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WASHINGTON, D.C. 20548

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MAR 1 1974

The Honorable Sam J. Ervin, Jr., Chairman  
Subcommittee on Constitutional Rights  
Committee on the Judiciary  
United States Senate

Dear Mr. Chairman:

Your letter of February 21, 1974, requested that we provide your Subcommittee with information on the development and use of computerized criminal history information. You requested specific information in connection with hearings on legislation to guarantee the security and privacy of criminal history information (S. 2963 and S. 2964).

We have reviewed actions relating to the development of the Federal and State computerized criminal history information systems (CCH). Enclosed are our findings, which may be useful to your Subcommittee during its March hearings. We will provide the other information you requested after the hearings and further discussions with your staff.

Briefly, our findings indicate:

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2-102

- When the Attorney General authorized the Federal Bureau of Investigation (FBI) to operate the CCH system in December 1970, he did not inform the FBI of (1) the extent to which certain criminal history information should have been maintained in Federal rather than State computers or (2) what type of advisory policy board should be established to review the policies and procedures used for CCH. He had, however, received recommendations regarding both matters from the Office of Management and Budget, Executive Office of the President.
- In the absence of such direction from the Attorney General, the FBI, with the concurrence of its National Crime Information Center Advisory Policy Board, developed the policy and operating procedures for CCH.
- There is some question as to the extent of computerized criminal history information which should be retained in the FBI's computers.
- Data is not available to indicate how computerized criminal history information has been used.

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--Both the FBI and the Law Enforcement Assistance Administration have either funded, or seek to develop, telecommunication system capabilities, to allow State and local criminal justice agencies to exchange administrative messages more effectively. The development of two systems could result in duplication and an unnecessary expenditure of Federal funds. Moreover, the Attorney General has not decided whether the FBI has legal authority to operate such a system.

The principal question which has resulted from our work to date, and which your Subcommittee might wish to pursue in its upcoming hearings, appears to be: What should the national policy be regarding development of computerized criminal history information systems, and to what extent should the various segments of the criminal justice community and appropriate Federal agencies participate in such policy development?

During the hearings the Subcommittee may wish to discuss with the Administration additional matters noted on pages 6, 8, and 10 of the enclosure.

We did not obtain comments from the Department on this report, but we did discuss the findings with cognizant officials, who generally agreed with the facts.

Sincerely yours,



Comptroller General  
of the United States

Enclosure

DEVELOPMENT OF THE COMPUTERIZED  
CRIMINAL HISTORY INFORMATION SYSTEM

BACKGROUND

A cooperative effort of several States established and demonstrated the feasibility of using a computerized system for the interchange of criminal histories. The States' effort was called the System for Electronic Analysis and Retrieval of Criminal Histories (SEARCH).

The SEARCH project began receiving Federal funds in 1969 from the Law Enforcement Assistance Administration (LEAA) as part of LEAA's effort to encourage States to improve their criminal justice systems. SEARCH was developed on the basis that all computerized criminal history records would be stored in the States and that a central computer would maintain an index of abbreviated summary data on arrested individuals.

On request, a State was furnished this summary--which contained information on the reasons for and number of arrests and convictions--and, if necessary, could query the State listed on the summary as having the individual's records for the detailed information. LEAA gave the States about \$4 million to develop and operate SEARCH.

SEARCH proved that it was feasible to use a computerized system for the interchange of criminal histories. The question then facing the Department of Justice was how to make the system operational: Who should operate the system? What computerized criminal history information should be contained at the Federal or at the State level?

The Attorney General's Office, the Federal Bureau of Investigation (FBI), and LEAA discussed the alternatives during the summer of 1970. One concern of LEAA was that the central index might contain too much detailed information, possibly raising the specter of a national computerized data bank. Regarding the extent of information to be contained in the central index, an August 1970 memorandum from the FBI Director to the Attorney General stated:

"\* \* \* no final decision has been made as to the exact details to be included in a national index criminal history record. This can only be done in coordination with the states. This Bureau plans no greater detail in the computerized criminal history record than is presently frequently available in the manually operated criminal identification record function."

Another issue was whether the FBI, LEAA, or the States should operate the system. The Assistant Attorney General for Administration supported the FBI's view that it was experienced in handling criminal information and should operate the system. LEAA basically proposed that it share operating responsibility with the FBI.

Before making any decisions the Attorney General requested the Office of Management and Budget (OMB) to study the alternatives for the future organization and operation of SEARCH. On September 3, 1970, the Associate Director of OMB recommended to the Attorney General that:

- The FBI operate the SEARCH central index on a limited record-length basis, while the States continue to develop and operate their individual, but compatible, automated criminal history systems.
- A strong Policy Control Board be established, which would report directly to the Attorney General, to decide the future development and operations of SEARCH. The Policy Control Board should include high-level officials from the FBI, LEAA, and the States, who should represent all elements of the criminal justice system (police, prosecutors, courts, corrections, and parole). Membership should be structured so that the States have an equal voice with the Federal Government in recommending policies for the future direction of SEARCH.
- Planning be initiated to develop an integrated criminal justice system. This would bring together SEARCH and the related FBI activities. The Policy Control Board should be the center of this planning activity.

On December 10, 1970, the Attorney General informed LEAA and the FBI that the FBI would take over management responsibility for a computerized criminal history system. However, we were told that the Attorney General did not follow or advise either LEAA or the FBI of OMB's other recommendations.

The FBI named the system the Computerized Criminal History (CCH) Program and operated it as part of its National Crime Information Center (NCIC), using NCIC computers and communication lines.

#### OPERATION

Since CCH is part of NCIC, a brief description of the system is useful.

Since the 1920's the FBI has maintained, in a manual central file in Washington, D.C., records of all arrests reported by local law

enforcement agencies and has disseminated such information, on request, to State and local law enforcement agencies. The arrests are reported to the FBI on fingerprint cards which are put in a file maintained for each arrested individual by fingerprint classification. Information from the fingerprint cards is transferred to a "rap sheet," making it a master list of all reported criminal activity for that particular individual. Disposition data is also supposed to be submitted by the arresting agency or the court on a disposition form and becomes part of the file maintained for each arrested person. Copies of the rap sheet are forwarded to local agencies in reply to requests for information on the particular individual.

The headings of information contained on rap sheets follow:

- (1) contributor of fingerprints (usually arresting agency or correctional institution),
- (2) individual's name,
- (3) date arrested or received (i.e., sent to jail),
- (4) nature of charge, and
- (5) disposition.

The FBI began operating NCIC in 1967. Its current function is to supply, from a central data bank maintained by the FBI, an almost instantaneous response to inquiries from Federal, State, and local law enforcement agencies regarding fugitives; and stolen vehicles, license plates, securities, boats, guns, and other articles. Terminals at central State locations and at local law enforcement agencies are linked to a central computer, at FBI headquarters, which stores and disseminates this information on request. Other criminal justice agencies in the States can request NCIC information from these control terminals.

NCIC was developed with the assistance of an advisory group composed of State and local law enforcement personnel from agencies that either had computerized systems or were in the advanced planning stages of such systems.

The advisory group was replaced in 1969 by the NCIC Advisory Policy Board. The Board was composed primarily of State and local law enforcement personnel and made recommendations on NCIC policy to the FBI Director. Members were elected by the criminal justice agencies which had computer terminals linked to NCIC--mainly law enforcement, rather

than court or correction agencies. The Board obtains some input on how to operate the system from an annual meeting of users of the system.

Because CCH was an integral part of NCIC, the Board governing NCIC made recommendations to the FBI Director regarding CCH's development.

The NCIC Board, however, did not have as broad a composition as that of the board OMB envisioned when it made its September 1970 recommendations to the Attorney General; nor did it report directly to the Attorney General, as OMB had recommended.

In March 1971 the NCIC Board approved the operational concept, security requirements, and record content for the CCH program. The central data bank, as recommended by the Board and as agreed to by the FBI, would no longer merely point inquirers to the State where detailed criminal history information could be obtained. Instead, it would contain a detailed criminal history record on each offender whose record was entered by the States into the system. Basically, this detailed criminal history record would contain the information which the FBI had maintained manually on its offender rap sheets. It would consist of information showing the arresting agency, the reason and date of each arrest, and disposition and custody action, when available.

Maintaining the complete detailed record of each offender was to be an interim measure, according to the NCIC Board, because all users would not have the capability to fully participate in the beginning of the system. It would take time for the States to establish identification bureaus and develop fingerprint identification capability, information flow, and computer systems capability.

The ultimate concept of CCH, as envisioned by the Board, is a single-State, multi-State system. For single-State offenders NCIC would maintain only summary data and the States would maintain the detailed records. For multi-State offenders and for Federal offenders, NCIC would maintain the complete record. The summary record would include only the reason for arrests and number of arrests and convictions and specific information on the reason, date, and disposition of an offender's latest arrest and the criminal justice agencies involved. FBI studies have shown that about 70 percent of rearrests will be within the same State. Therefore, most detailed records will be for single-State offenders and ultimately maintained at the State level.

The NCIC Board in March 1971 had therefore committed itself to developing an operational system that went beyond the original SEARCH concept in terms of the Federal Government's involvement. The information in the FBI's computers would not be limited to abbreviated

summary data for single-State offenders, but would include complete criminal data on each offender until the States could develop fully operational CCH State systems. The FBI endorsed this concept, and the Board stated that the States should have fully operational systems by July 1, 1975.

State participation in CCH, in terms of entering records into the computer, is voluntary. But, any State which complies with the NCIC Board's security and confidentiality requirements can access information in the system.

Because the Attorney General did not follow all of OMB's recommendations, OMB officials held a meeting on April 26, 1971, with Department of Justice, LEAA, and FBI representatives to discuss CCH. Two of the major findings, according to a May 11, 1971, OMB memorandum of the meeting, were that:

- Neither the FBI nor LEAA had received copies of the September 1970 OMB report to the Attorney General.

- The FBI was building a central data bank of all criminal records instead of operating a central index as OMB recommended.

On May 13, 1971, the OMB Associate Director reported to the Attorney General that:

- The NCIC Board governing CCH had all police representatives instead of representatives from the total criminal justice system, including the courts, corrections, prosecutor, and parole segments, as OMB recommended.

- The NCIC computer system's policies limited CCH to police use. OMB intended that the system be used by the total criminal justice system.

- The rap sheets used in recording data included data on corrections and courts but those agencies did not have access to that data under the CCH system.

- Although authority existed for using statistical data from the system for criminal justice research, no firm commitments existed for making the data available for this purpose.

A September 1973 NCIC Board paper discussed the need for detailed information at the national level, noting that such information:

"\* \* \* is required to efficiently and effectively coordinate the exchange of criminal history among State and Federal jurisdictions and to contend with interstate criminal mobility.

\* \* \* \* \*

"\* \* \* sufficient data must be stored in the national index to provide all users, particularly those users who do not have the capability to fully participate in the beginning system, the information necessary to meet basic criminal justice needs."

The same paper reiterated that for the system to be a truly national system the States must create fully operational systems by July 1, 1975.

Both FBI and LEAA officials, however, advised us that it is questionable whether many States can meet the July 1975 deadline. The probability exists that, because of the difficulty of developing systems in all the States, the FBI will retain detailed computerized criminal history information on single-State offenders for a substantial period.

In September 1973 the NCIC Board recommended that the FBI Director appoint some non-law-enforcement officials to its Board, since up to that time none of the Board members represented the court, prosecution, or correction segments of the criminal justice system. In February 1974 the Director appointed two prosecutors, two judges, and two correction officials to the Board. As of February 27, 1974, five had accepted the appointment.

#### Matter for consideration by the Subcommittee

The Subcommittee may wish to explore with the Attorney General whether he believes OMB's September 1970 recommendations are appropriate and, if so, how he intends to implement them.

#### USE OF CCH

On November 30, 1971, the CCH system became operational. As of February 17, 1974, six States and the District of Columbia, in addition to the Federal Government, had supplied computerized records to the system in the numbers shown below.



Arizona	18,497
California	72,522
District of Columbia	45,099
Florida	70,480
Illinois	28,954
New York	46,285
Pennsylvania	10,177
United States Government <sup>a</sup>	<u>156,487</u>
Total	<u>448,501</u>

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Federal offenders are entered by the FBI.

This number represents only about 2 percent of the approximately 20 million individuals on whom the FBI has criminal history information. The CCH system, therefore, currently provides criminal justice agencies only a small portion of the total information they receive from the FBI.

Summary data the FBI gave us on the inquiries to CCH in January 1974 gives some indication of the type of requests coming to CCH. About 31,470 requests were received for either summary or complete CCH information. Of the approximately 25,900 requests for summary information, such as would be contained in the national index for single-State offenders, the CCH file contained information on 2,925, or about 11 percent. Of the approximately 5,570 requests for complete criminal history data to be transmitted back to the requestor by computers, the CCH file contained information on about 4,290, or 77 percent.

Data is not available at the national level to indicate for what purpose State and local criminal justice agencies use CCH information. The CCH system can identify the control agency terminals making inquiries to the system, but not the agencies within the State making requests of the control terminals. The States, however, would have such data. Moreover, there is no way to determine, from the computerized printouts, the purposes of inquiries.

An evaluation of SEARCH<sup>1</sup> attempted to determine police use of SEARCH, but the evaluation report noted that:

"The observation of local police use of the system was not realized; therefore, this portion of the findings come from detailed interviews and not from operational experience. The most consistent opinion expressed by local police at all organizational levels is that criminal history is not vital prior to an arrest.

\* \* \* \* \*

<sup>1</sup>The evaluation, completed on October 23, 1970, was done by Data Dynamics, Inc., Arlington, Virginia, for the California Crime Technological Research Foundation.

"The requirement is for a reliable source of accurate and timely information during the investigative phase, after an offender has been arrested."

The report, however, did not indicate the number of local police interviewed, their duties (such as patrol or identification), or whether those interviewed were randomly selected from all local police. Without such information, it is not possible to determine whether the views expressed to the evaluators are representative.

The SEARCH evaluation report did not address how court and correction agencies used computerized criminal history information, but noted that before SEARCH the "lack of criminal history data in the courts and correction functions was appalling."

#### Matter for consideration by the Subcommittee

We believe it is necessary to know what use is made of computerized criminal history information to determine what type of security and privacy provisions should be applied to the data and to provide management with sufficient information to determine how best to meet user needs. The Subcommittee may wish to discuss this matter with the Attorney General.

#### ADMINISTRATIVE MESSAGE SWITCHING

An important collateral development to the CCH system is the development of the communication system over which law enforcement agencies can exchange administrative messages on such matters as details of thefts of automobiles, or the transportation of arrested individuals.

The primary system used by the States is the National Law Enforcement Teletype System (NLETS). A consortium of States established NLETS in 1966 as a nonprofit corporation for the interjurisdictional exchange of criminal justice administrative messages. Teletype terminals in the States, accessible to local criminal justice agencies, interfaced with a central messageswitching terminal in Phoenix. NLETS was operated entirely on teletype equipment and had no data storage capability. The FBI was linked to the system with the same capabilities as the States. Each State financed its own participation in the network.

In 1973 LEAA and State and local law enforcement agencies became concerned that this low-speed system had become obsolete and could not meet the high-speed telecommunication needs of law enforcement agencies. Therefore, LEAA entered into an agreement with the National Aeronautics and Space Administration to have one of the Administration's contractors,

the Jet Propulsion Laboratory of the California Institute of Technology, develop alternatives for nationwide telecommunication systems to cover interstate criminal justice telecommunication needs up to 1983. The study will cost LEAA \$500,000. The Jet Propulsion Laboratory is to issue its final report in mid-1974.

As an interim measure, LEAA gave the States \$1.5 million in June 1973 to upgrade NLETS over a 42-month period so computers could be used to exchange information over high-speed communication lines. During the first 18 months NLETS was authorized to spend about \$1.2 million to buy computer equipment, organize and install the high-speed communication lines, and bring in technical experts to implement the system. This upgrading, the initial phase of which was substantially completed in January 1974, enables computer-to-computer messages to be transmitted over the lines. As of January 31, 1974, about \$741,000 had been spent.

Concurrently, the FBI expressed interest in operating law enforcement interstate administrative message switching. On July 11, 1973, the FBI Director requested the Attorney General's concurrence in his opinion that statutory authority for the FBI's NCIC included authority to provide expanded communications support for NCIC, including the switching of administrative messages and other interstate criminal justice communications. FBI officials advised us that the request to the Attorney General had been delayed until a permanent Director took office. Under the FBI's proposal, the FBI, rather than the States, would operate the central message switching unit to enable the different computerized information systems of the States to communicate directly.

The FBI pointed out that message switching is an integral part of the CCH system and that the NCIC communication network would be capable of handling all message switching requirements with minimal additional communication lines and upgrading of computer hardware.

According to an August 6, 1973, memorandum from the Department's Office of Legal Counsel to the Attorney General, it is arguable whether there is adequate legislative authority to support the FBI's proposal to acquire administrative message switching. Moreover, if the FBI obtains administrative message switching capability, there is a question whether NLETS needs to exist.

As of February 27, 1974, the Attorney General had made no decision on the FBI's request.

Matters for consideration by the Subcommittee

Before moving forward with either LEAA's plans to continue upgrading NLETS or the FBI's proposal to implement administrative message switching, such Federal agencies as the Department of Justice, OMB, and the Office of Telecommunication Policy of the Executive Office of the President, should agree on what overall Federal involvement should be in computerized criminal justice telecommunication systems. The Subcommittee may wish to discuss these matters with the Attorney General.