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THE WHITE HOUSE

WASHINGTON

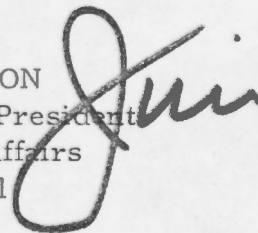
September 17, 1975

MEMORANDUM FOR:

THE HONORABLE EDWARD H. LEVI
Attorney General
Department of Justice

FROM:

JAMES M. CANNON
Assistant to the President
for Domestic Affairs
Domestic Council



SUBJECT:

Proposal for a Domestic Council Task Force
Study on Criminal Justice Information Systems

As you are no doubt aware, the FBI's intention to implement a message switching capacity in the National Criminal Information Center (NCIC) and the recently published LEAA regulation's which mandate computer "dedication" for NCIC members have provoked a great deal of controversy and criticism from within the Administration and from State and local sources (Summarized in Tab A).

The National Governor's Conference, the National Association of Counties and the National Conference of State Legislatures have sent a joint letter requesting a meeting with the Vice President, Jim Lynn and yourself to raise their objections to computer dedication (Tab B).

In light of this opposition and possible Presidential involvement in the matter, I suggest that we meet to examine alternative approaches to this issue along with Deputy Attorney General Tyler, who has been working on it for some time.

Attachments



THE WHITE HOUSE

WASHINGTON

June 27, 1975

MEMORANDUM FOR: Harold R. Tyler
Deputy Attorney General

FROM: Richard D. Parsons *Dick*
Associate Director and Counsel
Domestic Council

SUBJECT: NCIC Message-Switching

Pursuant to your request, attached is a memorandum which sets forth the concerns of the Office of Management and Budget, the Office of Telecommunications Policy and the Domestic Council Committee on the Right of Privacy regarding the Federal Bureau of Investigation's plan to implement a national criminal justice information transfer system in the National Crime Information Center.

This memorandum follows up the meeting of Tuesday, June 10, concerning this subject.

I believe that the issues raised in the memorandum warrant your careful consideration, and I would appreciate hearing from you prior to final determination of this matter.

Attachment



FBI MESSAGE SWITCHING PLAN FOR NCIC

Three main issues have been identified by OMB, OTP and the Domestic Council Committee on the Right of Privacy which should be resolved before any plan for a national criminal justice information system can be considered or even proposed. The issues are:

1. What is the need for a Computerized Criminal History (CCH) message switching system measured against its cost?
2. What should be the configuration and management of any such system in terms of Federal-State relations?
3. Has adequate concern for privacy and security been considered in system design and operation?

None of these preliminary issues appears to be addressed in the Department of Justice plan currently circulating, even though resolution of these questions is necessary to define the configuration of such a system. However, the Justice regulations effective June 19, 1975, lay the foundation for the Department to implement its plan if it so chooses.

1. Need vs. Cost - This question can be examined as follows:

- a. Does the FBI really need an automated message switching capability? - This is a very basic and very important question, which must be answered but is not sufficiently addressed in the FBI plan. We believe that the appropriate answer to this question can only be provided by the development of a complete analysis of user requirements and workload.

Such an analysis should answer the following:

- (1) Who would use the system? For what purpose? Since single State records are being returned to the States, which have the ability to communicate among themselves, what is the continuing role of the FBI in facilitating this communication? Since 70% of crimes occur within State boundaries and 95% are estimated to occur within contiguous State regions why is it necessary to have a message switching capability in Washington, D.C.?



- (2) What should be the configuration of the system? What is the message transmission speed required and why is it required at that speed? What is the communications network design (how many terminals and their locations)? What is the message volume (hourly, daily and weekly) from all network points of origin? What additional equipment is required and what are the type and number of communication lines required? What impact would it have on the format of the data and data banks, codes to be used and programming required? What is the cost analysis by major elements of cost?

The results of the above requirements analysis should then be prepared and evaluated with alternative systems for meeting these requirements (i.e., NLETS). In addition careful consideration must also be given to the impact that such a message switching capability might have on decisions that must be made on implementing the proposed new National Law Enforcement Telecommunications Network (NALECOM), which is being developed by Jet Propulsion Labs. Presumably if NALECOM is implemented the FBI would not need its own message switching capability.

- b. Has the need for a national Computerized Criminal History (CCH) record system, been demonstrated? - The major stated purpose for which automated message switching to be used by the FBI is to support the computerized exchange of criminal history records among the fifty States on an almost instantaneous basis.

The experience of the past six years in trying to make the CCH concept a viable operational system seems to indicate that the States do not want to participate in the CCH system as it is now operated by the FBI. Therefore, we should pause for a while, carefully review all that has occurred in the development of the CCH, and then re-evaluate the concept to determine if it is worth continuing, or if our scarce Federal, State and local resources might be better invested in some other aspect of law enforcement. In view of the fact that the number of States participating in the CCH system has shrunk from the original six States involved to four, the following questions must be raised:



- (1) Is the CCH system useful to law enforcement personnel?
 - (2) Who uses the CCH (police, courts, corrections, etc.)?
 - (3) For what purpose is CCH data used (pre-arrest or post-arrest activities)? A recent GAO review of the CCH system raises questions as to whether the almost instant access to criminal history records is really necessary for the current use of that information.
 - (4) Based on answers to the above questions, for what purpose is it absolutely essential to have "instant" access to criminal history records? What percent is this requirement of the total requirement for criminal history information?
 - (5) Since, according to the FBI, 70% of all crime occurs within a single State and therefore most of the criminal histories needed by law enforcement officials are available to them within their own States why should the Federal Government be spending its resources to develop the CCH system at the Federal level (and impose Federal administrative procedures on the States) when it appears that it would make more sense for each State to continue its own State system? For those occasions when the States do need to get criminal history information from other States they can use the existing NLETS message switching system which is State owned and operated.
 - (6) In many instances, a heavy financial burden is placed on the States as a prerequisite for participating in the CCH program. This is done by requiring each State to dedicate a computer for the sole use of CCH, (as a means of ensuring security and the privacy of data--yet dedication of computers does not necessarily do either). Many States simply cannot afford the expense of buying a computer that can only be used for one purpose.
- c. What are the estimated comprehensive CCH costs to the States and the Federal Government? - Since no comprehensive study on the costs of CCH to State and local governments



(in addition to Federal costs) has been made, we believe that such a study must be made. Although the estimated cost to the FBI to install and operate message switching equipment is small (estimated at \$45,000 to install and \$1 million to operate over 5 years), the resultant costs to the States to purchase equipment and convert a small number of records is conservatively estimated to be \$320 million over a ten year period. This price tag would be compounded by the necessity of converting most of the remaining manual criminal history records to the automated CCH data base, which could cost the States collectively an estimated additional \$200-250 million. (This cost estimate assumes that deposition data would be added to the CCH record, when missing.) It is likely that many States, pleading insufficient resources, will attempt to recoup these costs from the Federal Government. (Above preliminary cost estimates are from the Institute for Law and Social Research.)

2. Configuration and Management

- a. Should the FBI provide telecommunications services designed to satisfy the needs of State and local missions? - Pursuant to its mandate to coordinate Federal assistance to State and local governments in the telecommunications area, OTP has consistently followed a policy of reliance upon State and local entities to meet their own telecommunications needs with a minimum of Federal intervention or supervision.

The Administration's general policy of limiting the Federal role in matters where primary responsibility resides in States and localities is particularly appropriate in telecommunications, given that control over information flow can easily lead to control over operational functions. This policy has been specifically applied in coordinating the implementation of the "911" emergency number on a nationwide basis, and in decisions regarding the provisions of advanced communications satellite capability to serve the needs of State education and public health agencies.

No other Federal agency provides operational communications services, as distinct from information, to State and local governments. The FBI proposal would constitute a exception



to this policy and would give rise to all of the adverse consequences the policy is designed to avoid. Control by the FBI of the information flow between and among non-Federal criminal justice entities would (1) weaken the ability of other levels of government to manage their own affairs, (2) enable Federal officials to monitor communications patterns (and hence the law enforcement activities) of State and local agencies, and (3) impose a Federal supervisory presence over a mission that is constitutionally and historically a non-Federal responsibility.

- b. Should a Federal agency provide a communications service for States which duplicates services already provided by the States themselves? - OTP is responsible for the identification of competing, overlapping, duplicating, or inefficient telecommunications programs and for recommendations to appropriate agency officials and to the Office of Management and Budget concerning the scope and funding of telecommunications programs.

The establishment by the FBI of a national message switching capability to serve State and local criminal justice agencies would duplicate the existing capabilities of the National Law Enforcement Telecommunications System (NLETS). Insofar as NLETS is technically capable of meeting any of the State and local message switching requirements identified to date by its users, duplication of this existing capability by the FBI should be avoided.

- c. Should States participating in the NCIC be required to dedicate their computer systems? - FBI regulations would require States to "dedicate" part of their computer capacity to this message switching system, but many States are reluctant to do so because of the strain it would impose on the use of their computer capacity. There is no privacy and security benefit from a dedicated system that could not be achieved from a properly designed, shared system. Dedication cannot be justified on privacy grounds. Therefore, it ought to be within the discretion of State and local authorities whether they dedicate their own systems. The Federal Government should not mandate it.



1. Privacy and Security

- a. What is the actual and perceived threat to the privacy and security of the individual from this system? - The convergence of computer and communications technologies has made possible not only the rapid and widespread dissemination of vast amounts of information, but also the automated monitoring of information flow. The monitoring capability inherent in the FBI proposal would permit the Bureau to gather data about individuals to which the Federal Government may not be entitled. For example, monitoring by the use of "flags" as described in the FBI implementation plan would permit surreptitious information gathering by an entity controlling the message switching capability.

In this regard, the proposed system contains no checks and balances. In fact, by placing the FBI in control of the system, it tilts in favor of unauthorized access because of the Bureau's natural inclination to acquire intelligence in support of its Federal law enforcement and investigative missions. If there is to be a nationwide law enforcement telecommunications network, should systems managers be allowed to maintain audit control as in the FBI plan?

- b. It should be noted that the privacy issue goes beyond whether or not the FBI will gain access to unauthorized information. The creation of any large national network of computers and communications has been viewed widely as enabling the exercise of undue power by the centralized control of information. It must be recognized that the mere perception of a potential for intrusion upon privacy, whether or not the potential is real, can have a very serious impact in the public's faith in government in general and law enforcement in particular.

The privacy issue is a highly sensitive one which has captured the attention of the press, the Congress, and the public. Heretofore, the Administration has proceeded with caution with regard to the implementation of any large computer/communications networks. The recent GSA "FEDNET" proposal, for example, was cancelled last year after criticism from several quarters, including then-Vice President Ford, that implementation without proper privacy safeguards would have escalated the fears of the public regarding the collection and dissemination of personal information.



Attachments

- Tab 1 - Summary of Agency Responses to NCIC Proposed Limited Message Switching Implementation Plan
- Tab 2 - Recent Articles Linking FBI Plan to other Federal Computer Systems
- Tab 3 - OTP Memo Describing Systems Mentioned in above Articles.
- Tab 4 - Letter from the Governor of Minnesota to the Attorney General on Criminal Justice Information Systems.



UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

Address Reply to the
Division Indicated
and Refer to Initials and Number

SUMMARY OF RESPONSES
TO
NCIC PROPOSED LIMITED MESSAGE SWITCHING
IMPLEMENTATION PLAN

May 19, 1975





UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

Address Reply to the
Division Indicated
and Refer to Initials and Number

SUMMARY OF RESPONSES TO NCIC PROPOSED LIMITED MESSAGE SWITCHING IMPLEMENTATION PLAN

The following officials provided written responses to the FBI's NCIC proposed limited message switching implementation plan.

- 1) Richard W. Velde, Administrator
Law Enforcement Assistance Administration (LEAA)
May 12, 1975
- 2) Mr. Leo J. Zelenko, Acting President
National Law Enforcement Telecommunications
Systems, Inc. (NLETS)
May 12, 1975
- 3) Mr. Walter D. Scott, Associate Director for
Economics and Government
Office of Management and Budget
May 14, 1975
- 4) Mr. John Eger, Acting Director
Office of Telecommunications Policy
May 12, 1975
- 5) Congressman Don Edwards
Chairman
Subcommittee on Civil Rights
and Constitutional Rights
House Committee on the Judiciary
May 12, 1975
- 6) Congressman John M. Slack, Jr.
Chairman
Subcommittee on State, Justice, Commerce,
and Judiciary
House Committee on Appropriations
May 12, 1975

The responses have been reviewed. The issues are summarized under general categories, as follow:



1) FEDERAL INVOLVEMENT

a) Is it improper for a federal agency to provide management services and criminal justice telecommunications to state and local governments?

b) Should records be stored at the national level for a state which does not have a state program developed sufficiently to store single-state offender records? Would this act as a powerful negative incentive to the development of state level systems? Should alternative methods of handling the transition to a fully operational system be developed and implemented?

c) Would the maintenance at the national level of CCH records converted from multi-state to single-state status be so inconsistent with the single-state/multi-state record storage concept that the procedure should not be instituted?

d) Should alternative concepts be considered, such as having a "centralized identification index under the management control of the states"?

e) Would the establishment of NCIC limited message switching capability be a step toward a national police force?

f) Would NCIC limited message switching have a potential for forcing increased reliance on the federal government (reducing the independence of state and local governments)?

g) Is there a threat "posed by a system which could be used by a federal law enforcement agency to monitor in detail the day-to-day operations of state and local law enforcement authorities"? Would monitoring enable federal authorities to exert pressures on how state and local agencies do their jobs, upsetting a delicate balance between federal and non-federal functions?

h) Is it an avoidance of the issues to consider the implementation plan before soliciting Congressional comment? Is consideration of the implementation plan indicative of potential abuse by a federally controlled telecommunication system in the area of law enforcement?



2) CCH PROGRAM

- a) Has viability of the CCH program been resolved? Have the need for and benefit of the CCH program been satisfactorily demonstrated?
- b) Have operational requirements justifying an "immediate" need for a CCH record been identified?
- c) Is there justification for imposition of an "on-line" system to record dissemination of individual single-state records?
- d) Are there safeguards for assuring accuracy of multi-state offender records? Has responsibility for this function been delineated?
- e) Does the "capability" for arrest data to be included in the index go beyond the concept of an index?
- f) Would NCIC continue to store single-state offender records indefinitely on the ground that the states are not ready to assume this responsibility, resulting in a federal file not relevant to legitimate federal concerns?
- g) Is possible failure of states to maintain their SSORI records in agreement with their state-held records sufficient justification to require routing CCH-related messages over the NCIC network?
- h) Should the states, rather than NCIC, summarize single-state CCH records?

3) PRIVACY AND SECURITY

- a) Are there grave implications that NCIC message switching will threaten the rights of privacy?
- b) Is it clear that maintenance of a full message audit trail by a transmission facility (NCIC or NLETS) is necessary or desirable from a privacy viewpoint? Is it sufficient for the state system storing the data to maintain the audit trails?
- c) What are the privacy reasons which would require states receiving only identification segment information (SSORI records) to go over the NCIC network to the state holding the full record?



4) IMPACT ON NLETS

a) Although it is not NCIC's intent to supplant NLETS, is this a reasonable possibility with NLETS being a fee system and NCIC being a free system?

b) Would initiation of NCIC message switching "fragment" responsibilities for interstate criminal justice message switching? Should a "pure pointer system" be implemented with all state records being decentralized and with states making inquiries against the national index using "whatever telecommunications are currently available" to the state?

c) Is message category number 4's definition so all-encompassing that it could be expected to provide NCIC with the capability to do almost any kind of message switching? Also, are message categories 2 and 3 not NCIC related?

d) Would the use of "NCIC" in a message control field allow almost any type message to go over the NCIC system, possibly infringing on NLETS traffic? Can it be expected that any substantial infringement would occur?

5) COST CONSIDERATIONS

a) Would NCIC message switching force additional costs on local and state governments to meet NCIC requirements?

b) Does the resource statement (front end processor rental cost) contradict the statement that NCIC has sufficient power to properly handle message switching?

c) Would approval of the message switching plan represent an unnecessary expenditure of approximately \$1,000,000 (over five years)?



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Computer Banks On Individuals Hit

By Donald M. Rothberg

Associated Press

Proposals for two federal computerized data banks that would contain millions of names were criticized yesterday in Congress and within the administration as being dangerous and unnecessary.

One, an FBI proposal to broaden an existing computerized criminal history information system linking police departments around the coun-

Moss also said he would oppose the FBI plan.

Among the documents made public was a letter dated May 12 from John Eger, acting director of the White House Office of Telecommunications Policy, to Deputy Attorney General Harold R. Tyler Jr.

Eger wrote that the FBI proposal "could result in the ab-

Washington Post

June 5, 1975

p. A-2

tem, and he questioned whether there was any need for it.

Another report critical of the FBI proposal came from the Law Enforcement Assistance Administration, the federal agency which has disbursed billion of dollars in crime-fighting grants to state and local governments.

The LEAA study supported

June 18, 1975 p. A 18

William Raspberry

The Loss of Privacy

The technicians have it in their power to learn everything that anybody, anywhere knows about us—much is to say, virtually anything worth knowing.

And if it's true that anything that can be done sooner or later will be done, individual privacy will shortly be dead.



U.S. DATA PLAN SCORED BY AGENCY

U.S. Agency Warns F.B.I. Plan to Expand Computerized Data System Might Lead to Control of Police

Justice Unit Says Expanded
Computer System Might
Bring Control of Police

By DAVID BURNHAM

Special to The New York Times

WASHINGTON, June 3—An agency within the Justice Department has denounced a plan

Continued From Page 1, Col. 1

are contained in the agency's

as "autodated message switching."

The report said the proposal

law enforcement responsibility has been specifically recognized within the executive branch by

ough the bureau's be used to monitor the regular information center. The operations of state and local now provides law enforcement authorities, law enforcement agencies in one part allowing Federal authorities to the country with such in exert pressure on these agencies as charges filed and cies." dates when an individual was. "Any agency controlling a arrested in another part of the message switching capacity," country. he added, "could also engage in surreptitious intelligence gathering. No system capable of switch messages automatically central monitoring of state or it will mean the demise of a local operations should be authorized until adequate safeguards are established, and this long existing arrangement under the control of the 50 states has not been the case up to known as the National Law Enforcement Telecommunications System. now."

Critics contend that if the center is given the ability to switch messages automatically it will mean the demise of a long existing arrangement under the control of the 50 states known as the National Law Enforcement Telecommunications System. The 37-page F.B.I. response

cern to the F.B.I. in its development of the computerized criminal history program." "The F.B.I. has long recognized the sensitivity of the computerized criminal history data and the sanctity of the privacy of the individual," it asserted.

On May 16, the head of the White House Office of Telecommunications Policy, Mr. Eger, criticized the Justice Department for publishing in the Federal Register proposed regulations that said the F.B.I. "shall operate" the National Crime Information Center "and any message switching which

eral, Mr. Eger said he was "dismayed" by the order in the Federal Register.

"I believe that it is premature and inappropriate for the Department of Justice to appear to have disposed unilaterally of these issues by promulgation of the regulations in their present form," he said.

Spokesmen for both the Justice Department and the F.B.I. insisted the language in the proposed regulation merely approved message switching if and when it was authorized. Concerning the proposed Agriculture Department

OFFICE OF TELECOMMUNICATIONS POLICY

EXECUTIVE OFFICE OF THE PRESIDENT

WASHINGTON, D.C. 20504

June 17, 1975

ASSISTANT DIRECTOR

MEMORANDUM

FOR: John Eger

FROM: Charles Joyce *[Signature]*

SUBJECT: Computer/Communication Networks

Per your request, here is a description of the computer/communication networks which have received adverse publicity from Ford Rowan on NBC and David Burnham in the New York Times. Relatively factual reports about certain systems are being merged into non-factual smear reports suggesting secret capabilities linking many files together for political spying.

The major systems involved are the following:

Agriculture/Fednet

In 1974, GSA proposed to buy an integrated computer-communications system to provide: 1) a system meeting GSA's needs for procurement and property management support, 2) a highly centralized capability for the Department of Agriculture, and 3) a large reserve capacity for meeting future but unidentified needs of other Federal agencies. OTP and OMB objected to this on grounds including privacy, excess capacity, and an excessive "in-house" orientation. Then-Vice-President Ford publicly referred to the privacy risks inherent in such a system, and Congress legislated a ban on the system.

Agriculture is now trying to go it alone with their own centralized system, and GAO recently released a critical report claiming inadequate planning and inadequate consideration of privacy. The early association of the Agriculture system with GSA's Fednet may make it look like the executive branch is trying to sneak this past the congressional Fednet ban.

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The NCIC

The FBI's National Crime Information Center (NCIC) was established to allow the states to check a central file on wanted persons and stolen vehicles. The FBI has been seeking the Attorney General's permission to expand this to include a general purpose telecommunications capability. The ostensible purpose of this is to allow interstate exchange of computerized criminal histories among the states. However, since the system is general purpose and is provided free to the states, it is likely to become the vehicle for all interstate exchange of both computerized data and administrative message traffic for law enforcement. OTP, OMB, the Domestic Council Committee on the Right of Privacy and several congressmen have been actively opposing this expansion on grounds of privacy, cost-effectiveness, and Federal-State roles, and the issue has been widely reported in the press.

The ARPANET

The Defense Department's Advanced Research Project Agency (ARPA) developed a new high-speed data communications technology called "packet switching" to link computers. ARPA has built a nationwide research network using this technology. Computers which are connected to this network through interface message processors (IMP's) can exchange data in a fast and relatively economical fashion. Packet switching has become something of a fad, and several agencies have been planning to use it in their own networks, including defense, GSA and the intelligence community.

Incorrect inferences have been made in regard to packet switching and "IMP's" such as: 1) an IMP allows its owner to get into any computer anywhere, and 2) all packet switched networks are interconnected.

White House Computers

The White House has a computer for routine administrative support, and also a computerized message center for receiving military, diplomatic and intelligence messages destined for the White House Situation Room. Inferences have been drawn that this provides a capability to access the computers of other Federal agencies, such as the IRS or the Secret Service.



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Press reports and incorrect inferences about these systems may convince the Congress and the public that there is, or is about to be, a massive capability in the executive branch to link computers together, and to exchange data in violation of the Privacy Act of 1974. This could lead to calls for a moratorium on data communication systems, and possibly on all computer system expansions and consolidations, like the moratorium which has been proposed for Electronic Funds Transfer Systems. Such a moratorium would probably be imposed until the Privacy Commission established under the Privacy Act completes its studies.

Needless to say, such a moratorium would be very damaging to orderly Federal planning to improve operations and reduce manpower through automation. Studies have shown that the prime sources of information leakage are people, not computers. Safeguards can be built into computer systems and data communications networks to block unwanted file linkages.

cc: Tom Keller





STATE OF MINNESOTA

OFFICE OF THE GOVERNOR

ST. PAUL 55155

DELL R. ANDERSON
GOVERNOR

June 17, 1975

Honorable Edward H. Levi
Attorney General
Washington, D.C. 20530

Dear General Levi:

I assume that you have become aware recently that there is substantial and informed opposition on the part of the state and local governments to your department's proposed new regulations concerning criminal justice information systems. Minnesota is one of those states.

I am writing to specify Minnesota's major objections to those regulations. First, however, it should be noted that for over four years state and local governments have overwhelmingly opposed and vigorously fought certain aspects of those regulations. This includes repeated formal action taken by the National Governors' Conference, the Council of State Governments, predecessor organizations to the National Conference of State Legislatures, the National Association of State Budget Officers, the National Association for State Information Systems, and several associations of city and county governments. Whereas general support has been expressed for the broad purposes of the regulations, there has been substantial opposition to provisions dictating how states shall reach those objectives. But these efforts have been almost totally ignored. The present proposals still contain most of the unacceptable provisions first proposed over four years ago. It is significant that the major points at issue, also repeatedly proposed in legislation, have been rejected time and again by Congress.

Minnesota's major objectives are listed below. (I am also attaching for your information a position paper I presented to the National Governors' Conference at its meeting in New Orleans last week and a collection of documents relative to these matters issued in February, 1972, by the National Association for State Information Systems.)



1. FBI Control. We question the wisdom of the FBI being the sole authority in charge of security and privacy of criminal history record information at the federal level and expect that Congress will see that appropriate safeguards are established if the executive branch does not. We are unalterably opposed and will not tolerate the FBI dictating what policies, procedures, and methods we will use to guarantee data security and privacy in Minnesota criminal history record systems.
2. LEAA Funding. Use of federal funding as bait for giving up state sovereignty is not new. But it is no longer acceptable as a routine matter to state legislators or governors, particularly as in this case where the funding is a very small part of the total cost of developing, implementing, operating, and maintaining the system. And in this case, an attempt is being made to apply the regulations retroactively to July 1, 1973. We believe that states or their personnel cannot simply be ensnared by a retroactivity provision of a federal regulation which causes them either to violate state statutes or to be subject as a state or an individual to a \$10,000 fine.
3. State Statutes. There are a number of our state statutes which would be overridden by the proposed regulations. Further, there are state constitutional questions raised by forcing the judicial branch to abide by procedures of the executive branch. We cannot and will not take actions which are illegal and are appalled that you are attempting to force us to take such illegal actions.
4. Dedication. Computer experts, including those in state government across the country and consultants to state governments, have advised us that the dedication requirement is a spurious security and privacy issue. Although total security cannot be guaranteed by the computer state of the art, computer security standards can be and are being well met in shared computer environments all across the country. States on the interstate CCH system should establish and meet their own security and privacy standards. We simply cannot abdicate our authority in these matters to the FBI.



Honorable Edward H. Levi

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5. Economic Impact. Years ago, Minnesota established a shared computer environment. It has paid enormous dividends in service and in cost reduction. Nearly all other states have, or are in the process of moving toward, shared computers. The requirement for dedication as well as some other features of the proposed regulations are extremely costly. So far as we know, the inflationary impact statement required by OMB Circular A-107 has not been accomplished. We believe it extremely important that this be done immediately and carefully and that the states participate in developing the statement. The importance of the impact statement is underscored by the extremely difficult financial picture facing most state and large city and county governments.

There are in addition many other points in the regulations which concern us. But the foregoing are the main ones.

On behalf of Minnesota, I am asking that you delay the effective date of the regulations and revise them to make it possible for all three levels of government to work in harmony to assure cost effective criminal history record systems consistent with federal and state constitutions and statutes.

Sincerely,

Wendell R. Anderson

Enclosures



Statement of Governor Wendell R. Anderson, State of Minnesota, relative to the U.S. Attorney General's proposed regulations on Criminal Justice Information Systems. (Prepared for presentation to the National Governor's Conference, June, 1975.)

The Federal Register, Volume 40, No. 98, May 20, 1975, carries proposed rules and regulations concerning criminal justice information systems, to be effective June 19, 1975. These provisions would regulate any state or local criminal history record information system which has been funded in any part, since July 1, 1973, by LEAA funds. The regulations would apply to all such systems including intrastate systems. The result would be effectively vesting in the Department of Justice control over the operation of all such systems at the state and local levels as well as at the federal level. The proposal also would require dedication of computer hardware for such purposes. Substantial penalties are specified for violation of the regulations.

In summary, this paper expresses the strong opposition of the State of Minnesota to certain features of these regulations. We believe first, that it is clearly contrary to the national interest as well as the interests of this state that the U.S. Department of Justice, through the FBI and LEAA, control the operation of state criminal history systems. Recent events have emphasized again the danger of centralization of such power. Secondly, we believe that dedication of computer hardware is not required for data security and is, in fact, highly cost effective.

By way of background, it should be noted that the State of Minnesota is proud of its record on the questions of data security and privacy. Members of both the Minnesota executive and legislative branches have provided and are continuing to provide national leadership on these matters. We were the first state to pass comprehensive legislation governing the security and privacy of public records. Legislation based on our original statute and revisions passed this year has been enacted or is being considered by a number of states.

Thus, we are strong and informed supporters of the object of the subject rules and regulations. We believe it fully appropriate for the federal government to establish security and privacy policies for interstate data exchange.



But we also believe that security and privacy rules for intrastate data are the sole responsibility of the several states. The proposed regulations, however, would usurp that state authority, assigning it in effect to LEAA and the FBI. Surely in the public mind that is a classic example of directing the fox to guard the henhouse.

In this connection, it remains an open question whether Minnesota will become part of the interstate computerized criminal history system. We are not satisfied with the security and privacy guarantees in the NCIC system because we do not believe that the management and policing of that system should be entrusted to the FBI.

It is important also in this regard to note the retroactive feature --- Section 20.20 (a) --- providing that the regulations apply to all state and local agencies where funding "has been in whole or in part with funds made available by the Law Enforcement Assistance Administration subsequent to July 1, 1973." This means that a state could never have a intrastate system under its own statutes and on its own terms if it had, since July 1, 1973, applied as much as one cent of LEAA funds to that system. It appears to mean additionally that any state expending any LEAA funds on the system after July 1, 1973, must continue the program whether it wishes to or not.

Furthermore, the State of Minnesota is unalterably opposed to Section 20.21 (f) (2) requiring dedication of computer hardware used for criminal histories. Security requirements can and are being met without incurring the extremely significant costs of dedication. We rest our case on this point on the position substantiated and reiterated repeatedly over the past four years by the organization of state computer officials, the National Association for State Information Systems. It should be noted that there is, in fact, no way to assure absolute security for computerized data.

This state and many others have made substantial progress in improving cost effectiveness of computer operations by shared usage of hardware --- and at the same time improving data security and privacy. We cannot permit unwarranted demands for dedication to erode these large gains, whether in the name of security or for any other reason.

Most disheartening in this continuing controversy over the years has been the persistence of the federal proponents for hardware dedication. This requirement has been in all previously proposed regulations. It was in the first criminal justice security and privacy bills considered by Congress. Dedication has been attacked formally and



repeatedly by the National Governor's Conference; the Council of State Governments, the National Association of State Budget Officers, the National Association for State Information Systems, and associations of local government. Both houses of Congress have recognized the validity of the opposition, and proposed legislation no longer includes dedication language. But the regulations still do.

The National Governor's Conference should use whatever resources it can marshal to assure appropriate revision of the proposed regulations.



NATIONAL GOVERNORS' CONFERENCE
NATIONAL ASSOCIATION OF COUNTIES
NATIONAL CONFERENCE OF STATE LEGISLATURES

August 27, 1975

The Honorable Nelson A. Rockefeller
The Vice President
Executive Office Building
Washington, D. C. 20510

Dear Mr. Vice President:

The impact of rule making by Federal officials which imposes unnecessary costs and administrative burdens upon state and local governments is too often ignored.

A most apparent illustration is a recent promulgation of regulations by the U. S. Department of Justice which mandates that state and local governments dedicate computer hardware and software programs solely to law enforcement activities. We are particularly concerned since the dedication of computers is not, in light of modern technology, necessary to insure the privacy and confidentiality of records, and may in many instances produce the opposite result.

This action moves beyond the Federal program directives normally associated with grant-in-aid programs into a management area traditionally considered to be a state and local government responsibility. If each Federal agency were to adopt similar policies requiring the earmarking of computers to narrow programmatic areas, the disruptive effect upon the efficient operation of state and local governments would be overwhelming.

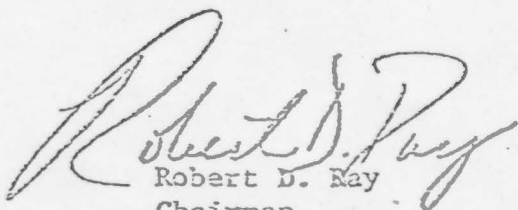
Over the past several years, state and local governments have made excellent progress toward the development of systematic and integrated management information systems. In light of this, each of the organizations we represent is officially opposed to the Justice Department action. We believe it is imperative that the decision to dedicate computers be left to state and local governments.

This issue is of such significance that we most respectfully request a meeting with you, the Attorney General, and the Director

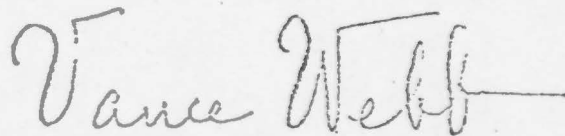


of the Office of Management and Budget for the purpose of demonstrating the adverse repercussions Federal regulations of this nature would have upon state and local governments.

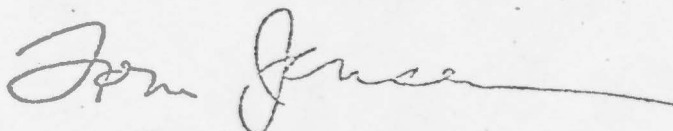
Sincerely,



Robert D. Ray
Chairman
National Governors' Conference



Vance Webb
President, National
Association of Counties



Tom Jensen
Chairman, Intergovernmental
Relations Committee
National Conference of
State Legislatures



THE WHITE HOUSE
WASHINGTON

Steve —
would you

see me
about this?

Many Thanks

Jim



THE WHITE HOUSE
WASHINGTON

TO: *Jim Cannon*
FROM: MIKE DUVAL

For your information _____

Comments:

*Tiëmann's speech -
he is referring to
a potential need for
mandatory auto-free
zones!*

Mike





DEPARTMENT OF TRANSPORTATION

NEWS

FEDERAL HIGHWAY ADMINISTRATION

WASHINGTON, D.C. 20590

FOR RELEASE TUESDAY A.M.
September 23, 1975

FHWA 91-75
(202) 426-0677

Federal Highway Administrator Norbert T. Tiemann today suggested that it may soon be necessary to restrict automobiles in the central business districts of large cities, and disclosed that federally funded demonstration programs using this technique will be launched in several cities next year.

Addressing the 43rd annual meeting of the International Bridge, Tunnel and Turnpike Association in Paris, France, Tiemann said:

"I personally feel that the time is not far off when we will have to bite the bullet and restrict private automobiles in the central business district, or at least a part of it, in many of our cities. In other words, we need to create auto-free zones in our large cities."

A former Governor of Nebraska, Tiemann added:

"I do not make this suggestion naively; I am well aware of the opposition such action would generate. Certainly it would be unpopular politically. But I think it is an idea whose time must soon come."

He said that auto-free zones would be feasible in a variety of urban settings--commercial, residential, historic and institutional. "Restricting or excluding cars from certain areas of historic, esthetic or monumental importance can create areas that might be better enjoyed by people walking or riding special forms of conveyances, be these jitneys, minibuses, or whatever."

- more -



Tiemann disclosed that the Federal Highway Administration is participating in an advisory capacity to the Urban Mass Transportation Administration in an auto-restricted zone feasibility study. "Upon completion of this 12-months study," he said, "several cities selected as part of the study will be used for demonstration projects. The demonstration projects which we will be implementing in these cities next year will show us whether the auto-free zone concept is feasible in our large cities. I think that it will work. I may be wrong--but we are going to find out."

Turning to what he termed an essential need for a balanced transportation system in the United States, Tiemann said:

Tiemann concluded:

"I think it would make a lot of sense to put all of the surface transportation funds into one pot, and all of the facilities under one jurisdiction. I think the result would be better overall transportation for all of us."

#

DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION
Washington, D.C. 20590

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DOMESTIC COUNCIL CLEARANCE SHEET

Date: September 22, 1975

JMC action required by: ASAP

TO: JIM CANNON

VIA: DICK DUNHAM _____

or

JIM CAVANAUGH _____

DICK PARSONS _____

FROM: LYNN MAY _____

SUBJECT: Meeting with the Attorney General to Discuss the Department of Justice's Message Switching Plan and Other Aspects of the National Criminal Justice Information System

COMMENTS:

Date: _____

RETURN TO:

Material has been:

_____ Signed and forwarded

_____ Changed and signed (Copy attached)

_____ Returned per our conversation

_____ Noted

Jim Cannon



THE WHITE HOUSE

WASHINGTON

September 22, 1975

MEMORANDUM FOR: JIM CANNON

THROUGH: DICK PARSONS

FROM: LYNN MAY *Lynn May*

SUBJECT: Meeting with the Attorney General to Discuss the
Department of Justice's Message Switching Plan
and Other Aspects of the National Criminal Justice
Information System

I. PURPOSE:

To convince the Attorney General to suspend the implementation of a message switching capability in the National Criminal Information Center (NCIC) and to induce him to review message switching and other aspects of the NCIC and arrive at alternative programs that are more acceptable to the Congress and State and local governments.

II. BACKGROUND:

The Department of Justice has initiated several changes in the operation of the NCIC directed at its expansion. These have received intense criticism from the Congress, State Governors and elements within the Administration including OMB, OTP and the Domestic Council Committee on the Right of Privacy.

One of the criticized innovations is the promulgation of LEAA regulations for the development of criminal justice information systems which mandate the "dedication" (i.e., require sole use) of State computers for criminal information. Buttressed by the implications of the Privacy Act, LEAA and the FBI maintain that computer dedication will insure privacy protection. Many of the less affluent States argue that dedication is a drain on their computer resources and is an unwarranted Federal imposition on their rights.



The second issue is that of message switching. The FBI has proposed the return of single State offender records to the States and the implementation of a message switching capability so that the FBI can re-route inquiries electronically to States where the necessary records are maintained. The FBI argues that this would enhance the ability of State and local law enforcement authorities to do their jobs and would promote Federalism by the return of State records now in FBI files. Critics complain that the message switching capacity would ensure FBI control of criminal justice information and would undermine the State run National Law Enforcement Telecommunications System (NLETS).

Dick Parsons relayed the objections of the Administration regarding these initiatives by memorandum to the Deputy Attorney General on June 27, 1974, but the Department has not answered. The increasingly belligerent attitude of State Governors and the Congress (which is considering legislation to halt message switching), however, compels resolution of this issue. We, in cooperation with OMB, have formulated the attached proposal for a Domestic Council Task Force, under the Chairmanship of the Attorney General, to examine criminal justice information systems, consult with outside interest groups and make recommendations to the President. The work of the Task Force could defuse this issue and provide a balanced analysis of the needs of the criminal justice system.

As it now stands, the Attorney General is caught between the demands of the FBI and others within his Department on the one hand and the Congress, the States and critics within the Administration on the other. It may be that the Attorney General is reluctant to override the FBI's wishes in this matter, because of the alleged law morale of the Bureau and the reported discontent of Director Kelly. While a quiet abolition of the message switching plan would be the best course, the awkward position of the Attorney General may make the task force proposal palatable to him as a viable way out.

III. TALKING POINTS:

- As you are aware, there are a number of controversies surrounding the national criminal justice system which were set forth in a recent memo to you. Among the more controversial aspects are message switching and computer dedication, as dictated by LEAA regulations.



- Much of the criticism of Federal policies in these areas revolves around their somewhat narrow law enforcement focus, which tends to distort related issues like privacy and Federal/State relations.
- Although the authority for management of the National Criminal Information Center clearly lies with the Justice Department, opponents of message switching like Senators Tunney, Congressman Moss and the National Governor's Conference and computer dedication have directed their criticism at the President.
- I wanted to meet with you to get your ideas on this problem and attempt to achieve its resolution in accordance with the President's interests. I'd also like to suggest that you meet with the National Governor's Conference, the National Association of Counties and the National Conference of State Legislatures on the matter of computer dedication as requested in their letter to the Vice President.

NOTE

If the Attorney General has no solutions for the problem or seeks your advice, you may wish to propose our task force as follows:

- I believe that criticism of a message switching and computer dedication highlight the need for a re-examination of the criminal justice information system in this country. It may be that policy making bodies, like the NCIC Board, are not sufficiently broad enough, to incorporate the diversity of legitimate Federal, State, and local interests*. I suggest the formation of a Domestic Council Task Force, chaired by yourself, which would consult with State, and local interest groups to evaluate the structure and policies of the national criminal justice system and make appropriate recommendations to the President.

*In recent years, the Executive Office has pushed for broader participation in the policy making body which oversees NCIC. Specifically, it has suggested the dissolution of the NCIC Board, which reports to the Director of the FBI, and the formation of a Criminal Justice Board, comprised of law enforcement officers, prosecutors, parole officers, etc. from State and local governments and private interest groups, as well as the Federal government. The function of this board would make recommendations to the Attorney General on aspects of the criminal justice system.



Justice

THE WHITE HOUSE
WASHINGTON

February 2, 1976

MEMORANDUM FOR : PAUL O'NEILL
FROM : JIM CANNON
SUBJECT : La Raza Unida

Jack Brooks still wants to know.



THE WHITE HOUSE
WASHINGTON

December 30, 1975

MEMORANDUM FOR:

~~PAUL O'NEILL~~ ↗

FROM:

JIM CANNON ↘

At the Domestic Council Hearings in Texas, Governor
Briscoe raised the question of a problem with
~~La Raza Unita~~. Did we ever get anything back on
this?

no.

pr

RAZA UNIDA

Paul —
John Brooks still
wants to know.



Justice

★★★X

Citizen-Journal 11

Tues., Feb. 10, 1976

Rhodes' Kent call denial now under U.S. scrutiny

A phone call Gov. James A. Rhodes may or may not have made after the Kent State shootings by National Guardsmen in 1970, is among aspects of the transcript of last year's civil trial now under U.S. Justice Department scrutiny.

The department is examining the civil case record and comparing it to testimony in an earlier federal grand jury investigation with an eye to

under Justice Department examination.

Former Guard Capt. James R. Snyder admitted during the civil trial he lied to a federal grand jury about finding a rusty pistol on the body of one of the slain students.

He also admitted lying about a pair of brass knuckles taken from another student.

In addition, he told the civil trial

2/27/ 76

Don P...

THE WHITE HOUSE
WASHINGTON

Jonathan Reinhart's office called with the following information:

The legislation was introduced by Edward Kennedy on February 25, 1976, and is entitled the Law Enforcement Improvement Act. Senate Bill S-3043.

Co-sponsors:

Edward Kennedy - Mass.
Ribicoff - Conn.
Hart - Mich.
Hart - Colo.
Haskell - Colo.
Durkin - New Hamp.
Sparkman - Alabama
Pell - R.I.
Mansfield - Mont.
Inouye - Hawaii
Montoya - N.Mex.
McGovern - S. Dak.

Stafford - Vt.
Beall - Md.
Percy - Ill.

Senate staff expects other co-sponsors will be signed up in the days ahead.

He will get back to you with more info. later.

Ann



Judge Bars HEW Cutoff Of Md. Funds

Wash. Post
3-9-76

Maryland and Baltimore won victories in federal court yesterday in their efforts to halt a threatened cutoff of federal education funds in a dispute over implementation of desegregation programs.

Chief Judge Edward S. Northrop of the U.S. District Court in Baltimore said officials in the Department of Health, Education and Welfare had acted "arbitrarily and whimsically" in dealing with Maryland's colleges and Baltimore's

Radiation Danger Cited

Judge Bars HEW Funds Cutoff in Md.

HEW, From A1

be cited before administrative hearings began.

Northrop said HEW officials "arbitrarily and whimsically" failed to follow the Civil Rights Act in not seeking to work toward compli-

MEMORANDUM

THE WHITE HOUSE
WASHINGTON

arch 10, 1976

MEMORANDUM FOR: Art Quern
FROM: Dick Parsons
SUBJECT: State of Maryland vs. HEW

You requested some background on the suit which the State of Maryland and the City of Baltimore recently commenced against HEW.

In March 1969, HEW determined that the State of Maryland was operating a racially segregated system of higher education in violation of Title VI of the Civil Rights Act of 1964. Some three years later, in 1972, HEW determined that the City of Baltimore was operating a racially segregated elementary and secondary school system in violation of Title VI. However, no action was taken by HEW on the basis of these determinations.

In 1973, HEW was sued by a group of private citizens because of its failure to take action against those jurisdictions which had been found to be operating racially segregated school systems (including the State of Maryland the City of Baltimore). That suit, Adams v. Richardson, concluded in June 1974 with the issuance of a court order requiring HEW to promptly commence enforcement proceedings against all such jurisdictions.

Thereupon, HEW requested and got from the State of Maryland a voluntary plan for compliance with Title VI (the so-called "Maryland Plan for Completing the Desegregation of the Public Postsecondary Education Institutions in the State"). Because of the difficulty previously experienced with the City of Baltimore, however, no such voluntary plan was sought and an administrative enforcement proceeding was commenced.

On December 15, 1975, the Director of the Office for Civil Rights in HEW wrote to Governor Mandel informing him of HEW's intention to commence an administrative enforcement proceeding because of the State's failure to implement the desegregation plan it had submitted in 1974. This letter followed a number of meetings between State officials and HEW staff which were not successful at resolving the problem.



In January of this year, the State of Maryland commenced a suit against HEW to enjoin it from initiating the administrative enforcement proceeding. The City of Baltimore joined in this suit to prevent HEW from continuing its proceeding against the City. On March 9, U. S. District Court Judge Northrup ruled that, because HEW had not followed its own regulations concerning Title VI enforcement and had failed to adequately negotiate voluntary compliance, it was enjoined from initiating an enforcement proceeding against Maryland and from continuing its proceeding against Baltimore.

HEW and Justice are currently assessing the advisability of an appeal from Judge Northrup's order.

cc: Jim Cannon ✓



Justice Civil Rights

THE WHITE HOUSE

WASHINGTON

INFORMATION

March 15, 1976

MEMORANDUM FOR: THE PRESIDENT
FROM: JIM CANNON
SUBJECT: State of Maryland vs. HEW

In regard to your request for further information concerning the news reports of the U.S. District Court ruling on HEW's enforcement of Title VI of the Civil Rights Act of 1964 against the State of Maryland:

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