSIN accesses of public officials. The election-year timing and apparent partisan nature of most unauthorized accesses also raises the possibility that 1) the accesses were politically motivated; and 2) the potential that confidential information may have been shared in violation of state criminal laws.

Because of these concerns, we respectfully request your attendance at a joint Judiciary Committee hearing on Wednesday, May 7, 1997, to present your findings. We will have the Judiciary committee chairman contact your office regarding a time for the hearing.

Specifically, we would ask that you address the following issues in addition to any further information you obtain by that date:

- Why did the Corrections Department have so many employees trying to access records?
- What is the Corrections Commissioner doing to stop this abuse?
- What has the Corrections Department done to discipline those employees who have violated the system?
- Exactly how many confidential computer files have been accessed illegally?
- Why do we need new APSIN procedures created when a law was passed in 1994 and new regulations were specifically adopted to prevent APSIN abuses from ever occurring again?
- Why weren't the people who illegally accessed confidential records terminated as provided in 13 AAC 68.220?

- When dealing with a potential felony, AS 11.46.740, criminal use of a computer, why didn't the level of investigation go far enough to determine whether any confidential information was shared and a crime therefore committed?
- Did the DPS investigation consider the possibility that the illegal accesses were coordinated and politically motivated?
- How credible is it to believe that "curiosity" was the true reason for the unauthorized searches given that most of the targets were Republicans and most of the unauthorized searches occurred just prior to the election?
- What are the implications for continued federal funding of APSIN? Do strict federal privacy protections apply since the APSIN system allows users to access FBI and other federal confidential criminal history systems?
- During the course of your preliminary investigation, did your investigators ask the employees the following:
 - Did anyone ask you to access the APSIN system?
 - Was anyone with you when you accessed the system?
 - Why did you access the APSIN system?
 - How long did you have the system open?
 - Did you personally close down the system?
 - Did you share any of the information, or acknowledge the existence of the or non-existence of, any information reviewed on APSIN?
- Were the employees asked those questions under oath?
- What information on APSIN is available to the general public and what information is confidential? What are the procedures for a citizen gaining access to information contained in APSIN?
- Given previous documented abuses of the APSIN system, and the 1994 Revisions to the Alaska Public Record's Act, why are adequate APSIN procedures and protections for this confidential information not already in place?
- How many other APSIN accesses of public officials are still being investigated or awaiting determination as to authorization?
- Were all the APSIN records of all candidates in all races for public office in 1996 also checked for unauthorized accesses?

APSIN, Otta
Miller/Phillips April 30, 1997


- Why were so many different sanctions imposed for similar violations, when in most cases, the employees all listed "curiosity" as the reason for the access?
- How many state employees have access to APSIN?
- What is required to receive access to the APSIN system?
- What is the logic behind suspending APSIN access for individuals who must utilize the system as part of their every day job responsibilities? What potential difficulties does suspension impose for law enforcement agencies - particularly in situations where only one person may be authorized to access APSIN? Since these employees cannot do the jobs they were hired for, why weren't they placed on suspension or fired?
- Is it possible for legislators to know who accessed information about them? Is this information public? If not, why not?
- How many state agencies have access to the APSIN system?
- In the course of the internal audit, did DPS ascertain whether or not the National Crime Information Center (NCIC) was accessed during unauthorized queries on APSIN? If not, why not? If so, what reasons were given to gain access to NCIC or other national systems?

In addition, to assist us in gathering further information for our members, please provide us with the completed copies of the two internal "APSIN Record Access Audit" forms [see attached] returned to your office by the employees, with due consideration for any statutory requirements regarding confidentiality. Please provide us with a copy of your APSIN regulations and a copy of any employee handbooks or regulations regarding APSIN.

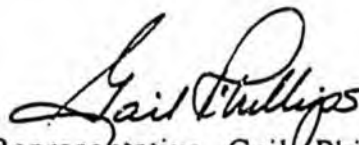
These questions represent a sampling of the many concerns expressed by the legislators who have reviewed the DPS preliminary findings. We look forward to your presentation on May 7.

Hopefully the information you provide will help alleviate many of the concerns the legislature has regarding this blatant invasion of privacy.

Sincerely,



Senator Mike Miller
SENATE PRESIDENT



Representative Gail Phillips
SPEAKER OF THE HOUSE

APSIN RECORD ACCESS AUDIT

The criminal justice information contained in APSIN is confidential and exempt from disclosure under AS 09.25. The existence or nonexistence of criminal justice information may not be released to or confirmed to any person except as provided in AS 12.62.160. Section IV C of CTA Directive 93-2, dated August 15, 1993, states that operators cannot satisfy their curiosity about acquaintances, in-laws, etc. by accessing information they are not authorized to have. Alaska Administrative Code 13 AAC 68.220 provides for sanctions that may be imposed by the CTA for violations of the provisions of AS 12.62. These include withdrawal of system access.

The CTA recently conducted a review of all APSIN users accessing the record of [REDACTED], between July 2, 1995 and February 2, 1997. The examination of the audit log records revealed [REDACTED] conducted a transaction involving the subject's record on June 11, 1996. After inquiring into the purpose of this transaction, please complete and sign this form.

PURPOSE OF TRANSACTION:

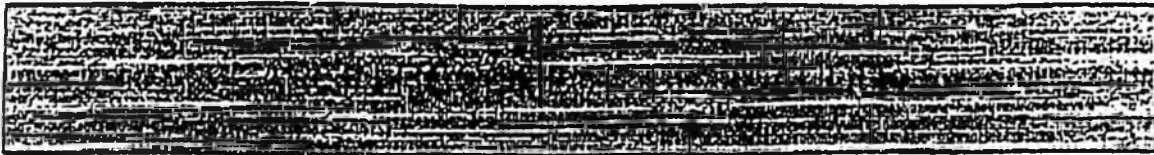
If the record was reviewed for a legitimate criminal justice purpose or other reason authorized by statute, no further action is required. If not, unless written notification is received from you indicating you are aware of the situation, the violation has been discussed with the individual, you are confident that the transgression will not be repeated, and you are certain continued access to APSIN will not further jeopardize the security of the data, the CTA intends to exercise its withdrawal authority in thirty days.

SIGNATURE

DATE

TITLE

AGENCY



USERID:

USER NAME:

AGENCY:

SUBJECT NAME:

ACCESS DATE:

Please respond to the following questions as they relate to the above APSIN criminal history record access.

- | | YES | NO |
|--|--------------------------|--------------------------|
| 1 Did you disseminate the record information to anyone else? | <input type="checkbox"/> | <input type="checkbox"/> |
| 2 Do you disseminate criminal history record information outside your agency? | <input type="checkbox"/> | <input type="checkbox"/> |
| 3 If the answer to question 2 is yes, do you complete the dissemination log including obtaining the recipient's signature? | <input type="checkbox"/> | <input type="checkbox"/> |
| 4 Was this information used for personal gain? | <input type="checkbox"/> | <input type="checkbox"/> |
| 5 Did you print a copy of the record? | <input type="checkbox"/> | <input type="checkbox"/> |
| 6 If the answer to question 5 is yes, did you destroy the printed copy? | <input type="checkbox"/> | <input type="checkbox"/> |
| 7 Did you access this record at the request of someone else? | <input type="checkbox"/> | <input type="checkbox"/> |
| 8 If the answer to question 7 is yes, who requested you to access the record? | | |

Signature: _____

Date: _____

ALASKA STATE LEGISLATURE

News From The Senate and House Majorities

State Capitol
Juneau, AK 99801
Actuality line: 1-800-478-6540
<http://www.akrepublicans.org>

Ken Freeman (907) 465-3804
Wendy Linskoog (907) 465-4582

For Immediate Release: April 30, 1997 Contact: Wendy Linskoog (907) 465-4582
Ken Freeman (907) 465-3804

Lawmakers Require More Information Regarding Misuse Of State's Confidential Computer System *Answers To Be Presented To Joint Judiciary Hearing*

JUNEAU -- Legislative Leaders Wednesday asked Department of Public Safety (DPS) Commissioner Ron Otte to further investigate a recent DPS review regarding misuse of the State's confidential computer system and asked for him to report back to a joint Judiciary Committee hearing scheduled for Wednesday, May 7th, 1997.

Commissioner Otte's review investigated unauthorized inquiries made by public employees into the state's criminal justice computer system to access protected confidential files of lawmakers. His report alleged that Department of Corrections employees made 12 unauthorized inquiries against seven legislators on the Alaska Public Safety Information Network (APSIN). The report submitted by DPS, however, indicated that the number of unauthorized accesses may be much higher, noting that questions remain concerning at least 37 other accesses.

Senate President Mike Miller and House Speaker Gail Phillips said the information provided by DPS was limited. The overwhelming majority of accesses to the APSIN system were unexplained, unknown or not associated with any official duties of the employee.

"We were left with many more questions than answers," said Senate President Mike Miller.

Legislators are also expressed concern that news report indicated that all information contained on APSIN is "public". However, a recent memo from DPS, indicated that "No information from APSIN is available to the general public". (memo attached)
Lawmakers requested that Commissioner Otte clarify what is and is not available to the general public on the APSIN system.

- more -

"Why were state employees, using state equipment on state time to access numerous confidential computer files for no apparent official purpose," asked Speaker Phillips. "This seems to indicate that Alaskans' constitutional rights are being violated. Government intrusion into the private lives of Alaskans is no small matter. For our sake, and to restore the public trust in what should be a secure and confidential system, we have no choice but to investigate further."

As a reason for accessing the files, most of the public employees said they were "curious." Miller and Phillips noted that the blanket response of 'curiosity' is not a valid explanation because the timing of many of the accesses are suspicious and deserve a closer look.

"We passed a law in 1994 to ensure that proper procedures were in statute to safeguard against this kind of abuse and to protect the integrity of the criminal justice system," said Miller. "The law was set up to discourage people from prying into citizens' files by making it a crime punishable by termination of employment in certain cases."

Senator Miller noted that the majority of these "random acts of curiosity" occurred right in the middle of the heated 1996 election cycle. "The timing of these searches just before the election, and the fact that most of the targets of the illegal accesses were Republican, suggest that the accesses may have been coordinated and politically motivated," Miller said.

Miller also stated that based on the information provided to date by the DPS, the actual number of unauthorized inquiries could be more than 50.

In his "Citizen's Guide to the Alaska Constitution", author Gordon Harrison notes, "In early 1970s, the Alaska Department of Public Safety was developing the Alaska Justice Information System, a computerized database of information on the criminal history of individuals. Fearful that such a system was the precursor of a "Big Brother government information bureaucracy, legislators responded with this constitutional amendment, which was handily ratified by the voters."

Under the Alaska Constitution, the right to privacy is one of the most fundamental rights of citizenship. This issue raises implications not just for the security of the criminal justice system, but doubts about the continued federal funding for the APSIN system.

"We hope to get to the bottom of this soon and respectfully ask Commissioner Otte to research our questions and report back to a Joint Senate/House Judiciary Committee Wednesday, May 7th," said Phillips.

Some of the questions legislators felt have not been answered are listed below:

- Exactly how many confidential computer files have been accessed illegally?
- Why do we need new APSIN procedures created when a law was passed in 1994 and new regulations adopted to prevent APSIN abuses from ever occurring again?
- Why weren't the people who illegally accessed confidential records terminated as provided in 13 AAC 68.220.
- When dealing with a potential felony, AS 11.46.740, criminal use of a computer, why didn't the level of investigation go far enough to determine whether a crime was committed?
- Did the DPS investigation consider the possibility that the illegal accesses were coordinated and politically motivated?
- How credible is it to believe that curiosity was the true reason for the unauthorized searches given that most of the targets were Republicans and the searches occurred just prior to the election?
- What are the implications for continued federal funding of APSIN? Do strict federal privacy protections apply since the APSIN system allows users to access FBI and other federal confidential criminal history systems.
- Employees are required to pass a test regarding APSIN security regulations prior to being granted APSIN access. Knowing that unauthorized searches were a violation of the law, is it plausible employees nonetheless conducted numerous searches out of "curiosity?"

###

Broadcast note: A radio actuality is available by calling 1-800-478-6540.

TO Paula Scavera, Legislative Research
FAX 463-3351

FROM Captain Chris Stockard, Dept of Public Safety
465-4306 / pcstocka@psafety.state.ak.us

DATE April 29, 1997

RE. Request for list of APSIN information available to the general public

No information from APSIN is available to the general public.

A person appearing at the public counter of a APSIN user agency and requesting information from APSIN on someone else will be denied access to information. APSIN information is released only to agencies which are primary or secondary users of the system and, under the circumstances listed below to others

Until September 1996, motor vehicle registration information was public and could be obtained from Division of Motor Vehicles office. Legislation passed by the Alaska legislature in 1996 made registration information private. Vehicle registration information is now tightly controlled and is available only under specified circumstances. A dissemination record is required when authorized disclosures are made

A member of the public may appear in person and request to see their own criminal history records from APSIN. They must produce two forms of id, one of which must be government issued and bear a photograph of the person. If the person wants to take a printout of the record they must pay the fee set in regulation (currently \$20 for the first copy, \$5 each for subsequent copies).

A member of the public may obtain another person's criminal history records if they provide that other person's fingerprints on the appropriate form and provide the reason for the request. There is a fee of \$35 for this service. Replies are by mail after a state fingerprint check is completed. This is for the purpose of employment for those who supervision of children and dependent adults. (AS 12.62 160)

A member of the public may obtain a copy of their own driver's record by appearing in person at a DMV field office and proving their identity. There is a \$5 charge for this service

Section 3.0 APSIM Security Overview

3.1 The use of information in the APSIM system is controlled by Statute. In particular, AS 12.62.060(b) says:

"A person who willfully disseminates or uses criminal justice information knowing such dissemination or use to be in violation of this chapter, ... upon conviction, is punishable by a fine of not more than \$1,000 or by imprisonment for not more than one year, or by both."

3.2 Access to APSIM is controlled in three main ways:

- 1) Physical Security of APSIM terminals - most APSIM terminals are located within non-public areas of law enforcement agencies.
- 2) Password Security - The APSIM user will have three personal passwords; the User ID, the Password, and the Operator ID. These passwords are used to sign on to the system and to assure that only authorized users access APSIM information.
- 3) Function Security - Each user is allowed to perform only certain APSIM functions. The system will disallow any attempts to use an unauthorized function and will alert the APSIM Security Administrator that an attempt was made to utilize a disallowed function. Each operator transaction is recorded by the APSIM system and can be reviewed at a later date if a potential violation is suspected.

3.3 Passwords:

The three personal passwords which are assigned to the user should NEVER be shared with any other user. If that other user committed a violation of law or policy while using your password you could be subject to disciplinary action or prosecution. If the operator suspects that someone knows their current password or Operator ID, they should change it for their own protection.

The three passwords are:

USER ID This is entered in the appropriate field on the APSIM SECURITY SCREEN each time the user signs on. The User ID is assigned by the APSIM Security Administrator and normally consists of the letter P followed by the users first initial and the first six letters of the users last name. (Example: User ID for John Smithson would be "PJSMTIHS")

DEPARTMENT OF PUBLIC SAFETY

OFFICE OF THE COMMISSIONER

P.O. BOX 111200
JUNEAU, ALASKA 99811-1200
PHONE: (907) 465-4322
FAX: (907) 465-4362

February 21, 1997

The Honorable Jerry Ward
Alaska State Senate
Capitol Building, Room 423
Juneau, AK 99801-1182

Dear Senator Ward:

This is in response to your question: Did anyone who accessed my criminal history record in APSIN commit a crime? Our inquiry, to date, shows no evidence that a crime was committed; however, APSIN regulations were violated in several cases, which may result in administrative action, including employee discipline and termination of APSIN access.

As a result of your concern questioning whether a specific individual had accessed your APSIN record, Kathleen Mather, the APSIN Control Terminal Officer conducted an inquiry. Her review showed that no one accessed your APSIN record except at your request prior to the time information about your record was published in a (9-27-96) Anchorage Daily News article. My office subsequently instructed Ms. Mather to conduct an audit to determine if anyone accessed your record between ~~July 1, 1995~~ and January 26, 1997. Ms. Mather provided the results of her audit to the agency/employer of each person who accessed your record. The employer was instructed to investigate the purpose of the transaction and report findings to Ms. Mather. If the record was reviewed for a legitimate criminal justice purpose or another reason authorized by statute, no further action was required. Failure to respond within 30 days would result in termination of the person's APSIN access. All employers have responded.

There is no evidence that any of the employees committed a criminal offense. Under AS 11.46.740 (Criminal Use of a Computer), it is illegal for a person to access a computer, system, network or program if the person has no right to do so. It would be illegal for a person to access APSIN criminal history records by "hacking" into the system instead of using an authorized access code issued by the Department of Public Safety, for example. The employees in question did not violate this law because the Department of Public Safety authorized them access to the APSIN criminal history record system by issuing them APSIN operator codes.

The Honorable Jerry Ward
February 21, 1997
Page 2

AS 12.62.160(a) makes criminal history information in APSIN confidential, and prohibits even confirming the existence or non-existence of such information unless specifically authorized by statute. While there is no criminal penalty provided under AS 12.62, it is illegal under AS 11.56.860 (Misuse of Confidential Information) for a public employee to use any confidential record for personal gain or in a manner not connected with the performance of official duties. Disclosing confidential information to someone who did not have authority to receive the information would be an illegal use. However, there is no evidence that any employee who viewed your APSIN record used the information for personal gain or disclosed the information to another person.

In four cases the employer found no legitimate reason for the person to have accessed your record in connection with official duties. 13 AAC 68.215(h) prohibits authorized APSIN users from looking up an APSIN criminal record unless it is legitimately connected to the person's official duties. A person violates this regulation even if the information is not used for any purpose or disclosed to anyone; it is prohibited simply to look at the record unless there is an authorized reason to do so. Violation of this regulation is not a crime. AS 12.62.200 allows administrative action, including employee discipline and APSIN access termination, for violating Public Safety's APSIN regulations. The employer has asked for more time to investigate these four cases to determine whether or not to request termination of APSIN access for the employees. Ultimately, the decision to terminate APSIN access is at the discretion of Public Safety. Additional employee discipline actions are confidential under personnel laws and are not required to be reported to Public Safety by the employer.

If you have specific information or evidence showing that an APSIN user actually disclosed your APSIN record, please provide me with the name of the individual involved and the facts. If I receive such evidence I will refer the matter to the district attorney for criminal prosecution. If not, this matter will be closed when Ms. Mather makes a final decision concerning APSIN termination in each of the four pending cases, upon receipt of the employer's final administrative investigation reports.

You also requested the names of the Department of Corrections personnel who accessed your APSIN file. In ~~addition to making~~ criminal justice information confidential, AS 12.62.160(a) also makes the identity of recipients of that information confidential and exempt from disclosure under the public records law. Under 13 AAC 68.220(b) the department may disclose an APSIN user's identity and the results of APSIN security audits (1) to a law enforcement agency for a criminal investigation, and (2) to the person's employer for an administrative investigation.

The Honorable Jerry Ward
February 21, 1997
Page 3

Since the questioned access to your files involves personnel from the Department of Corrections, I suggest you contact that department if you have specific questions about their inquiry into the matter and their intended actions.

I hope this letter has adequately addressed your questions and concerns on this issue.

Sincerely,

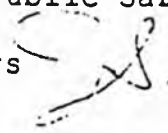
A handwritten signature in black ink, appearing to read "Ronald L. Otte", with a long horizontal flourish extending to the right.

Ronald L. Otte
Commissioner

Senator Ward APSIN accesses

09/25/96	12:15	warrant display	DPS-R & I	At Sen. Ward's request
09/25/96	12:15	person display	DPS-R & I	Same
09/25/96	12:45	convictions	Anch. Police Dept.	At Sen. Ward's request
09/25/96	12:45	person display	Anch. Police Dept.	Same
09/26/96	07:55	convictions	Anch. Police Dept.	Same
09/26/96	07:55	person display	Anch. Police Dept.	Same
09/26/96	07:57	convictions	Anch. Police Dept.	Same
09/26/96	07:57	convictions	Anch. Police Dept.	Same
09/26/96	07:57	person display	Anch. Police Dept.	Same
09/26/96	16:08	person display	DPS-R & I	Posting of Sen. Ward's request
09/27/96	07:08	person display	DPS-Admin Svcs	Result of news article, SIS & unconditional release, 12.62 compliance, within scope of employment
10/03/96	06:04	person display	DOC-Kenai pre-trial	One of various names used during APSIN training of new employees
10/04/96	09:54	person display	DOC-6th Ave	Name in media, curiosity

10/25/96	19:34	convictions	DOC-Highland Mtn.	Classification officer checking to ensure conviction info in APSIN consistent with her understanding of set aside issue
10/25/96	19:34	person display	DOC-Highland Mtn.	same
10/25/96	19:49	convictions	DOC-Highland Mtn.	same
10/25/96	19:49	person display	DOC-Highland Mtn.	same
10/25/96	19:50	convictions	DOC-Highland Mtn.	same
10/25/96	19:59	drivers history	DOC-Highland Mtn.	same
11/02/96	09:43	person display	DOC-Prob/parole	name in media, curiosity
11/02/96	09:46	drivers history	DOC-Prob/parole	same

TO: Commissioner Ronald Otte, Public Safety
FROM: Representative Jerry Sanders 
DATE: February 25, 1996
RE: Confidential records
Faxed to: x4362, hard copy sent interdepartmental mail

I would like an update on the investigation on the unauthorized access into my confidential records. It has come to my attention that there could possibly be a violation of Federal law due to the fact that telephone lines were used in the incidents. That could also be a violation of my civil rights which is not only a violation of State statutes but also Federal statutes due to the improper use of telephone lines.

I need the names of people that had access to my records so interested and proper authority can be informed.

DEPARTMENT OF PUBLIC SAFETY

OFFICE OF THE COMMISSIONER

P.O. BOX 111200
JUNEAU, ALASKA 99811-1200
PHONE: (907) 465-4322
FAX: (907) 465-4362

March 6, 1997

The Honorable Jerry Sanders
Alaska State Legislature
Room 414, State Capitol
Juneau, AK 99801-1182

Dear Representative Sanders:

In a memorandum to Commissioner Otte, dated February 25, 1997, you requested an update on the inquiry into questionable access to APSIN computerized files relating to you. I met with you on February 26, 1997, to discuss your request. This letter is intended to memorialize our conversation.

You indicated in the memorandum that it had been brought to your attention that access to your files may have violated federal laws as telephone lines were involved. In addition, you requested the names of the APSIN operators who accessed your files.

Access to your or any other person's file by authorized APSIN users is not a violation of state or federal law. It is however, a violation of APSIN policies to access a file for reasons that are not related to the APSIN user's employment. Dissemination of any of the information contained in the APSIN file would be a violation of State law.

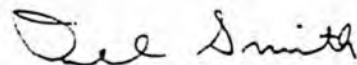
APSIN terminal security officer (TSO), Kathy Mather queried the employers of the APSIN users accessing your file and requested information on the reasons for the access. The agencies have responded to Ms. Mather and indicated the employees did so out of alleged "curiosity" and did not disseminate any information regarding your file. The agencies involved, Seward Police Department and Anchorage Airport Police, have provided assurance to Ms. Mather that the employees will not repeat this type of activity in the future. Failure to adhere to the APSIN policies by the employee or the agency may result in access to APSIN being denied. Of course, if evidence is found that indicates information was disseminated by these individuals, we will immediately conduct an investigation and refer the case to the Department of Law for prosecution.

The Honorable Jerry Sanders
March 6, 1997
Page 2

In regard to the names of the employees involved, I cannot provide you with that information as we are precluded from doing so by AS 12.62.160(a). I would suggest that if you seek additional information in this regard, you may contact Chief Tom Walker, Seward Police Department and Chief Tim Foster, Anchorage Airport Police.

I hope that my discussion with you and this letter provides the information you need in this matter. If you have additional questions or concerns, I am, as always, available to meet with you.

Sincerely,



Del Smith
Deputy Commissioner

cc: Commissioner Ronald L. Otte

Kathy Mather
APSN Terminal Security Officer

Chief Tom Walker
Seward Police Department

Chief Tim Foster
Anchorage Airport Police

March 12, 1997

Commissioner Ronald Otte
Department of Public Safety
PO Box 111200
Juneau, AK 99811-1200

Dear Commissioner Otte:

I am in receipt of your letter of March 6 and a glaring inconsistency in your investigative process is apparent. You chose to interview political appointees, i.e., the employers of the people who physically committed the alleged crime while neglecting to interview the people accused of the accessing APSIN records.

I want you to conduct interviews, under oath, with the individuals who were actually accused of accessing ASPIN records. I want to know why these individuals accessed APSIN records; what they did with the information in the records, specifically, was the information given to or discussed with anyone else, EVER, and if so, to whom was the information given to or discussed with.

I am extremely disappointed in this stonewalling.

Sincerely,


REPRESENTATIVE JERRY SANDERS

cc: Representative Gail Phillips
Senator Mike Miller

Mailing Address:
P O Box 55094
North Pole, Alaska 99705
Ph: (907) 488-0862
Fax: (907) 488-4271



State Capital:
Juneau, Alaska
99801-1182
Ph: (907) 465-4976
Fax: (907) 465-3883

MIKE MILLER
President of the Senate

Senate District: Q

March 12, 1997

Commissioner Ronald L. Otte
Department of Public Safety
PO Box 111200
Juneau, Alaska 99811-1200


VIA FAX - 465-4362

Dear Commissioner Otte;

I would like a list of every legislator whose name was entered into, or looked up on, the APSIN system, whether or not any records were found or reviewed, between January 1995 and January 1997.

In addition, I would like to know why each particular legislator was looked up and who, and from which agency or department, accessed the system in hopes of retrieving APSIN records. Please provide me with a list at your earliest convenience.

Your immediate attention to this request is greatly appreciated. Thank you.

Sincerely,

Senator Mike Miller
President of the Senate

MM/pckp



State of Alaska
ombudsman
A Legislative Service Agency

RECEIVED FAX 1 3 1997

Reply to:

P O. Box 102535
Anchorage, AK 99510-2535
(907) 269-5290
(800) 478-2624
(FAX) 269-5291

P O. Box 113000
Juneau, AK 99811-3000
(907) 465-4970
(800) 478-4970
(FAX) 465-3330

MEMORANDUM

DATE: March 13, 1997
TO: Honorable Mike Miller, President, State Senate
Alaska Legislature
ATT'N: Mary Gore, Chief of Staff
FROM: *Stuart C. Hall*, Ombudsman
SUBJECT: Ombudsman Complaints A090-1316 and A090-1427 (Closed);
Request for Copy of Final Investigative Report

Yesterday, Portia Parker, a member of your staff, and Lydia Jones, a member of Senator Jerry Ward's staff, requested a copy of the final report of the Ombudsman's investigation into the above named complaints. These complaints involved alleged misconduct by a Department of Law employee who had access to APSIN, the state's then criminal justice information system; it was alleged that the employee misused her position to gain access to APSIN to obtain information for personal use and purposes unrelated to her professional employment. On the basis of the ombudsman investigation, the complaints were found justified.

The Ombudsman has discretion whether to make public the final report in an investigation conducted by this office. AS 24.55.190. As I explained to Ms. Gore, Ms. Parker and Ms. Jones, the final report in this investigation was not made public because it contains information from personnel records that are confidential under state law, including the disciplinary action taken against the employee who was the subject of this investigation. AS 39.25.080. The Ombudsman has access to that confidential information under AS 24.55.160(a)(4), but is prohibited under legislation enacted in 1990 from releasing that information supplied by or from state agency records to any member of the public. AS 24.55.160(b).

However, I am able to provide a copy of the public caseload printout which summarizes the allegation in each complaint, the findings resulting from the investigation that was conducted over a two-year period in 1990-91, the recommendations made by the Ombudsman, the departments' response to the findings and recommendations, and the disposition of the complaint. According to a passage in the final report, on April 4, 1991, during the course of the investigation, the Department of Law, Welfare Fraud Section, advised the ombudsman investigator that the department had implemented the following administrative changes with respect to the use of APSIN:

- "(1) Only clerk typists have access to the computer's information systems.
- (2) If further background information is needed, a form must be completed identifying the person requesting the information, the case involved and the date the information is requested.

- (3) [Training was provided] to the staff in the Welfare Fraud Section concerning misuse of confidential information. At the time, it was clarified that user IDs are not to be shared with other staff.
- (4) If an individual is found to have misused the computer information systems, their security access will be revoked.
- (5) The Department of Law advised Public Safety Commissioner [Richard] Burton that the statutes do not include APSIN as a criminal information system. A policy was created which provides that if misuse of the APSIN system does occur, the individual will lose access to the system permanently.
- (6) Appropriate personnel action was taken in the underlying incident."

Also, I am providing a copy of the Department of Public Safety's response to the Ombudsman's recommendations; that document is dated June 18, 1991. Ultimately these recommendations were reflected in administrative changes or incorporated into SCS CSHB 442 (FIN) am S enacted by the 1994 Legislature (Chapter 118, SLA 1994) that made changes in the administration and management of the state's criminal justice information system. Both the Departments of Public Safety and Law agreed with the Ombudsman's findings and recommendations; thus, the Ombudsman concluded that the complaints were rectified and then closed. This ombudsman investigation also was summarized in the Ombudsman's 1991 Annual Report (p. 19, where highlighted), a copy of which is enclosed for your reference.

I hope this information will be of assistance to you and your staff. If you have further questions or concerns not addressed in this memorandum, please contact me at 465-4970.

Enclosures

N:WRK.OMBSHARE.SCH1:APSINMEM

FINDINGS (CONT'D)

onal use. Finding: Justified.

RECOMMENDATIONS

- (1) The Department of Public Safety introduce legislation deterring individuals from misues of the APSIN criminal information system.
- (2) The Department of Public Safety incorporate a policy to discourage individuals from misusing the system. Specifically, a record-keeping system showing who is requesting what information and termination of access to APSIN if an individual is found misusing the system. Misuse would include allowing another individual to access APSIN by using one's identification access code.
- (3) The Department of Public Safety make contact with all agencies having access to APSIN and request they too incorporate a policy similar to that as set out in recommendation #2.

RESULTS

All recommendations were accepted and the investigation is being closed as fully rectified.

03/13/97
09.13.05

OMBUDSMAN COMPLAINT MANAGEMENT
CASE RECORD

OMB: PAGE

CASE# A0901427 CLOSED-FULLY INVESTIGATED STATUS DATE 04/15/1992
OPENED BY AGBP 08/30/1990 RECEIVED 08/30/1990 ASSIGNED TO AGBP 08/30/1990

COMPLAINANT
REPRESENTING
ADDRESS

HTEL () -
ATEL () -
ID NONE

AGENCY A0310100EBA EXECUTIVE
DEPT LAW
DIV CIVIL
SEC GENERAL CIVIL
UNIT
LOC ANCHORAGE

CALC PRIORITY 441
CALC COMPLEXITY 5
PRIMARY CASE A0901316

COMPLAINT CLASSIFICATION 999999
CATEGORY MISCELLANEOUS
GROUP UNASSIGNED
SPECIFIC UNASSIGNED

LAST NOTIFIED BY
LAST UPDATED 04/15/1992 BY AGBP
LAST REVIEWED 07/10/1991 BY AMGT
REVIEWED STATUS

ALLEGATION

EMPLOYEE HAS USED THEIR STATE POSITION AS AN INTAKE INVESTIGATOR TO OBTAIN
CONFIDENTIAL INFORMATION AND HAS USED IT FOR PERSONAL GAIN IN A MANNER NOT
CONNECTED TO THE PERFORMANCE OF NORMAL PROFESSIONAL DUTIES.

CASE REFERENCES

KEYWORD1 EMPLOYEE MISCONDUCT
STATUTE1 AS12.62.060(B)

CLOSING INFORMATION

15	Finding	JU	Justified
16	Determinatio	AD	Abuse of discretion
17	Disposition	RC	Rectified
18	Recommenat	LA	Law or regulation should be modified
19	Reply to rec	AL	All recommendations accepted
20	Policy issue	RC	Rectified
25	Highestlevel	CO	Commissioner's office
26	Resolution	LE	Legislation
27	Where resolv	HQ	Headquarters
30	Notif to com	LT	Complainant notified by letter

EXPLANATION/INVESTIGATION

A preliminary review of the allegations was completed, and the case was
discontinued and referred to the Department of Law, Criminal Division for
review of possible criminal violations. Upon conclusion of the criminal
investigation, the complaint was reopened and a finding and recommendations
were made. The Department of Law did not prosecute the case.

FINDINGS

The allegation in this investigation is that a state employee working
for the Department of Law, Welfare Fraud Section improperly used her
security access to Public Safety APSIN records to obtain information for

03/13/97

OMBUDSMAN COMPLAINT MANAGEMENT

OMB1100

CASE# A0901316 CLOSED-FULLY INVESTIGATED

STATUS DATE 04/15/1992

PAGE

FINDINGS (CONT'D)

employee's purpose for talking with the complainant was personal and not job related. The Ombudsman found the allegations to be justified.

RECOMMENDATIONS

- (1) The Department of Public Safety introduce legislation adding special protection against abuse of the APSIN system.
- (2) The Department of Public Safety incorporate a policy which will discourage individuals from misuse of the system. Specifically a record-keeping system showing who is requesting information what information and termination of access to APSIN if an individual is found misusing the system. Misuse would include allowing another individual to access APSIN by using one's identification access code.
- (3) The Department of Public Safety make contact with all agencies having access to APSIN and request that they too incorporate a policy similar to that outlined in recommendation #2.

RESULTS

All the Ombudsman recommendations were accepted by the agencies involved.

03/13/97
09.12.34

OMBUDSMAN COMPLAINT MANAGEMENT
CASE RECORD

OMB1100
PAGE 1

CASE# A0901316 CLOSED-FULLY INVESTIGATED STATUS DATE 04/15/1992
OPENED BY APSH 08/06/1990 RECEIVED 08/03/1990 ASSIGNED TO AGBP 08/06/1990

COMPLAINANT
REPRESENTING
ADDRESS

HTEL () -
ATEL () -
ID NONE

AGENCY A0310100EBA EXECUTIVE
DEPT LAW
DIV CIVIL
SEC GENERAL CIVIL
UNIT
LOC ANCHORAGE

CALC PRIORITY 456
CALC COMPLEXITY 5
PRIMARY CASE NONE

COMPLAINT CLASSIFICATION 999999
CATEGORY MISCELLANEOUS
GROUP UNASSIGNED
SPECIFIC UNASSIGNED

LAST NOTIFIED BY
LAST UPDATED 04/20/1992 BY AMGC
LAST REVIEWED 07/10/1991 BY AMGC
REVIEWED STATUS

ALLEGATION

Agency staff has acted unreasonably. An employee has used position to obtain confidential information to be used in a private matter.

CASE REFERENCES

KEYWORD1 EMPLOYEE MISCONDUCT
STATUTE1 AS12.62.060(B)

CLOSING INFORMATION

15	Finding	JU	Justified
16	Determinatio	AD	Abuse of discretion
17	Disposition	RC	Rectified
18	Recommenda	LA	Law or regulation should be modified
19	Reply to rec	AL	All recommendations accepted
20	Policy issue	RC	Rectified
25	Highestlevel	HQ	Regional headquarters
26	Resolution	LE	Legislation
27	Where resolv	HQ	Headquarters
30	Notif to com	LT	Complainant notified by letter

EXPLANATION/INVESTIGATION

During preliminary review of these allegations, this investigation was discontinued, and the matter was referred to the Department of Law for review of possible criminal charges. The Department of Law along with the Department of Public Safety conducted a criminal investigation. The case, however, was not prosecuted. The Office of the Ombudsman then reopened the case and completed its investigation.

FINDINGS

The allegation in this case is that a state employee with the Department Law, Welfare Fraud Section, represented herself as an investigator for the agency in order to gain access to the complainant's home. The



State of Alaska
Ombudsman

Duncan C. Fowler

Reply to:

P.O. Box 102638
Anchorage, AK 99510-2638
(907) 277-6648
(800) 478-2624

P.O. Box WO
Juneau, AK 99811-3000
(907) 465-4970
(800) 478-4970

P.O. Box 74358
Fairbanks, AK 99707-4358
(907) 452-4001
(800) 478-3257

February 4, 1992

Richard L. Burton, Commissioner
Department of Public Safety
Post Office Box 111200
Juneau, Alaska 99811-1200

RE: Ombudsman Complaints A090-1316 and A090-1427 (Closed)

Dear Commissioner  Burton:

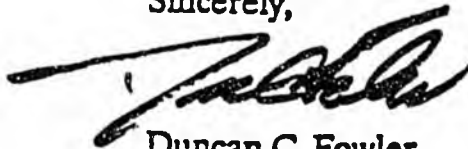
Enclosed is the final investigative report in the above-referenced complaints. The complainants alleged that a Department of Law employee had used the APSIN system to obtain information for personal use.

As a result of these investigations, I recommended to the Department of Public Safety that steps be taken to: (a) introduce legislation which would make misuse of the APSIN system a criminal violation; and (b) take administrative action which would assure that further misuse of the system is negated.

You have accepted our recommendations and taken appropriate administrative action. I, therefore, find the complaint rectified, and I have closed these complaints.

I would like to thank you and your staff for your cooperation and assistance throughout the course of these investigations.

Sincerely,



Duncan C. Fowler
Ombudsman

GBP:pjc
Enclosure

DEPARTMENT OF PUBLIC SAFETY

OFFICE OF THE COMMISSIONER

P.O. BOX N
JUNEAU, ALASKA 99811-1200
PHONE: 465-4322

June 28, 1991

RECEIVED

JUN 28 1991

JUNEAU
OFFICE OF OMBUDSMAN

Mr. Duncan C. Fowler, Ombudsman
P.O. Box WO
Juneau, AK 99811-3000

Dear Duncan,

This letter is in response to your proposed recommendations concerning Ombudsman Complaints A90-1316 and A90-1427.

Proposed Recommendation (1)

Next legislative session the Department of Public Safety submit legislation which will make misuse of APSIN a criminal offense.

Response

Agree. Enclosed are draft statute recommendations which have been transmitted to the Attorney General for bill drafting. Special attention should be paid to page 42, section 17, which specifically addresses penalties for misuse.

Proposed Recommendation (2)

The Department of Public Safety establish a policy similar to that which has been established by the Welfare Fraud Section to discourage individuals from misusing the system. Specifically, a recordkeeping system showing who is requesting what information and termination of access to APSIN if an individual is found misusing the system. Misuse would include allowing another individual to access APSIN by using one's identification access code.

Response

Agree. The department has integrated this type of journal reporting into APSIN with the same intent as your proposed recommendation. However, it is difficult to administer in that dedicated compliance audit and system training functions need to be in place to be in a responsible position to administer overall security of the system. We have one security position for more than 2,500 users. Training is performed to some degree by distributing training videos and when time permits, one day sessions with interested users. When an exception does occur, we follow up and have policies in place that we do enforce (see enclosed CTA Directive No. 90-2).

Proposed Recommendation (3)

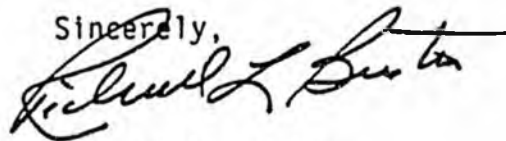
The Department of Public Safety make contact with all agencies having access to APSIN and request that they too incorporate a policy similar to Welfare Fraud's. Special consideration should be given to those areas indicated in recommendation #2.

Response

Agree. Each user must sign a formal user agreement (see enclosed example) to comply with policy, procedure, and security prescribed by the department which includes compliance with FBI and NLETS (National Law Enforcement Telecommunications System) policies. Each agency designates a terminal security officer (TSO) to be the Department's contact for communicating updates and maintaining compliance within their own organization.

Thank you for this opportunity to respond. If you have any further questions, please call Ken Bischoff at 465-4336.

Sincerely,



Richard L. Burton
Commissioner

Enclosures

cc: Dean Guaneli
Assistant Attorney General
Criminal Division
Department of Law

Ken Bischoff, Director
Division of Administrative Services
Department of Public Safety

MEMORANDUM

State of Alaska

TO: Charles E. Cole
Attorney General
Department of Law

DATE: June 25, 1991

FILE NO: DIROFF 1316

Attn: Dean Guaneli *RG*

TELEPHONE NO: 465-4322

FROM: Richard L. Burton, Commissioner
Department of Public Safety

SUBJECT: Request for Bill
Drafting

*Big Budget
System in
Budget →*

Attached to this cover are recommendations for statutory changes that address operation of the Alaska Public Safety Information Network. The attachment is the product of a significant joint effort by the department, Search Group, Inc., Department of Law and the Department of Corrections. With increased awareness regarding the use of information maintained in APSIN and, the support this system provides to the criminal justice community, it is time to update present statutes and provide the express authority required to effectively operate and administer this essential law enforcement information tool.

I am making this request for drafting now to be able to circulate the draft bill among interested groups, state agencies, local police and the legislature to begin the educational process. It is my hope that we can prefile this bill for introduction this coming session.

Dean Guaneli provided valuable guidance as we went through this review effort and discussions that resulted in the attached recommendations. Dean has a complete set of the reports, including drafts that were produced.

If you have any questions regarding this request please call me. My project contact person for this issue is Ken Bischoff, Director, Division of Administrative Services, 465-4336.

cc: Dean Guaneli
Assistant Attorney General
Department of Law

Ken Bischoff, Director
Division of Administrative Services
Department of Public Safety

STATUTORY RECOMMENDATIONS

Submitted to

ALASKA DEPARTMENT OF PUBLIC SAFETY

By

SEARCH GROUP, INC.

December 1, 1989



SEARCH Group, Inc.

The National Consortium for Justice Information and Statistics
925 Secret River Drive, Suite H/Sacramento, California/(916) 392-2550

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CHAPTER 62. CRIMINAL JUSTICE INFORMATION SYSTEMS SECURITY AND PRIVACY

SECTION 1. PURPOSE AND FINDINGS.

- (a) The purpose of this chapter is to provide for the creation and maintenance of an accurate and efficient criminal justice information system in Alaska consistent with this chapter and applicable federal laws and regulations, with the need of criminal justice agencies of the state for accurate and current criminal history record information, and with the right of individuals to be free from unwarranted intrusions into their privacy.
- (b) In order to achieve this result, the legislature finds that there is a need:
 - (1) To designate the Department of Public Safety as the central state repository for criminal history record information and for information relating to wanted persons, stolen vehicles and identifiable stolen property;
 - (2) To require the timely taking, transmission and filing of fingerprints;
 - (3) To require the timely reporting of accurate, relevant and current criminal justice information to the repository by all criminal justice agencies;
 - (4) To insure that criminal justice information is kept accurate, current and secure against damage or unauthorized access; and
 - (5) To prohibit the improper dissemination of such information.

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Officials in other states generally had an appeal process and required a strict standard of proof prior to dismissal.

December 1990. After a brief investigation, the academy commander dismissed him and removed him from campus just hours before the graduation ceremony. When the student protested through an attorney several weeks later, the academy commander referred him to the university's grievance process, available to all students.

A hearing by university faculty and students cleared the young man's record. His dismissal was based on

the word of two fellow students and the hearing panel discounted that testimony in a 3-1 vote. But public safety officials disagreed with the process and results of the hearing and refused to grant the student a certificate of completion, a document required in order to be hired by a local police department.

In the ombudsman's review of the student's complaint, he found the department should have an appeal process in place for matters involv-

ing strictly academy procedures. The investigator polled police academy leaders in several other states to see what level of proof they required for a dismissal for dishonesty and whether the dismissal included an appeal process. Officials in other states generally had an appeal process and required a strict standard of proof prior to dismissal.

Public Safety officials also agreed to incorporate an appeal process for university students into future sessions of training. This appeal will be available for academy matters which are strictly law enforcement and discipline issues.

is not improper

Professors of free, complimentary textbooks of the state ethics statutes, according to

student in Fairbanks questioned the widespread practice of accepting the complimentary texts student alleged this was a violation of the state's

practice improperly influences professors and ering how much the textbook costs students. The y textbooks professors order for their classes are for students to buy.

ee is improper under the ethics act if it benefits personally or financially and it can be reasonably given to influence an official act.

the student he must first present his complaint ome Komisar, and to the state Attorney General's

ctacted the university president. Dr. Komisar attribute the high cost of textbooks to the practice heir textbooks by giving complimentary copies to practice is beneficial, he said, because almost all books available in this way and it is an efficient professors the opportunity to review the range of ble in the marketplace and at no cost to the

l Bruce Botelho was also contacted by the olaint. Botelho found no violation of the ethics he practice is universal among publishers, ave little financial interest in the specific and (3) to the extent the gift exists, it is a gift to hool is the primary beneficiary.

d Ombudsman Duncan Fowler to investigate the e regarding the facts. Fowler agreed with the

Public Safety

Improper use of system alleged

Two very distressed Anchorage residents came to the ombudsman complaining that a state employee had improperly used her security access to the Alaska Public Safety Information Network (APSIN) to obtain information for personal use.

APSIN is the state's criminal justice information network and is administered by the Department of Public Safety.

The ombudsman's preliminary review of the allegations revealed that there was reason to believe the employee had indeed used her security access to APSIN to obtain information for personal use. The matter was referred to the Department of Law for possible criminal prosecution.

The ombudsman's preliminary review of the allegations also revealed that there was some question as to whether or not APSIN fell within the statutory definition of a criminal justice information system.

While everyone agreed that Alaskans' criminal records were not a matter of public record, failure to update the statutes meant that APSIN did not fall under the statutory definition of a criminal justice information system.

Once the department became aware of this oversight, immediate action was taken to draft legislation correcting the problem.

The employee was ultimately terminated, and stricter standards were taken to assure that further abuse of the APSIN system would be prevented.

Public information decision questioned

An Anchorage resident wrote to the Department of Public Safety requesting what he believed to be public information. The man requesting the information had a criminal conviction that was pending at the appellate level. Because of the ongoing criminal matter, the request for information was referred to the Department of Law.

The attorney general's office advised Alaska State Trooper Director Col. Robert Jent not to respond to the request for information due to the ongoing criminal matter. The state's attorney also contacted the defendant's attorney advising her to tell her client that all such requests must be made through his attorney.

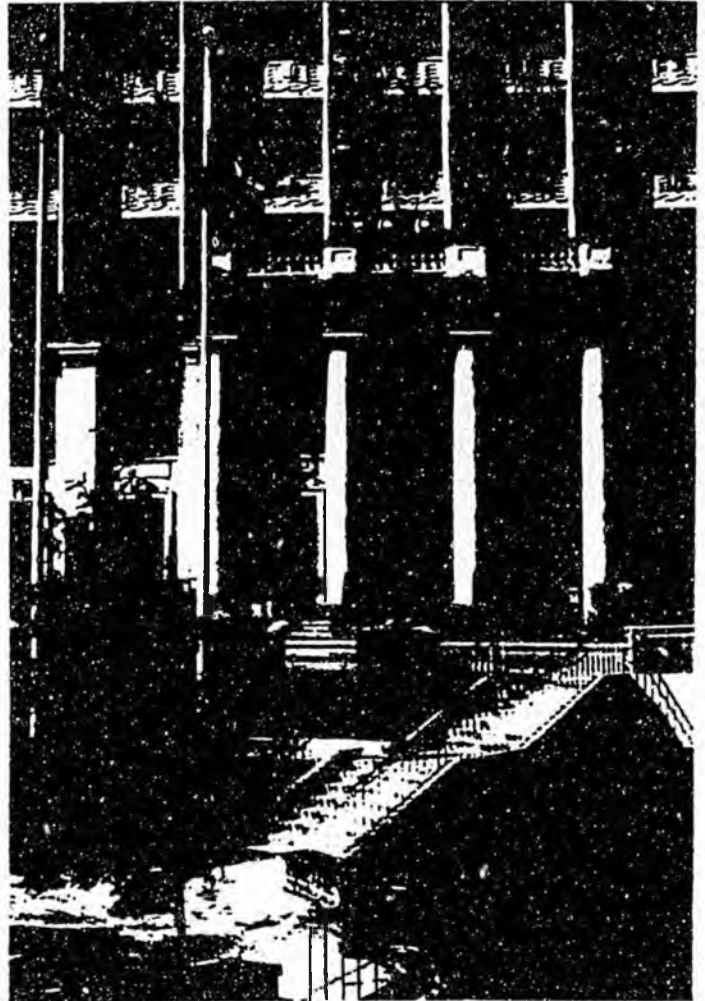
The gentleman requesting the information complained to the ombuds-

Alaska's Constitution

A CITIZEN'S GUIDE

Third Edition

Alaska Legislative Research Agency • Gordon S. Harrison



Article I

The second sentence has no direct counterpart in the U.S. Constitution, but the principle is embodied in the federal provision that the president is the commander and chief of the army and navy (Article II, Section 2). Virtually all state constitutions contain a similar statement, which expresses a basic tenet of democratic government.

Section 21. Construction

The enumeration of rights in this constitution shall not impair or deny others retained by the people.

That Article I may omit mention of other rights does not mean that these rights are surrendered by the people. This provision is common in state constitutions, and it is a principle recognized by the ninth article of the Bill of Rights: "The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people."

In fact, this provision has been used very seldom by state or federal courts. So far it has been recognized as protecting only one minor right in Alaska: the supreme court declared that this section protects the right of a prisoner to act as his or her own attorney in post-conviction proceedings. "At the time that the Alaska Constitution was enacted and became effective, the right of self-representation was so well established that it must be regarded as a right 'retained by the people'" (*McCracken v. State*, 518 P.2d 85, 1974).



Section 22. Right of Privacy

The right of privacy is recognized and shall not be infringed. The legislature shall implement this section.

This section was added to the constitution by amendment in 1972. It was prompted by the fear of the potential for misuse of computerized information systems, which were then in their infancy. Delegates to the constitutional convention 16 years earlier had also been concerned about the potential for technological intrusion in the lives of ordinary citizens, but then the fear was electronic surveillance and wiretapping. They considered, but ultimately rejected, inclusion of the following language in the section dealing with unreasonable searches and seizures: "The right of privacy of the individual shall not be

invaded by use of any electronic or other scientific transmitting, listening or sound recording device for the purpose of gathering incriminating evidence. Evidence so obtained shall not be admissible in judicial or legislative hearings."

* In the early 1970s, the Alaska Department of Public Safety was developing the Alaska Justice Information System, a computerized database of information on the criminal history of individuals. Fearful that such a system was the precursor of a "Big Brother" government information bureaucracy, legislators responded with this constitutional amendment, which was handily ratified by the voters.

Alaska is one of a small group of states with a constitutional right of privacy: similar provisions can be found in the constitutions of Arizona, California, Florida, Hawaii, Illinois, Louisiana, Montana, South Carolina and Washington (some were added by amendment at approximately the same time as Alaska's). The U.S. Constitution does not contain an explicit right of privacy. However, in recent years the U.S. Supreme Court has ruled that basic privacy rights are inferred from the First, Third, Fourth, Fifth and Ninth Amendments.

Like other basic constitutional rights, the right of privacy is not absolute. Reasonable interferences with privacy are tolerated, as are, for example, reasonable restraints on the right of free speech. To judge the acceptability of government interference with citizens' privacy, the courts use the same balancing test applied in other cases where it is alleged that the state has trampled a person's rights: the more significant the right involved, the more important the state's interest must be in adopting the restrictive law or regulation.

The first major judicial interpretation of the new constitutional right of privacy in Alaska arose from a case not involving electronic intrusion, but the use of marijuana in the home. In this landmark case that overturned a state law making it illegal to possess marijuana under any circumstances, the Alaska Supreme Court regarded privacy in the home to be the highest importance and the most deserving of constitutional protection, and found the state's case for regulating the personal use of small amounts of marijuana to be less than compelling (*Ravin v. State*, 537 P.2d 494, 1975). In subsequent cases, however, the court upheld the state laws against the possession of small amounts of marijuana in public (saying the right of personal privacy in public places is of lesser constitutional significance; *Belgarde v. State*, 543 P.2d 206, 1975) and against the possession of small amounts of cocaine in the home (saying the harmful societal effects of cocaine are serious

(2) "employment in the executive branch of state government" includes employment as a permanent, probationary, provisional, nonpermanent, or temporary employee in the classified, partially exempt, or exempt services in the executive branch of state government;

(3) "member of a protected class" means a person protected by federal or state laws that prohibit discrimination in employment or a person who experiences or has experienced difficulty in obtaining employment or advancement in employment because of another factor not related to merit;

(4) "office" means the office of equal employment opportunity in the Office of the Governor. (E.O. No. 91, § 2 (1995))

Article 10. Telecommunications Information Council.

<p>Section 502. Telecommunications Information Council 504. Powers and duties 506. Court system</p>	<p>Section 519. Definitions</p>
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Cross references. — For statement of legislative purpose, see § 1, ch. 53, SLA 1987, in the Temporary and Special Acts.

Sec. 44.19.502. Telecommunications Information Council. (a) There is created within the Office of the Governor the Telecommunications Information Council.

(b) The council is composed of the governor, the commissioner from each principal department of the executive branch, the president of the University of Alaska, the executive director of the Legislative Affairs Agency, a member of the public appointed by the governor, and one legislator from each house, appointed by the respective presiding officer. The legislators shall serve as nonvoting members of the council. The public member appointed by the governor may not have a financial interest in the information services industry. The chief justice of the supreme court may appoint a member to serve on the council. Each commissioner shall appoint a deputy commissioner to serve as an alternate for the commissioner. The vice-president of the University of Alaska shall serve as alternate for the president.

(c) The governor shall preside over the council. The council shall meet at least four times each year. The council may meet more frequently at the call of the chair or if requested by a majority of the council's members.

(d) The Office of the Governor shall provide professional and clerical staff for the council. (§ 2 ch 53 SLA 1987; am § 1 ch 156 SLA 1990)

Effect of amendments. — The 1990 amendment, effective June 22, 1990, deleted "and" following "Alaska" in the first sentence, added the phrase beginning with "a member of the public" at the end of the first sentence and added the second and third sentences in subsection (b).

Sec. 44.19.504. Powers and duties. (a) The council shall

(1) establish guidelines and prepare a state short-range and long-range information systems plan to meet state needs;

(2) in accordance with the state information systems plan, establish guidelines and direct state agencies to prepare agency information systems plans;

(3) in accordance with statutes governing the availability and confidentiality of information, establish guidelines for the accessing of information by the public;

(4) *[Repealed, § 35 ch 126 SLA 1994.]*

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) In addition to its duties under (a) of this section, the council may establish information-related policies and engage in information-related activities it considers necessary or appropriate.

(c) This section does not grant council responsibility for broadcast programming content. Program design, production, and use are the responsibility of the program-sponsoring agency or other entity.

(d) This section does not prohibit a state agency from developing information systems that are inconsistent with the guidelines established in (a) of this section if the council gives written authorization for the user agency to engage in the independent design, development, management, or operation. The council may authorize independent development only upon a showing of necessity. A description of authorization under this subsection shall be included in the annual report required under this section. Written authorization under this subsection is not required for intra-agency use of microcomputers.

(e) A state agency, including an agency authorized to develop an independent system under (d) of this section, shall coordinate the design, development, management, and operation of its information systems with the council. (§ 2 ch 53 SLA 1987; am § 35 ch 126 SLA 1994)

Effect of amendments. — The 1994 amendment, effective July 1, 1994, repealed paragraph (a)(4), relating to the council's duty to publish an annual report on its activities.

Sec. 44.19.506. Court system. The administrative director of courts shall establish information systems guidelines and prepare a short-range and long-range information systems plan for the court system. The guidelines and plan must be consistent with the telecommunications information guidelines and plan adopted by the council under AS 44.19.502 — 44.19.519 and must be adapted to the special needs of the judicial branch as determined by the administrator of courts. (§ 2 ch 53 SLA 1987)

Sec. 44.19.510. [Renumbered as AS 44.31.150.]

Sec. 44.19.519. Definitions. In AS 44.19.502 — 44.19.519

- (1) "council" means the Telecommunications Information Council;
- (2) "state agencies" means all departments, divisions, and offices in the executive and legislative branches of state government and the University of Alaska; it does not mean the Alaska Railroad Corporation or an agency of the judicial branch of government. (§ 2 ch 53 SLA 1987)

Sec. 44.19.520. [Renumbered as AS 44.31.160.]

Secs. 44.19.521 — 44.19.529. Alaska Commission on Children and Youth. [Repealed by E.O. No. 84, § 9 (1993). For current law, see AS 44.19.601.]

Secs. 44.19.530 — 44.19.560. [Renumbered as AS 44.31.170 — 44.31.200.]

Secs. 44.19.561 — 44.19.577. [Repealed, § 3 ch 73 SLA 1990.]

Sec. 44.19.580. Rural Development Agency. [Repealed, § 10 ch 200 SLA 1972. For current law, see AS 44.47.130 — 44.47.190.]

Sec. 44.19.581. [Renumbered as AS 44.99.009.]

Sec. 44.19.590. [Repealed, § 10 ch 200 SLA 1972.]

Sec. 44.19.591. [Renumbered as AS 44.19.600.]

Secs. 44.19.600 — 44.19.608.

Article 11.

Section

- 600. Creation of commission; officers
- 602. Appointment; officers
- 604. Terms of office; compensation
- 606. Meetings
- 608. Purpose and powers relating to the transfer of power

Cross references. — For provisions relating to the transfer of power from the Alaska Women's Commission to the Alaska Human Relations Commission, see AS 44.19.604.

Sec. 44.19.600. Creation of Office of the Governor's Commission on Women.

(b) The commission shall consist of seven members, appointed by the governor.

(c) At least one public member shall be appointed. The commission includes the person's spouse or partner. At least one public member shall be a woman. (E.O. No. 84 § 7 (1993))

Sec. 44.19.602. Appointment of nonpartisan and nondiscriminatory members of the governor shall give due weight to the following factors:

- (1) the recommendations of professional and vocational groups, labor unions, and other organizations;
- (2) statewide geographic representation;
- (3) minority and low-income representation;
- (4) representation of a variety of occupational categories;
- (5) representation of public members of children.

(b) The commission shall appoint other officers as necessary.

Cross references. — For provisions relating to the Alaska Human Relations Commission, see AS 44.19.604.

Sec. 44.19.604. Term of the commission is three years, not to exceed more than six consecutive years.

(b) A vacancy shall be filled by appointment to a vacancy shall be filled by appointment.

(c) Public members of the commission are entitled to per diem for their services. (E.O. No. 84 § 7 (1993))

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Cross references. — For criminal impersonation, see AS 11.46.570.

NOTES TO DECISIONS

For case construing former statute concerning impersonating a peace officer, see *Larson v. State*, 564 P.2d 365 (Alaska 1977).

Sec. 11.56.840. Failure to register as a sex offender. A person who knowingly fails to (1) register, (2) file the written notice of change of address, or (3) file the annual written notice or statement, as required in AS 12.63.010, is guilty of a class A misdemeanor. (§ 2 ch 41 SLA 1994)

Effective dates. — Section 2, ch. 41, SLA 1994, which enacted this section, took effect on August 10, 1994.

Editor's notes. — Section 13, ch. 41, SLA 1994

provides that "[t]he Department of Public Safety shall uniformly enforce the provisions of this Act throughout the state regardless of the geographical location of the residence of the offender."

NOTES TO DECISIONS

Constitutionality. — The statutory design of the Registration Act, ch. 41, SLA 1994, which requires "sex offenders" to register with police authorities, displays a purpose to regulate present circumstances, not to punish prior conduct. However, the Registration Act may be considered punitive, for its effect is to impose an affirmative burden on those subject to registration as a consequence of past conduct. *Rowe v. Burton*, 884 F. Supp. 1372 (D. Alaska 1994).

For discussion of whether the sanction of the Registration Act, ch. 41, SLA 1994, entails an affirmative disability or restraint, whether the sanction has historically been regarded as punitive, whether the sanction depends upon a finding of scienter, whether the sanction will operate to promote traditional punishment objectives, whether the sanction applies to behavior which is already a crime, whether there is an alternative non-punitive purpose for the sanction, and whether the sanction is excessive in relation to the alternative purpose, see *Rowe v. Burton*, 884 F. Supp. 1372 (D. Alaska 1994).

The Registration Act, ch. 41, SLA 1994, is likely to violate the prohibition on ex post facto legislation, because the law includes a provision providing for public dissemination of information concerning sex

offenders whose convictions antedate the Registration Act. *Rowe v. Burton*, 884 F. Supp. 1372 (D. Alaska 1994).

Because the Registration Act, ch. 41, SLA 1994, is likely penal in nature because of the provision for public dissemination of information, plaintiffs, who pled no contest to sex offenses pursuant to plea bargains that did not include any duty to register, are likely to prevail on claims for violation of the plea agreements and due process. *Rowe v. Burton*, 884 F. Supp. 1372 (D. Alaska 1994).

Sex offenders required to register with police authorities were not likely to prevail on their assertion that the Registration Act, ch. 41, SLA 1994, and specifically the requirement to submit oneself to the state troopers or local police for photographs and fingerprinting, was an unreasonable search or seizure. *Rowe v. Burton*, 884 F. Supp. 1372 (D. Alaska 1994).

Sex offenders required to register with police authorities do not appear to be able to establish a reasonable expectation of privacy in the information required to be disclosed by the Registration Act, ch. 41, SLA 1994. *Rowe v. Burton*, 884 F. Supp. 1372 (D. Alaska 1994).

Article 6. Abuse of Public Office.

Section

850. Official misconduct

860. Misuse of confidential information

Collateral references. — 63 Am. Jur. 2d, Public Officers and Employees, §§ 348-359.

67 C.J.S., Officers, §§ 120-126, 255-263.

Infamous crime or one involving moral turpitude constituting disqualification to hold public office, 52 ALR2d 1314.

Official oppression, what constitutes offense of, 83 ALR2d 1007.

Personal liability of policeman, sheriff, or similar peace officer or his bond, for injury suffered as a result of failure to enforce law or arrest law breaker, 41 ALR3d 700.

Removal of public officer for misconduct during previous term, 42 ALR3d 691.

Validity and construction of statute authorizing grand jury to submit report concerning public servant's noncriminal misconduct, 63 ALR3d 586.

Sexual misconduct or irregularity as amounting to "conduct unbecoming an officer" justifying officer's demotion or removal or suspension from duty, 4 ALR4th 614.

Sec. 11.56.850. Official misconduct. (a) A public servant commits the crime of official misconduct if, with intent to obtain a benefit or to injure or deprive another person of a benefit, the public servant

(1) performs an act relating to the public servant's office but constituting an unauthorized exercise of the public servant's official functions, knowing that that act is unauthorized; or

(2) knowingly refrains from performing a duty which is imposed upon the public servant by law or is clearly inherent in the nature of the public servant's office.

(b) Official misconduct is a class A misdemeanor. (§ 6 ch 166 SLA 1978)

NOTES TO DECISIONS

Cited in *Feichtinger v. State*, 779 P.2d 344 (Alaska Ct. App. 1989).

Sec. 11.56.860. Misuse of confidential information. (a) A person who is or has been a public servant commits the crime of misuse of confidential information if the person

(1) learns confidential information through employment as a public servant; and

(2) while in office or after leaving office, uses the confidential information for personal gain or in a manner not connected with the performance of official duties other than by giving sworn testimony or evidence in a legal proceeding in conformity with a court order.

(b) As used in this section, "confidential information" means information which has been classified confidential by law.

(c) Misuse of confidential information is a class A misdemeanor. (§ 6 ch 166 SLA 1978)

Article 7. General Provisions.

Section 900. Definitions

Sec. 11.56.900. Definitions. In this chapter, unless the context requires otherwise,

(1) "improperly influence a witness" means to cause or induce a witness to

(A) testify falsely, offer misleading testimony, or unlawfully withhold testimony in an official proceeding;

(B) avoid or attempt to avoid legal process summoning the witness to testify in an official proceeding, regardless of whether legal process has issued;

(C) be absent from an official proceeding to which the witness has been summoned; or

(D) engage in conduct described in AS 11.56.610;

(2) "judicial officer" means a supreme court justice, including the chief justice, a judge of the court of appeals, a judge of the superior court, a district court judge, or a magistrate;

(3) "juror" means a person who is a member of an impanelled jury or a person who has been drawn or summoned to attend as a prospective juror;

(4) "physical evidence" means an article, object, document, record, or other thing of physical substance;

(5) "testimony" means oral or written statements, documents, or other material that may be offered by a witness in an official proceeding;

(6) "witness" means

(A) a witness summoned or appearing in an official proceeding; or

(B) a person who the defendant believes may be called as a witness in an official proceeding, present or future. (§ 6 ch 166 SLA 1978; am § 20 ch 12 SLA 1980)

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Alaska Statutes

Title 40. Public Records and Recorders.

Chapter

- 05. Records Affecting Mining Claims (§§ 40.05.010, 40.05.020)
- 15. Subdivisions and Dedications (§§ 40.15.010 — 40.15.290)
- 17. Recording in Public Records (§§ 40.17.010 — 40.17.900)
- 19. Recording Federal Liens (§§ 40.19.010 — 40.19.050)
- 21. Management and Preservation of Public Records (§§ 40.21.010 — 40.21.150)

Revisor's notes. — The provisions of this title were redrafted in 1988 to remove personal pronouns pursuant to § 4, ch. 58, SLA 1982 and to make other, minor word changes.

Cross references. — For inspection and copying of public records, see AS 09.25.110 — 09.25.125.

Chapter 05. Records Affecting Mining Claims.

Section

- 10. Purpose
- 20. Reports of instruments affecting mining properties

Sec. 40.05.010. Purpose. The purpose of this chapter is to enable the Department of Natural Resources to accumulate and disseminate information on the status of mining ground in the performance of its prescribed duties. (§ 1 ch 95 SLA 1953; am § 1 ch 72 SLA 1961)

Collateral references. — 54 Am. Jur. 2d, Mines and Minerals, §§ 33, 53-56, 80, 106, 116, 241, 242.

Sec. 40.05.020. Reports of instruments affecting mining properties. The recorder of each recording district shall prepare and forward to the Department of Natural Resources, by the 10th day of each month, a copy of each new mining claim, mining leasehold, prospecting site location certificate, or other document indexed by the recorder as a mining document recorded during the preceding month. (§ 2 ch 95 SLA 1953; § 2 ch 72 SLA 1961; am § 1 ch 119 SLA 1996)

Effect of amendments. — The 1996 amendment, effective July 1, 1996, rewrote this section.

Sec. 40.05.030. Duplicate copies required. [Repealed, § 14 ch 119 SLA 1996.]

(b) The fee for electronic services and products must be based on recovery of the actual incremental costs of providing the electronic services and products, and a reasonable portion of the costs associated with building and maintaining the information system of the public agency. The fee may be reduced or waived by the public agency if the electronic services and products are to be used for a public purpose, including public agency program support, nonprofit activities, journalism, and academic research. Fee reductions and waivers shall be uniformly applied among persons who are similarly situated.

(c) Notwithstanding (b) of this section, the fee for duplicating a public record in the electronic form kept by a public agency may not exceed the actual incremental costs of the public agency.

(d) Public agencies shall include in a contract for electronic services and products provisions that

(1) protect the security and integrity of the information system of the public agency and of information systems that are shared by public agencies; and

(2) limit the liability of the public agency providing the services and products.

(e) Each public agency shall notify the state library distribution and data access center established under AS 14.56.090 of the electronic services and products offered by the public agency to the public under this section. The notification must include a summary of the available format options and the fees charged.

(f) When offering on-line access to an electronic file or data base, a public agency also shall provide without charge on-line access to the electronic file or data base through one or more public terminals.

(g) Each public agency shall establish the fees for the electronic services and products provided under this section. The Telecommunications Information Council may cancel the fees established by a public agency in the executive branch, except the fees of the University of Alaska and the Alaska Railroad Corporation, if the council determines that the fees are unreasonably high.

(h) A public agency may not make electronic services and products available to one member of the public and withhold them from other members of the public.

(i) A public agency other than a municipality or the Alaska Railroad Corporation shall separately account for the fees received by the agency under this section and deposited in the general fund. The annual estimated balance in the account may be used by the legislature to make appropriations to the agency to carry out the activities of the agency. (§ 4 ch 200 SLA 1990; am § 102 ch 4 FSSLA 1992)

Cross references. — For legislative findings and intent in connection with the enactment of this section, see § 1, ch. 200, SLA 1990 in the Temporary and Special Acts.

Effect of amendments. — The 1992 amendment, effective July 1, 1992, in subsection (g), substituted "except the fees of" for "including the Alaska State Housing Authority, but not including."

Sec. 09.25.120. Public records; exceptions; certified copies. (a) Every person has a right to inspect a public record in the state, including public records in recorders' offices, except

(1) records of vital statistics and adoption proceedings which shall be treated in the manner required by AS 18.50;

(2) records pertaining to juveniles unless disclosure is authorized by law;

(3) medical and related public health records;

(4) records required to be kept confidential by a federal law or regulation or by state law;

(5) to the extent the records are required to be kept confidential under 20 U.S.C. 1232g and the regulations adopted under 20 U.S.C. 1232g in order to secure or retain federal assistance;

(6) records or information compiled for law enforcement purposes, but only to the extent that the production of the law enforcement records or information

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Sec. 09.25.160. [Renumbered as AS 09.25.310.]

Sec. 09.25.170. [Renumbered as AS 09.25.320.]

Sec. 09.25.180. [Renumbered as AS 09.25.330.]

Sec. 09.25.190. [Renumbered as AS 09.25.340.]

Sec. 09.25.200. [Renumbered as AS 09.25.350.]

Sec. 09.25.210. [Renumbered as AS 09.25.360.]

Sec. 09.25.220. Definitions for AS 09.25.100 — 09.25.220. In AS 09.25.100 — 09.25.220, unless the context otherwise requires,

(1) "electronic services and products" means computer-related services and products provided by a public agency, including

(A) electronic manipulation of the data contained in public records in order to tailor the data to the person's request or to develop a product that meets the person's request;

(B) duplicating public records in alternative formats not used by a public agency, providing periodic updates of an electronic file or data base, or duplicating an electronic file or data base from a geographic information system;

(C) providing on-line access to an electronic file or data base;

(D) providing information that cannot be retrieved or generated by the existing computer programs of the public agency;

(E) providing functional electronic access to the information system of the public agency; in this subparagraph, "functional access" includes the capability for alphanumeric query and printing, graphic query and plotting, nongraphic data input and analysis, and graphic data input and analysis;

(F) providing software developed by a public agency or developed by a private contractor for a public agency;

(G) generating maps or other standard or customized products from an electronic geographic information system;

(2) "public agency" means a political subdivision, department, institution, board, commission, division, authority, public corporation, council, committee, or other instrumentality of the state or a municipality; "public agency" includes the University of Alaska and the Alaska Railroad Corporation;

(3) "public records" means books, papers, files, accounts, writings, including drafts and memorializations of conversations, and other items, regardless of format or physical characteristics, that are developed or received by a public agency, or by a private contractor for a public agency, and that are preserved for their informational value or as evidence of the organization or operation of the public agency; "public records" does not include proprietary software programs;

(4) "Telecommunications Information Council" means the Telecommunications Information Council established under AS 44.19.502. (am § 8 ch 200 SLA 1990; am § 104 ch 4 FSSLA 1992)

Revisor's notes. — In 1994, former paragraphs (2)-(4) and (7) were renumbered as AS 09.25.390(1)-(4).

Effect of amendments. — The 1990 amendment made an internal reference change in the introductory paragraph, added paragraph (1), renumbered former paragraphs (1)-(3) as paragraphs (2)-(4) (now see AS 09.25.390) while making a minor punctuation change

in paragraph (4) (now see AS 09.25.390), added paragraphs (5) and (6) (now see paragraphs (2) and (3)), renumbered former paragraph (4) as paragraph (7) (now see AS 09.25.390), and added paragraph (8) (now see paragraph (4)).

The 1992 amendment, effective July 1, 1992, deleted the Alaska State Housing Authority from the list at the end of paragraph (5) (now (2)).

Sec. 11.46.740. Criminal use of computer.

(a) A person commits the offense of criminal use of a computer if, having ~~no right to do~~ so or any reasonable ground to believe the person has such a right, the person knowingly accesses or causes to be accessed a computer, computer system, computer program, computer network, or any part of a computer system or network, and as a result of that access

(1) obtains information concerning a person; or

(2) introduces false information into a computer, computer system, or computer network with the intent to damage or enhance the data record of a person.

(b) ~~Criminal use of a computer is a class C felony!~~

History -

(sec. 3 ch 79 SLA 1984)

Collateral Refs -

Criminal liability for theft of, interference with, or unauthorized use of, computer programs, files, or systems, 51 ALR4th 1046.

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(d) A defendant convicted of a class B felony may be sentenced to a definite term of imprisonment of not more than 10 years, and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 — 12.55.175:

- (1) if the offense is a second felony conviction, four years;
- (2) if the offense is a third felony conviction, six years.
- (3) [Repealed, § 6 ch 6 SLA 1996.]

(e) A defendant convicted of a class C felony may be sentenced to a definite term of imprisonment of not more than five years, and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 — 12.55.175:

- (1) if the offense is a second felony conviction, two years;
- (2) if the offense is a third felony conviction, three years.
- (3) [Repealed, § 6 ch 6 SLA 1996.]

(4) if the offense is a first felony conviction, and the defendant violated AS 08.54.720(a)(15), one year.

(f) If a defendant is sentenced under (a) or (b) of this section,

(1) imprisonment for the prescribed minimum or mandatory term may not be suspended under AS 12.55.080;

(2) imposition of sentence may not be suspended under AS 12.55.085;

(3) imprisonment for the prescribed minimum or mandatory term may not be reduced, except as provided in (j) of this section.

(g) If a defendant is sentenced under (c), (d)(1), (d)(2), (e)(1), (e)(2), (e)(4), or (i) of this section, except to the extent permitted under AS 12.55.155 — 12.55.175,

(1) imprisonment may not be suspended under AS 12.55.080;

(2) imposition of sentence may not be suspended under AS 12.55.085;

(3) terms of imprisonment may not be otherwise reduced.

(h) Nothing in this section or AS 12.55.135 limits the discretion of the sentencing judge except as specifically provided. Nothing in (a) of this section limits the court's discretion to impose a sentence of 99 years imprisonment, or to limit parole eligibility, for a person convicted of murder in the first or second degree in circumstances other than those enumerated in (a).

(i) A defendant convicted of sexual assault in the first degree or sexual abuse of a minor in the first degree may be sentenced to a definite term of imprisonment of not more than 30 years, and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 — 12.55.175:

(1) if the offense is a first felony conviction and does not involve circumstances described in (2) of this subsection, eight years;

(2) if the offense is a first felony conviction, and the defendant possessed a firearm, used a dangerous instrument, or caused serious physical injury during the commission of the offense, 10 years;

(3) if the offense is a second felony conviction, 15 years;

(4) if the offense is a third felony conviction and the defendant is not subject to sentencing under (l) of this section, 25 years.

(j) A defendant sentenced to a (1) mandatory term of imprisonment of 99 years under (a) of this section may apply once for a modification or reduction of sentence under the Alaska Rules of Criminal Procedure after serving one-half of the mandatory term without consideration of good time earned under AS 33.20.010, or (2) definite term of imprisonment under (l) of this section may apply once for a modification or reduction of sentence under the Alaska Rules of Criminal Procedure after serving the greater of (A) one-half of the definite term or (B) 30 years. A defendant may not file and a court may not entertain more than one motion for modification or reduction of a sentence subject to this subsection, regardless of whether or not the court granted or denied a previous motion.

(k) A first felony offender convicted of an offense for which a presumptive term of imprisonment is not specified under this section may not be sentenced to a term of

PART 3. OFFICE OF THE COMMISSIONER.

Chapter

68. Central Repository of Criminal Justice Information (13 AAC 68.005 - 13 AAC 68.905)

CHAPTER 68. CENTRAL REPOSITORY OF CRIMINAL JUSTICE INFORMATION.

Article

1. Scope and Purpose of the Repository (13 AAC 68.005)
2. Reporting Information to the Repository (13 AAC 68.100 - 13 AAC 68.160)
3. Completeness, Accuracy, and Security (13 AAC 68.200 - 13 AAC 68.220)
4. Dissemination of Criminal Justice Information (13 AAC 68.300 - 13 AAC 68.345)
5. General Provisions (13 AAC 68.900 - 13 AAC 68.905)

ARTICLE 1. SCOPE AND PURPOSE OF THE REPOSITORY.

Section

05. Scope

13 AAC 68.005. SCOPE. (a) This chapter applies to information maintained by the central repository of criminal justice information in

(1) The Alaska Public Safety Information Network (APSIN);

(2) The Alaska Automated Fingerprint Identification System (AAFIS);

(3) files of fingerprint cards and photographs provided to the repository under this chapter; and

(4) files of correspondence concerning the correction, sealing, or purging of criminal justice information about an individual.

(b) This chapter does not apply to criminal justice information maintained by the federal government or another state. Upon request, the department will provide information regarding procedures to report information to or request information from the federal government or another state through the National Crime Information Center, Interstate Identification Index, or National Law Enforcement Telecommunications System.

(c) The provisions of AS 12.62.160(c)(3), 12.62.160(c)(4), and this chapter do not apply to the dissemination of criminal justice information maintained by an agency other than the repository. (Eff. 1/10/97, Register 140)

Authority: AS 09.25.120
AS 12.62.110

AS 12.62.160
AS 44.41.020

AS 44.41.035

(2) the mailing address and phone number of the requester.

(c) The department will respond in writing to a request made under (b) of this section within 30 days after receipt of the request.

(d) An adverse response made under (c) of this section may be appealed to the commissioner within 30 days after receipt of the response. The commissioner will respond in writing within 30 days after receipt of the appeal.

(e) Failure of the appropriate official to issue a response within the time limits described in (c) or (d) of this section is a denial of the request or appeal. (Eff. 1/10/97, Register 140)

Authority: AS 12.62.110 AS 12.62.170

13 AAC 68.205. SEALING CRIMINAL JUSTICE INFORMATION. When information maintained by the repository is sealed under AS 12.62.180, the repository shall enter a notation in the record stating that the information has been sealed by order of the commissioner or by an identified court after appeal under AS 12.62.180(c), and the date of the order. (Eff. 1/10/97, Register 140)

Authority: AS 12.62.110 AS 12.62.180

13 AAC 68.210. PURGING CRIMINAL JUSTICE INFORMATION. The department will purge criminal justice information reported to the repository under 13 AAC 25.115 - 13 AAC 25.120 and 13 AAC 25.130 - 13 AAC 25.145 only when the subject of the information is deceased. (Eff. 1/10/97, Register 140)

Authority: AS 12.62.110 AS 12.62.190

13 AAC 68.215. DIRECT ACCESS TO CRIMINAL JUSTICE INFORMATION MAINTAINED BY THE REPOSITORY. (a) If the head of a government unit signs an agreement to abide by applicable state and federal statutes and regulations and other mandatory federal requirements relating to criminal justice information systems, the department will, in its discretion, authorize direct access to criminal justice information maintained by the repository for designated employees of -

(1) a criminal justice agency, for a criminal justice activity;

(2) the Department of Administration, state data center, for the purpose of storage and transmission of records required in AS 12.62.150; or

(3) the Department of Administration; public defender agency, to obtain criminal justice information for the purpose of discovery in a criminal case.

(b) A person may not have direct access to repository records unless the department has given the government unit that employs the

person a security clearance for that person. The department will accept an application for a security clearance only from a government unit identified in (a) of this section, and only for an employee who is required to have direct access to repository records for a purpose described in (a)(1) - (a)(3) of this section.

(c) The department will obtain information from the national criminal history system, based on fingerprint identification, before granting a government unit's request for a security clearance for a designated employee. The department will deny a government unit's request for a security clearance for a designated employee who has been convicted of a felony or a misdemeanor in this state or another jurisdiction or who is a fugitive from justice.

(d) After notice and opportunity for response by the government unit, the department will withdraw a security clearance if the department discovers that

- (1) material information was falsified or omitted at the time of the initial application for a security clearance;
- (2) the designated employee has been convicted of a felony in this state or another jurisdiction or become a fugitive from justice; or
- (3) the designated employee has been convicted of a misdemeanor in this state or another jurisdiction since the initial security clearance was granted.

(e) When the department denies or withdraws a security clearance for a government unit's designated employee, the government unit may appeal the decision to the commissioner by submitting written arguments. The commissioner will issue a final decision within 30 days after receipt of the appeal. If the security clearance was denied or withdrawn on grounds other than a misdemeanor conviction, the commissioner will deny the appeal unless the appellant government unit shows that the department's decision was erroneous. If the security clearance was denied or withdrawn based on a misdemeanor conviction, the commissioner will, in the commissioner's discretion, grant the appeal if the head of the government unit signs and submits to the commissioner a statement that includes a

- (1) description of the conduct and circumstances leading to the conviction; and
- (2) recommendation that the security clearance be granted or reinstated, including an explanation of why the head of the government unit believes that
 - (A) the conduct did not involve a crime of dishonesty or moral turpitude;
 - (B) the conduct did not involve a flagrant disregard of the law; and
 - (C) to grant or reinstate the security clearance will not compromise the security of criminal justice information maintained by the repository.

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(f) The department will assign an APSIN access code for a designated employee of a government unit if the designated employee

(1) has a security clearance described in (b) of this section;

(2) is required, as a condition of employment, to make an inquiry, entry, or deletion of criminal justice information in APSIN for a purpose described in (a)(1) – (a)(3) of this section; and

(3) demonstrates, by passing a written test provided by the department, appropriate knowledge of

(A) current APSIN procedures; and

(B) state and federal laws and other mandatory federal requirements concerning criminal justice information systems.

(g) The department will, in its discretion, disable an APSIN access code for a person who no longer meets the criteria described in (f) of this section.

(h) A person may not make an inquiry, entry, or deletion of criminal justice information in APSIN except

(1) by using an APSIN access code assigned by the department for that person under (f) of this section; and

(2) for a purpose specifically authorized under AS 12.62 or this chapter.

(i) In this section, "head of a government unit" means, for a government unit that is part of a principal department of state government, the commissioner of that department or the commissioner's designee. (Eff. 1/10/97, Register 140)

Authority: AS 12.62.110

AS 12.62.150

AS 12.62.160

13 AAC 68.220. SECURITY VIOLATIONS. (a) A person may not have access to or disclose information relating to APSIN security procedures or programs unless specifically authorized by the department.

(b) The department will maintain for three years a record of the APSIN access code used to gain or attempt to gain access to criminal justice information maintained in APSIN. The department will, in its discretion, release the identity of the person for whom the APSIN access code is or was assigned, the date access was gained or attempted, and the nature of information to which access was gained or attempted to a

(1) law enforcement agency for a criminal investigation; or

(2) government unit described in 13 AAC 68.215(a)(1) – (a)(3) that employs the person for whom the APSIN access code is or was assigned, for administrative review relating to violation of AS 12.62 or this chapter.

(c) In addition to action that can be taken under AS 12.62.200, violation of a provision of AS 12.62 or this chapter

(1) is grounds to

(A) deny or withdraw authorization described in 13 AAC

68.215(a) for the government unit that employs or employed the violator;

(B) deny or withdraw a security clearance described in 13 AAC 68.215(b);

(C) deny or disable an APSIN access code assigned under 13 AAC 28.215(f);

(2) may make the violator subject to administrative action, including employee discipline and termination; and

(3) may be subject to criminal sanctions under AS 11. (Eff. 1/10/97, Register 140)

Authority: AS 12.62.110
AS 12.62.150

AS 12.62.160

AS 12.62.200

ARTICLE 4. DISSEMINATION OF CRIMINAL JUSTICE INFORMATION.

Section	Section
300. Procedures for requesting and disseminating information	330. Release of criminal justice information to a criminal justice agency
305. Reports of criminal justice information available to the subject	335. Release of criminal justice information to avoid imminent danger to life or extensive damage to property
310. Report of criminal history record information available to any person	340. Release of information to identify, locate, or apprehend a fugitive or wanted person, recover stolen property, or for public reporting of recent events
315. Report of criminal history record information available to an interested person	345. Release of information for criminal justice research
320. Report of criminal justice information authorized by state or federal law	
325. Release of criminal justice information required by a court rule or court order.	

13 AAC 68.300. PROCEDURES FOR REQUESTING AND DISSEMINATING INFORMATION.

(a) A person required to submit a set of fingerprints with a request for criminal justice information shall submit legible fingerprints to the department on a form and in a format provided or approved by the department. Fingerprints may be taken by the department, for the fee established in 13 AAC 68.900, or by another person.

(b) The department will include on each page of a printed report that the department releases under 13 AAC 68.305 — 13 AAC 68.345 the date that the report was created and the total number of pages in the report. The report will include an indication whether an arrest, charge, or conviction included in the report has been verified by fingerprint identification; and the following or similar explanations:

(1) a person may not be presumed to be guilty of an arrest or charge for which a disposition has not been included in the report;

(2) the report is based on information reported to the repository by other criminal justice agencies that has been entered into repository

records by the date of the report and may be subject to change after the date of the report;

(3) additional information may be on file with the department's central registries of sex offenders or protective orders, the Federal Bureau of Investigation, or other criminal justice agencies in this or another state; the department will provide information, upon request, regarding procedures to request information from those sources;

(4) questions about specific information in the report should be directed to the agency that reported the information to the repository; and

(5) information in the report may be used only for the purpose or activity for which it was released; it may not be released to another person except as provided under 13 AAC 68.300 — 13 AAC 68.345 or as otherwise provided by state or federal law; misuse of criminal justice information is subject to civil and criminal penalties.

(c) When the repository disseminates a report described in 13 AAC 68.310 — 13 AAC 68.320 to a person other than the subject of the report, the repository will send a copy of the report to the subject at the last known mailing address available in APSIN at no charge.

(d) A person that receives a report of criminal justice information under this chapter may request an updated report without submitting an additional set of fingerprints for the subject of the report, if the original report was based on fingerprint identification of the subject. To request an updated report the requester shall provide to the repository

(1) verification that the original report was based on fingerprint identification of the subject;

(2) verification that the requester remains legally authorized to receive the report; and

(3) payment of the fee established in 13 AAC 68.900. (Eff. 1/10/97, Register 140)

Authority: AS 12.62.110
AS 12.62.150

AS 12.62.160
AS 12.62.200

AS 18.65.087

13 AAC 68.305. REPORTS OF CRIMINAL JUSTICE INFORMATION AVAILABLE TO THE SUBJECT. (a) A person who is the subject of the information may request a report of criminal history record information described in 13 AAC 68.310 or 13 AAC 68.315, or a criminal justice information report described in (b) or (c) of this section by providing to the department

(1) the subject's full name, mailing address, and telephone number;

(2) proof of identification, which may be,

(A) for a natural person,

(i) set of fingerprints; or

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(ii) two pieces of identification presented in person, one of which must be a valid picture identification issued by a government unit; or

(B) for a person other than a natural person, authorization from the subject's officer, board of directors, or another individual who has the authority to bind the subject in legal transactions; and
(3) payment of the fee established in 13 AAC 68.900.

(b) In response to a request under (a) of this section, the repository may provide a report of any of the following criminal justice information maintained in APSIN to the subject of the information, regardless of whether the information has been sealed under AS 12.62.180:

- (1) current offender information;
- (2) past conviction information, regardless of the offense or the date of unconditional discharge;
- (3) criminal identification information;
- (4) nonconviction information.

(c) If APSIN does not contain criminal justice information described in (b) of this section, the repository may provide a report confirming that fact.

(d) A person may not request a subject to obtain a criminal justice information report described in (b) or (c) of this section, or to provide, authorize release of, or confirm or deny the existence of such a report to any person.

(e) A person may request a subject of criminal justice information to obtain, under (a) of this section, a criminal history record information report described in

- (1) 13 AAC 68.310; a person may request the subject to provide or authorize the release of the report to any person for any purpose; or
- (2) 13 AAC 68.315; a person may request the subject to provide or authorize the release of the report only to an interested person and only for the purpose of determining whether to grant the subject supervisory or disciplinary power over a minor or dependent adult. (Eff. 1/10/97, Register 140)

Authority: AS 12.62.110 AS 12.62.160 AS 12.62.180

13 AAC 68.310. REPORT OF CRIMINAL HISTORY RECORD INFORMATION AVAILABLE TO ANY PERSON. (a) A person may request a report under this section by providing to the repository

- (1) the requester's full name, mailing address, and telephone number;
- (2) if the subject is a-
 - (A) natural person, a set of fingerprints for the subject of the report; or
 - (B) person other than a natural person, authorization from the subject's officer, board of directors, or another individual who has

the authority to bind the subject in legal transactions; and
(3) payment of the fee established in 13 AAC 68.900.

(b) In response to a request under (a) of this section, the repository may provide to the requester a report of the following criminal history record information maintained in APSIN for the subject of the request, except for information that is sealed under AS 12.62.180:

(1) current offender information;

(2) past conviction information for which the subject is required to register as a sex offender under AS 12.63.010;

(3) past conviction information if less than 10 years has elapsed from the date of unconditional discharge to the date of the request.

(c) If APSIN does not contain information described in (b) of this section, the repository may provide a report confirming that fact.

(d) As a condition of receiving a report under this section, a person may not release the contents of the report to another person unless the release is authorized in writing by the subject of the report. (Eff. 1/10/97, Register 140)

Authority: AS 12.62.110

AS 12.62.160

AS 18.65.087

13 AAC 68.315. REPORT OF CRIMINAL HISTORY RECORD INFORMATION AVAILABLE TO AN INTERESTED PERSON.

(a) An interested person may request a report under this section by providing to the repository

(1) the requester's full name, mailing address, and telephone number;

(2) verification of the requester's status as an interested person and that the subject of the report has asked to be considered for, or is in, a position involving supervisory or disciplinary power over a minor or dependent adult;

(3) a set of fingerprints for the subject of the report; and

(4) payment of the fee established in 13 AAC 68.900.

(b) In response to a request under (a) of this section, the repository may provide to the requester a report of the following criminal history record information maintained in APSIN for the subject of the request, except for information that is sealed under AS 12.62.180:

(1) current offender information;

(2) past conviction information for which the subject is required to register as a sex offender under AS 12.63.010;

(3) past conviction information if less than 10 years has elapsed from the date of unconditional discharge to the date of the request;

(4) past conviction information for a serious offense as defined in AS 12.62.900, regardless of the date of unconditional discharge.

(c) If ASPIN does not contain information described in (b) of this section, the repository may provide a report confirming that fact.

(d) As a condition of receiving a report under this section, a person

Voice of The Times

Misuse of confidential files irks lawmakers

The Legislature this week asked Public Safety Commissioner Ron Otte to conduct a thorough investigation of what legislators say they fear may be serious misuse of state confidential computer files by state employees.

In a formal, written request, Senate President Mike Miller, R-North Pole, and House Speaker Gail Phillips, R-Homer, said they were extremely concerned about what appears to have been up to 50 separate instances in which state employees unlawfully accessed confidential state computer files in order to examine records of Republican lawmakers or Republican candidates running for office last year.

Because the citizens' right to privacy is a matter of public importance, reprinted below are excerpts from the Legislature's request.

April 30, 1997

Dear Commissioner Otte:

Under the Alaska Constitution, the right to privacy is one of the most fundamental rights of citizenship. It is therefore incumbent upon us, as elected officials, to do everything within our power to ensure that this basic right is not violated. Moreover, we believe the sheer scope of the recent abuses of the Alaska Public Safety Information Network (called APSIN for short) present serious implications for the integrity of Alaska's criminal justice system.

The need for a thorough investigation is further underscored by the fact that in 1994, after an Ombudsman investigation of a single APSIN abuse, the Legislature and the governor worked closely together to pass needed reforms to the Alaska Public Records' Act to ensure that future abuses of the confidential computer system would not occur.

We are concerned that apparently sufficient safeguards were not put into place to prevent the widespread abuse that has occurred recently.

The election-year timing and apparent partisan nature of most unauthorized accesses also raises the possibility that the accesses were politically motivated, and the potential that confidential information may have been shared in violation of state criminal laws.

We respectfully request your attendance at a joint Judiciary Committee hearing on May 7 to present your findings. We ask that you address the following issues in addition to any further information you obtain by that date:

- Why did the Corrections Department have so many employees trying to access records?
- What is the Corrections Commissioner doing to stop this abuse?

- What has the Corrections Department done to discipline those employees who have violated the system?

- Exactly how many confidential computer files have been accessed illegally?

- Why weren't the people who illegally accessed confidential records terminated as provided in 13 AAC 68.220?

- When dealing with a potential felony, AS 11.46.740, criminal use of a computer, why didn't the level of investigation go far enough to determine whether any confidential information was shared and a crime therefore committed?

- Did the previous Public Safety investigation consider the possibility that the illegal accesses were coordinated and politically motivated?

- How credible is it to believe that "curiosity" was the true reason for the unauthorized searches given that most of the targets were Republicans and most of the unauthorized searches occurred just prior to the election?

- Do strict federal privacy protections apply since the APSIN system allows users to access FBI and other federal confidential criminal history systems?

- During the course of your preliminary investigation, did your investigators ask the employees the following:

- Did anyone ask you to access the APSIN system?

- Was anyone with you when you accessed the system?

- Why did you access the APSIN system?

- How long did you have the system open?

- Did you personally close down the system?

- Did you share any of the information, or acknowledge the existence of, or non-existence of, any information reviewed on APSIN?

- Were employees asked those questions under oath?

- Given previous documented abuses of the APSIN system and the 1994 revisions to the Alaska Public Records' Act, why are adequate procedures and protections for this confidential information not already in place?

- Were all the records of all candidates in all races for public office in 1996 also checked for unauthorized accesses?

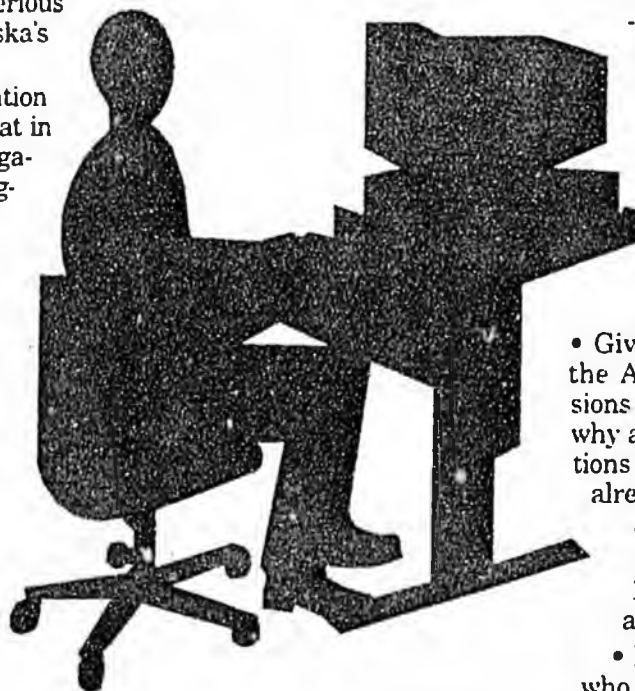
- Is it possible for legislators to know who accessed information about them?

Is this information public? If not, why not?

These questions represent a sampling of the many concerns expressed by legislators who have reviewed the Department of Public Safety's preliminary findings. We look forward to your presentation May 7.

Hopefully, the information you provide will help alleviate many of the concerns the Legislature has regarding this blatant invasion of privacy.

Sincerely,
Sen. Mike Miller and Rep. Gail Phillips





State Capitol
Juneau, AK 99801-1182
(907) 465-3720
(907) 465-2689

al Business
Fax: (907) 465-3472

Speaker of the House of Representatives

March 14, 1997

Commissioner Ronald L. Otte
Department of Public Safety
P.O. Box 111200
Juneau, AK 99811-1200

Dear Commissioner Otte:

Ron -

I would like a list of every legislator whose name was entered into, or looked up on, the APSIN system, whether or not any records were found or reviewed, between January 1995 and January 1997.

In addition, I would like to know why each particular legislator was looked up and who, and from which agency or department, accessed the system in hopes of retrieving APSIN records. Please provide me with a list at your earliest convenience.

Your immediate attention to this request is greatly appreciated. Thank you.

Sincerely,

Gail

Representative Gail Phillips
SPEAKER OF THE HOUSE

GP:mdh

ALASKA STATE LEGISLATURE

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Finance



P.O. Box 113200
Juneau, AK 99811-3200
(907) 465-3795
FAX (907) 463-4885

MEMORANDUM

DATE: March 19, 1997

TO: Representative Ramona Barnes
ATTN: Eleanor Roser

FROM: Gretchen Mannix,
Fiscal Analyst *GJM*

SUBJ.: Criminal Justice Computer Integration Funding

As we have discussed, I have been researching funding for the Criminal Justice Computer Integration Project funding, beginning with FY 90. After a search of previous years' budgets, as well as RPL archives, I have developed the attached schedule. Please note it is marked as a "draft in progress". I expect that there have been other funds used for this project that are not tracked by the systems. The departments consider that the formal Integration Project began with the "Wolfe Report" in FY 94. Therefore comprehensive integration project records are not readily aggregated to the project prior to that report.

Alaska Criminal Justice Computer Integration Project
History of Funding Contributing to the Integration Project
in thousands of dollars

A Progress

FY	Agency	Authorization Reference	Description	GF	Fed	Total
90	Public Safety	RPL #12-0-011	From program receipts - 3 positions for AK Fingerprint Ident Sys	499		499
90	Public Safety	RPL #12-1-003	Continuation of RPL #12-0-011	154.6		154.6
	Public Safety	RPL # 12-1-0090	Criminal Records Identification System		242.4	242.4
92	Courts	Case Tracking Grant	Purchase AT&T computers		11.6	11.6
92	Courts	Operating Budget	Purchase AT&T computers	429.5		429.5
92	Courts	Capital Funds - reappropriation of 83/10	Purchase AT&T computers	250.2		250.2
92	Courts	Grant	Purchase AT&T computers		175.0	175.0
92	Corrections	CH 96 SLA 91 p. 59 line 8	OBCTS upgrade and field probation automation			
93	Courts	Grant - DIPS Drug Enforcement	Automated Case Tracking System		164.6	164.6
93	Administration	CH 5 SLA 93 p. 33	PD legal Briefs & Research/CaseLoad Mgmt Computerization	239.8		239.8
93	Administration	CH 5 SLA 93 p. 33	OPA Case Mgmt/Trust Acct Computerization	124.0		124.0
93	Courts	CH 5 SLA 93 p. 33	Computer Technology Enhancements	437.5		437.5
94	Public Safety	CH 79, SLA 93, p. 6	Statewide law enforcement data processing system	900.0		900.0
94	Courts	CH 79, SLA 93, p. 6	Imaging system	207.5		207.5
94	Law	CH 79, SLA 93, p. 8	Legal Services LAN system	540.0		540.0
94	Law	CH 79, SLA 93, p. 8	Prosecution LAN system	180.0		180.0
94	Courts	CH 79, SLA 93, p. 47	Criminal Justice Computer Integration Plan (Wolfe & Assoc)	75.0		75.0
95	Corrections	HB 442 Fiscal Note	To assess resources/needs for integrated criminal justice comp. syst	150.0		150.0
96	Administration	CH 103, SLA 95, p. 6, ln 22	Integration of the state's criminal justice computer systems	300.0		300.0
96	Corrections	CH 103, SLA 95, p. 6, ln 24	Integration of the state's criminal justice computer systems	0.0	750.0	750.0
96	OMB/Corrections ¹	CH 103, SLA 95, p. 30	Integration of the state's criminal justice computer systems	155.0		155.0
96	OMB/Courts ¹	CH 103, SLA 95, p. 30	Integration of the state's criminal justice computer systems	110.0		110.0
96	OMB/Law ¹	CH 103, SLA 95, p. 30	Integration of the state's criminal justice computer systems	280.0		280.0
96	OMB/Public Safety	CH 103, SLA 95, p. 30	Integration of the state's criminal justice computer systems	55.0		55.0
96	OMB/Public Safety	CH 103, SLA 95, p. 30	Integration of the state's criminal justice computer systems	5.0		5.0
96	Corrections	Other Agency Funds	LAN/WAN setups and connections for 26 sites	2,069.9		2,069.9
96	Law	Operating Budget (From PS Criminal D	Purchase computer equipment and install data lines in DA's offices	400.0		400.0
96	Law		Needs assessment, upgrade workstations, install LAN/WAN connect	373.0	12,300.0	12,673.0
96	Public Safety	RPL #12-6-0043	National Criminal History Improvement Program - integration program		825.7	825.7
97	Corrections	Other Agency Funds	Statewide automation	849.5		849.5
97	Corrections	CH 123, SLA 96, p. 46, ln 21	Management Information System Development		248.4	248.4
97	Courts	CH 123, SLA 96, p. 70, ln 19	Court System Computer Upgrades/Court Management System	400.0		400.0
97	OMB/Law ²	CH 123, SLA 96, p. 53, ln 13	Criminal Justice Information System Integration	685.0		685.0
97	OMB ²	CH 123, SLA 96, p. 53, ln 13	Criminal Justice Information System Integration	281.7		281.7
97	Public Safety	Agency Summary of Expenditures	Alaska Public Safety Information Network		678.5	678.5
97	Public Safety	RPL #12-7-0095	National Criminal History Improvement Program - integration program		140.2	140.2
97	Public Safety	CH 123, SLA 96, p. 56, ln 10	Alaska Public Safety Information Network Maintenance	95.0		95.0
Total to date				\$9,592.6	\$15,294.0	\$24,886.6

¹The agency received these funds through OMB, which received an FY96 appropriation of \$600.0 to distribute to agencies for costs relating to the integration of the state's criminal justice computer systems.

²Agencies received these funds through OMB which received an FY97 appropriation of \$966.7 to distribute to agencies for costs relating to the integration of the state's criminal justice computer systems.

3 SOURCE: Summaries of Appropriations, agency reports

Mailing Address:
P. O. Box 55094
North Pole, Alaska 99705
Ph: (907) 488-0862
Fax: (907) 488-4271



State Capitol
Juneau, Alaska
99801-1182
Ph: (907) 465-4976
Fax: (907) 465-3883

MIKE MILLER
President of the Senate

Senate District Q

April 4, 1997

Commissioner Ronald L. Otte
Department of Public Safety
PO Box 111200
Juneau, Alaska 99811-1200

VIA FAX - 465-4362

Dear Commissioner ^{Zou}Otte;

Attached for your review is a report prepared by the Division of Legislative Finance detailing the state and federal funds expended for the APSIN project. Senator Ward has informed me of a conversation that he had with you, in which he recalls that you stated that access to APSIN, when the expenditure of federal funds was involved, would be illegal.

After reviewing the attached report, it looks as if federal funds are involved, and thus may bring access to APSIN under federal guidelines, which are more restrictive.

I would like to meet with you to discuss the impacts of this new information and the various options available to us to ensure a thorough and impartial investigation, including the possible assignment of a Special Prosecutor to investigate the matter.

Sincerely,

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

Senator Mike Miller
SENATE PRESIDENT

MM/pckp



Senate

State Capitol
Juneau, AK 99801-1142
Phone (907) 585-2941
Fax (907) 585-3766

116 W 4th Ave., Ste 450
Anchorage, AK 99501-2133
Phone (907) 258-8183
Fax (907) 258-0820

145 Main Street Loop
Kenai, AK 99611
Phone (907) 283-7996
Fax (907) 283-1075

MEMORANDUM

DATE: April 18, 1997

TO: Senator Mike Miller, President of the Senate
Representative Gail Phillips, Speaker of the House

FROM: Senator Jerry Ward

RE: JOINT LEADERSHIP MEETING

I am requesting that a Joint Leadership meeting be convened to discuss the options available to us concerning the illegal access of APSIN files of approximately 30 members of the Alaska State Legislature by the Knowles Administration. Commissioner of Public Safety, Mr. Ron Otte, has to date, refused to investigate this issue. I believe that a sworn State Trooper should be assigned to interview each of the individuals involved and should ask these questions: who accessed the system; who asked you to access the system; who was with you when you accessed the system; who did you discuss the accessed information with; and why did you access this information.

I feel that it is incumbent upon this body to issue an official request that this matter be investigated and an explanation of these illegal actions be provided to the House and Senate leadership.

Thank you for your consideration.

APSIN SECURITY AUDIT - UNAUTHORIZED INQUIRIES

Subj	Current	User	Agency	Date of	Time of	Rec	Reason	Sanction	Respsns	Respsns				
Code	Legislator	Party	User Code	Dept	ID	User Agency	Search	Search	Typ	Auth	Reason	Sanction	Due	Recd
40			Y	DOC	ACC	Anch Corrections 6th Ave	7/3/95	17:33:42	CH	N	Curiosity	90 day suspension of userid, letter of reprimand	4/11/97	4/10/97
40			T	FED	USES	Ft Walnwright Sec Police	8/27/95	2:08:47	CH	N	Training	Letter from CTO	4/16/97	4/14/97
40			J	DOC	ACC	Anch Corrections 6th Ave	10/6/95	13:53:47	CH	N	Curiosity-shared id	90 day suspension of userid	4/14/97	4/10/97
59	S	R	C	DOC	DOCA	Anch Corrections/Central	2/26/96	10:50:39	WW	N	Curiosity	90 day suspension of userid, discipline by agency	4/14/97	4/11/97
40			V	PD	HAI	Haines PD	3/20/96	6:02:03	CH	N	Training	Disciplinary action by agency	4/3/97	4/3/97
28	H	R	Y	DOC	ACC	Anch Corrections 6th Ave	4/1/96	5:00:26	CH	N	Curiosity	90 day suspension of userid, letter of reprimand	3/21/97	3/27/97
28	H	R	FFF	DOC	RMFC	Pl. McKenzie Rehab Cntr	4/9/96	22:08:37	CH	N	Training	90 day suspension of userid	4/11/97	4/8/97
30	H	R	A	PD	JUN	Juneau PD	5/21/96	11:33:03	CH	N	Curiosity	Disciplinary action by agency	4/16/97	4/16/97
80	S	R	CCC	DOC	WPTF	Kenai Corrections	10/5/96	6:44:56	CH	N	Curiosity	Letter of instruction	2/15/97	2/19/97
80	S	R	B	DOC	ACC	Anch Corrections 6th Ave	10/6/96	9:54:05	CH	N	Curiosity	90 day suspension of userid, letter of reprimand	3/3/97	3/3/97
27	S	R	H	DOC	DFO	Dillingham Probations	10/9/96	16:24:34	CH	N	Curiosity	30 day suspension of userid, discipline by agency	4/3/97	3/23/97
67			KKK	DOC	HMCC	Highland Min Corrections	10/25/96	20:04:33	CH	N	Curiosity	90 day suspension of userid	3/3/97	3/3/97

Subj. Code	Current Legislator	Party	User Code	Dept	Agency ID	User Agency	Date of Search	Time of Search	Rec Typ	Auth	Reason	Sanction	Respsns Due	Respsns Recd
80	S	R	KKK	DOC	HMDC	Highland Mtn Corrcetlons	10/25/96	19:34:04	CH	N	Curiosity	90 day suspension of userid, discipline by agency	3/3/97	3/3/97
68	H	R	K	DOT	AAP	Anch Airport Safety	11/1/96	9:24:39	CH	N	Curiosity	Disciplinary action by agency	2/15/97	2/7/97
67			HH	DOC	DCK	Kenal Corrcetlons	11/2/96	9:47:34	CH	N	Curioslty	90 day suspension of userid	3/3/97	3/3/97
80	S	R	HH	DOC	DCK	Kenal Corrcetlons	11/2/96	9:43:20	CH	N	Curioslty	90 day suspension of userid, discipline by agency	3/3/97	3/3/97
34	H	D	W	DOC	BPO	Bethel Probations	11/7/96	14:05:21	CH	N	Training	Letter of instruction	4/3/97	4/1/97
68	H	R	Y	PD	SEW	Seward PD	11/19/96	5:07:54	CH	N	Training	Disciplinary action by agency	2/15/97	2/4/97
40			O	DOC	FMFC	Pt. McKenzie Rehab Cntr	1/13/97	0:58:30	CH	N	Training	90 day suspension of userid	4/11/97	4/7/97
19 Unauthorized Inqulries														
14 by Department of Corrcetlons														
1 by Department of Transportation														
1 by Fort Wainwright Security Police														
1 by Haines Police Department														
1 by Juneau Police Department														
1 by Seward Police Department														

APSIN SECURITY AUDIT

Subj.	Current		User		Agency		Date of	Time of	Roc				Resps	Resps
Code	Legislator	Party	Code	Dept	ID	User Agency	Search	Search	Typ	Auth	Reason	Sanction	Due	Recd
40			Y	DOC	ACC	Anch Corrections 6th Ave	7/3/95	17:33:42	CH	N	Curiosity	90 day suspension of userid, letter of reprimand	4/11/97	4/10/97
42	H	D	QQ	DOC	SFCI	Juneau Corrections	7/24/95	16:14:29	CH	Y	DOC Visitor Clearance		4/3/97	4/4/97
66	H	R	BB	DPS	R&IA	Anchorage R&I	7/27/95	12:11:25	CH	Y	Processing ACPH Permit		4/3/97	3/25/97
2	H	R	E	PD	KOD	Kodiak PD	8/4/95	10:43:55	CH	Y	Traffic stop		4/3/97	4/4/97
40			I	FED	USES	Ft. Wainwright Sec Police	8/27/95	2:08:47	CH	N	Training	Letter from CTO	4/16/97	4/14/97
14	S	D	ZZ	PD	ANC	Anchorage PD	9/22/95	10:23:51	CH	U	Undetermined		4/3/97	4/8/97
18	S	D	HH	PD	ANC	Anchorage PD	9/24/95	9:42:46	CH	U	Undetermined		4/3/97	4/8/97
50	H	R	N	DPS	TALE	Talkeetna State Troopers	10/2/95	15:12:47	CH	Y	Case Investigation		4/3/97	4/1/97
62	H	R	R	PD	ANC	Anchorage PD	10/5/95	12:48:51	CH	U	Undetermined		4/3/97	4/8/97
40			J	DCC	ACC	Anch Corrections 6th Ave	10/6/95	13:53:47	CH	N	Curiosity (shared user ID)	90 day suspension of userid	4/14/97	4/10/97
43	H	R	DD	LAW	DAAN	Anch District Attorney	10/6/95	15:18:14	CH	U	Undetermined		4/14/97	4/10/97
14	S	D	M	DPS	OPSA	Anchorage A' . Dispatch	11/5/95	14:20:36	CH	Y	Brady Check		4/3/97	3/29/97
42	H	D	QQ	DOC	SFCI	Juneau Corrections	11/14/95	16:05:25	CH	Y	DOC Visitor Clearance		4/3/97	4/4/97
41	H	R	LL	DPS	OPSA	Anchorage AST Dispatch	11/15/95	23:43:01	CH	U	Undetermined	Continue to monitor weekly	4/3/97	3/29/97
18	S	D	SS	PD	ANC	Anchorage PD	11/22/95	14:29:38	CH	U	Undetermined		4/3/97	4/8/97
26			SS	PD	ANC	Anchorage PD	11/22/95	14:32:54	CH	U	Undetermined		4/16/97	4/10/97
14	S	D	ZZ	PD	ANC	Anchorage PD	11/30/95	14:25:07	CH	U	Undetermined		4/3/97	4/8/97
1	S	D	A	PD	JUN	Juneau PD	12/13/95	12:17:43	CH	Y	Case Investigation		4/16/97	4/16/97
70			FP	PD	ANC	Anchorage PD	12/18/95	12:03:55	WW	U	Undetermined		4/16/97	4/17/97
3	H	R	U	DPS	FYPD	Anch FWP HQ	12/20/95	15:15:17	CH	Y	Case Investigation		3/21/97	3/12/97
15			HH	PD	ANC	Anchorage PD	12/22/95	13:54:36	CH	U	Undetermined		4/16/97	4/17/97

Subj. Code	Current Legislator	Party	User Code	Dept	Agency ID	User Agency	Date of Search	Time of Search	Rec Typ	Auth	Reason	Sanction	Respsns Due	Respsns Recd
24	S	R	GGG	DPS	ANCP	AST Permits & Licensing	1/3/96	12:03:09	CH	Y	ACHP Permit		4/16/97	4/10/97
58	H	R	N	DPS	TALE	Talkeetna State Troopers	1/5/96	10:37:28	CH	U	Undetermined		4/3/97	4/1/97
70			II	PD	ANC	Anchorage PD	1/14/96	23:23:08	WW	U	Undetermined		4/16/97	4/17/97
40			AA	DPS	DMV-547	Ketchikan DMV	1/16/96	10:19:55	WW	U	Undetermined		4/3/97	4/3/97
66	H	R	BBB	DPS	DMV-491	Juneau Driver Services	1/22/96	10:01:06	CH	U	Undetermined		4/3/97	4/7/97
6	H	D	HH	PD	ANC	Anchorage PD	1/24/96	15:15:09	CH	U	Undetermined		4/3/97	4/8/97
58	H	R	JJ	PD	WAS	Wasilla PD	1/24/96	18:46:48	CH	Y	Complaint Investigation		4/3/97	3/28/97
71			HH	PD	ANC	Anchorage PD	1/24/96	15:13:00	CH	U	Undetermined		4/3/97	4/8/97
58	H	R	JJ	PD	WAS	Wasilla PD	2/1/96	16:47:37	CH	Y	Complaint Investigation		4/3/97	3/28/97
70			F	PD	ANC	Anchorage PD	2/2/96	15:22:54	WW	U	Undetermined		4/16/97	4/17/97
71			HH	PD	ANC	Anchorage PD	2/2/96	11:01:40	CH	U	Undetermined		4/3/97	4/8/97
41	H	R	NN	DPS	JUNE	Juneau State Troopers	2/8/96	9:43:34	CH	U	Undetermined		4/3/97	4/2/97
59	S	R	C	DOC	DOCA	Anch Corrections/Central	2/26/96	10:50:39	WW	N	Curiosity	90 day suspension of userid, discipline by agency	4/14/97	4/11/97
13			A	PD	JUN	Juneau PD	3/12/96	10:23:15	CH	Y	Traffic stop		4/16/97	4/16/97
40			V	PD	HAI	Haines PD	3/20/96	5:02:03	CH	N	Training	Disciplinary action by agency	4/3/97	4/3/97
28	H	R	Y	DOC	ACC	Anch Corrections 6th Ave	4/1/96	5:00:26	CH	N	Curiosity	90 day suspension of userid, discipline by agency	3/21/97	3/27/97
28	H	R	FFF	DOC	PMFC	P. McKenzie Rehab Cntr	4/9/96	22:08:37	CH	N	Training	90 day suspension of userid	4/11/97	4/8/97
56			R	PD	ANC	Anchorage PD	4/15/96	15:12:15	CH	U	Undetermined		4/16/97	4/17/97
83	H	D	QQ	DOC	SFCI	Juneau Corrections	4/17/96	15:19:59	CH	Y	DOC Visitor Clearance		4/3/97	4/4/97
68	H	R	CC	DOC	DOCP	Palmer Corrections	4/24/96	23:38:33	CH	Y	DOC Visitor Clearance		2/15/97	2/19/97
41	H	R	WW	DPS	ANCP	AST Permits & Licensing	4/30/96	10:51:22	CH	U	Undetermined		4/11/97	4/10/97
48	S	D	YY	DPS	FAIH	Fairbanks State Troopers	5/1/96	21:27:16	CH	U	Undetermined		4/14/97	4/11/97

Subj.	Current		User		Agency		Date c/	Time of	Rec				Respsn	Respsn
Code	Legislator	Party	Code	Dept	ID	User Agency	Search	Search	Typ	Auth	Reason	Sanction	Due	Recd
68	H	R	CC	DOC	DOCP	Palmer Corrections	5/3/96	20:02:03	CH	Y	DOC Visitor Clearance		2/15/97	2/19/97
37	H	R	JJ	PD	FAI	Fairbanks PD	5/4/96	13:29:43	CH	U	Undetermined		4/3/97	4/3/97
72			MM	LAW	DAAN	Anch District Attorney	5/6/96	8:31:02	CH	U	Undetermined		4/16/97	4/11/97
72			AAA	PD	ANC	Anchorage PD	5/6/96	2:35:01	CH	U	Undetermined		4/16/97	4/17/97
5			III	PD	FAI	Fairbanks PD	5/11/96	9:51:51	CH	Y	Case Investigation		4/16/97	4/11/97
30	H	R	A	PD	JUN	Juneau PD	5/21/96	11:33:03	CH	N	Curiosity	Disciplinary action by agency	4/16/97	4/16/97
32			X	REV	PFCI	Perm Fund Enforcement	6/3/96	15:28:19	CH	Y	Case Investigation		4/16/97	4/11/97
3	H	R	MMM	LAW	DAAN	Anch Dist. Attorney	6/11/96	16:35:49	CH	Y	Jury List		4/14/97	4/9/97
40			KK	DPS	DUFE	Dutch Harbor BWP	6/12/96	11:18:10	CH	U	Undetermined		4/16/97	4/14/97
70			JJ	PD	FAI	Fairbanks PD	7/5/96	17:29:48	WW	Y	Case Investigation		4/16/97	4/17/97
14	S	D	WW	DOS	ANCP	AST Permits & Licensing	7/18/96	17:44:37	CH	U	Undetermined		4/11/97	4/10/97
70			P	PD	ANC	Anchorage PD	7/31/96	11:12:16	WW	U	Undetermined		4/16/97	4/17/97
14	S	D	FR	PD	ANC	Anchorage PD	8/7/96	21:30:37	CH	U	Undetermined		4/3/97	4/8/97
48	S	D	S	REV	CSED	Child Support Enforcement	8/20/96	12:01:16	WW	Y	Case Investigation		4/3/97	4/3/97
1	S	D	GG	PD	ANC	Anchorage PD	8/30/96	8:06:40	CH	U	Undetermined		4/3/97	4/8/97
79	H	R	DDD	DOC	NRCI	Fairbanks Corrections	9/5/96	15:37:16	CH	Y	DOC Visitor Clearance		3/21/97	3/10/97
41	H	R	NNN	PD	PAL	Palmer PD	9/16/96	1:42:02	CH	Y	Case Investigation		4/3/97	4/10/97
80	S	R	SS	PD	ANC	Anchorage PD	9/25/96	12:45:09	CH	Y	Subject's Request		N/A	N/A
80	S	R	VV	DPS	R&IA	Anchorage R&I	9/25/96	12:15:25	WW	Y	Subject's Request		N/A	N/A
80	S	R	SS	PD	ANC	Anchorage PD	9/26/96	7:55:39	CH	Y	Subject's Request		N/A	N/A
80	S	R	UU	DPS	R&IA	Anchorage R&I	9/26/96	16:08:36	CH	Y	Post walkin fees		N/A	N/A
80	S	R	L	DPS	INFO	Anchorage Info Systems	9/27/96	7:08:51	CH	Y	AS 12.62 Research		2/15/97	2/4/97
80	S	R	CCC	DOC	WPTF	Kenai Corrections/Wildwood	10/5/96	6:44:56	CH	N	Curiosity	Letter of Instruction	2/15/97	2/19/97
80	S	R	B	DOC	ACC	Anch Corrections 6th Ave	10/6/96	9:54:05	CH	N	Curiosity	90 day suspension of userid, letter of reprimand	3/3/97	3/3/97

Subj.	Current		User		Agency		Date of	Time of	Rec				Resps	Resps
Code	Legislator	Party	Code	Dept	ID	User Agency	Search	Search	Typ	Auth	Reason	Sanction	Due	Recd
27	S	R	H	DOC	DPO	Dillingham Probations	10/9/96	16:24:34	CH	N	Curiosity	30 day suspension of userid, discipline by agency	4/3/97	3/27/97
42	H	D	Z	DPS	KETE	Ketchikan State Troopers	10/9/96	8:01:29	CH	U	Undetermined		4/3/97	4/1/97
67			KKK	DOC	HMCC	Highland Mtn Corrections	10/25/96	20:04:33	CH	N	Curiosity	90 day suspension of userid	3/3/97	3/3/97
80	S	R	KKK	DOC	HMCC	Highland Mtn Corrections	10/25/96	19:34:04	CH	N	Curiosity	90 day suspension of userid, discipline by agency	3/3/97	3/3/97
68	H	R	K	DOT	AAP	Anchorage Airport Safety	11/1/96	9:24:39	CH	N	Curiosity	Disciplinary action by agency	2/15/97	2/7/97
67			HHH	DOC	DCK	Kenai Corrections/Wildwood	11/2/96	9:47:34	CH	N	Curiosity	90 day suspension of userid	3/3/97	3/3/97
80	S	R	HHH	DOC	DCK	Kenai Corrections/Wildwood	11/2/96	9:43:20	CH	N	Curiosity	90 day suspension of userid, discipline by agency	3/3/97	3/3/97
40			LLL	PD	PAL	Palmer PD	11/5/96	20:30:22	CH	U	Undetermined		4/3/97	4/10/97
34	H	D	W	DOC	BPO	Bethel Probations	11/7/96	14:05:21	CH	N	Training	Letter of instruction	4/3/97	4/1/97
18	S	D	R	PD	ANC	Anchorage PD	11/19/96	11:33:17	CH	U	Undetermined		4/3/97	4/8/97
68	H	R	Y	PD	SEW	Seward PD	11/19/96	5:07:54	CH	N	Training	Disciplinary action by agency	2/15/97	2/4/97
61	S	R	EE	LAW	DAAN	Anch District Attorney	12/3/96	15:21:58	CH	Y	Jury List		4/14/97	4/10/97
39	H	D	TT	LAW	DAAN	Anch District Attorney	12/6/96	15:05:52	CH	U	Undetermined		4/14/97	4/10/97
59	S	R	EEE	DPS	OPSA	Anchorage AST Dispatch	12/13/96	22:11:00	CH	Y	Subject's Request		3/27/97	3/19/97
12	H	R	FF	DPS	SOLH	Soldotna State Troopers	12/23/96	21:44:50	CH	Y	Local PD Request		4/3/97	4/1/97
41	H	R	Q	PD	PAL	Palmer PD	12/28/96	2:42:51	CH	Y	Traffic Stop		4/3/97	4/10/97
58	H	R	I	DPS	PAFE	Palmer State Trooper FWP	1/10/97	14:05:15	CH	Y	Case Investigation		4/3/97	3/25/97
40			O	DOC	PMRC	Pt. McKenzie Rehab Cntr	1/13/97	0:58:30	CH	N	Training	90 day suspension of userid	4/11/97	4/7/97
70			D	PD	ANC	Anchorage PD	1/17/97	13:11:57	WW	U	Undetermined		4/16/97	4/17/97
52	S	R	G	PD	PAL	Palmer PD	1/31/97	12:22:47	CH	Y	Case Investigation		4/3/97	4/10/97
75			OO	PD	ANC	Anchorage PD	2/5/97	11:41:57	CH	U	Undetermined		4/16/97	4/17/97

Subj.	Current		User		Agency		Date of	Time of	Rec				Resps	Resps
Code	Legislator	Party	Code	Dept	ID	User Agency	Search	Search	Typ	Auth	Reason	Sanction	Due	Recd
83	H	D	XX	DPS	PALE	Palmer State Troopers	2/25/97	8:25:48	CH	U	Undetermined		4/3/97	4/10/97
4	H	D							NR					
7									NR					
8	H	R							NR					
9	H	R							NR					
10	H	D							NR					
11	H	D							NR					
12									NR					
16	S	D							NR					
17	H	R							NR					
19	H	D							NR					
20									NR					
21	H	D							NR					
22									NR					
23									NR					
24	H	R							NR					
25	H	D							NR					
29									NR					
31	S	D							NR					
33	H	R							NR					
35	H	R							NR					
36	H	D							NR					
38	S	R							NR					
44	H	D							NR					
45	S	R							NR					
46	S	D							NR					
47									NR					
49	H	R							NR					
51									NR					
53	H	D							NR					

Subj.	Current		User		Agency		Date of	Time of	Rec				Resps	Resps
Code	Legislator	Party	Code	Dept	ID	User Agency	Search	Search	Typ	Auth	Reason	Sanction	Due	Recd
54	H	R							NR					
55									NR					
57	H	D							NR					
60	S	R							NR					
61	H	R							NR					
63									NR					
64									NR					
65	H	R							NR					
69	S	R							NR					
73	S	R							NR					
74	H	R							NR					
76	S	R							NR					
77									NR					
78									NR					
82	S	R							NR					
84									NR					
85									NR					
86									NR					