

Chronology of CCH

(This chronology describes some NCIC/CCH events brought to public attention by the press and Congress. It is by no means complete. A more definitive list would form part of the formal OTA assessment.)

February 1967

The President's Commission on Law Enforcement and the Administration of Criminal Justice recommends use of computer technology by criminal justice information systems on a decentralized basis.

July 1969

Project SEARCH, a consortium of 10 States receiving LEAA funds, is created to develop a prototype computerized network to exchange criminal history information on a decentralized basis.

July 1970

Project SEARCH privacy report is issued, calling for adoption of restrictions on criminal history data collection to safeguard privacy.

October 1970

Mathias Amendment to Omnibus Crime Control and Safe Streets Act of 1968 requires LEAA to submit legislative recommendations to regulate the exchange of criminal justice data.

December 1970

Attorney General Mitchell authorizes FBI to take control of the Project SEARCH criminal history index.

June 1971

Menard vs. Mitchell decision limits dissemination of FBI arrest records outside the Federal Government.

September 1971

S. 2546, LEAA's recommendation pursuant to the Mathias Amendment, is introduced. It gives the Attorney General broad power to determine access to criminal justice data banks. No action is taken on the bill.

November 1971

FBI announces that it has added the nationwide criminal history data bank to NCIC.

November 1971

Bible Rider to the Supplemental Appropriations Act of 1972 gives FBI authority to continue dissemination of arrest records negating the effect of the *Menard* decision.

January 1973

GAO report says Department of Justice has not determined costs of developing a fully operational CCH system, thus preventing States from determining whether they can afford to participate. Also, users have no assurance that data entered into CCH is complete/accurate because not all arrests/dispositions are being reported by participating States. Report adds that LEAA/FBI agree with above critique but aren't doing enough to correct problems. Specifically, LEAA is collecting cost information as part of its Comprehensive Data Systems program (CDS), but not all States exchanging CCH records are required to participate in CDS, and State submissions to CDS will not show separately the costs of developing CCH exchange capability. Regarding the arrest/disposition reporting problem, GAO says NCIC'S plan to inform participating States, periodically, of the specific CCH records for which no dispositions are available, will fail to remedy "a serious system deficiency" because simply informing the States that certain records are incomplete will not prevent users from acquiring the information and acting on it despite this shortcoming.

Spring 1973

Alaska and Iowa enact statutes governing use of criminal history records.

June 1973

Massachusetts refuses to participate in the CCH program until safeguards are adopted at the Federal level. Justice Department sues to

gain access to data in the Massachusetts State files by the Small Business Administration.

July 1973

Kennedy Amendment to the Crime Control Act of 1973 requires LEAA to issue regulations controlling LEAA-funded State criminal justice data systems.

July 1973

HEW Report, *Records, Computers, and the Rights of Citizens*, is published. It proposed limitations on automated personal data systems on the Federal Government.

August 1973

Massachusetts Governor Francis W. Sargent and others petition Justice Department to develop standards governing criminal history records.

February 1974

LEAA proposes regulations to control criminal justice information systems which receive Federal funds.

February 1974

S. 2963, drafted by Senator Ervin, together with S. 2964, drafted by the Justice Department, and introduced by Senator Hruska, are referred to Senate Constitutional Rights Subcommittee. (Neither bill was enacted.)

October 1, 1974

Deputy Attorney General Silberman authorizes FBI to engage in "limited" switching of NCIC-related messages, provided the Bureau prepares an implementation plan that is approved beforehand by the Attorney General.

April 14, 1975

FBI releases a "National Crime Information Center Limited Message-Switching Implementation Plan."

May 20, 1975

Justice Department, after redrafting regulations proposed in February 1974 on the basis of subsequent comments, publishes the new Rules in Federal Register "governing dissemination of criminal records and criminal history information." These regulations provide privacy safeguards of individual records in files maintained and administered by the FBI, criminal justice exchange of records. Also, the regulations require State criminal history record information to be stored and processed in dedicated computer system.

June 19, 1975

LEAA regulations become effective.

July 1, 1975

Senator Tunney, Congressman Edwards introduce S. 2008/H.R. 8227 to control dissemination of information from criminal justice information systems. The bills, identical to each other, include a Federal regulatory commission similar to one proposed the previous year, by Senator Ervin in S. 2963. (The Tunney/Edwards legislation was not enacted.)

October 24, 1975

Justice Department modifies regulations to let States use shared computer facilities, if proper precautions are taken. Justice also announces it will hold hearings to consider changes in provisions covering dissemination of criminal history record information.

November 1975

Attorney General Levi defers decision granting FBI permission to implement NCIC message-switching capability, after congressional critics and others express fears that agency will gain too much power,

March 19, 1976

Following December Justice Department hearings to assess balance between public's right to know such information and right to privacy, LEAA adopts amended regulations covering records dissemination and sharing of related computer systems. In effect, rules leave the dissemination up to the individual States. Each State must submit a plan describing its dissemination and security procedures. After review and approval by LEAA, these procedures must be implemented in each State by December 31, 1977. States must devise plans that comply with requirements specified in amended regulations and are allowed to use shared computers to store and process criminal history record information, provided systems satisfy criteria specified in regulations.

April 16, 1976

FBI Director Kelly requests permission from Attorney General Levi to terminate FBI participation in CCH program because the cost and effort of maintaining the centralized CCH system was "grossly underestimated," the intergovernmental relations problems are "legion," and the Bureau "cannot move ahead with its plans to decentralize CCH because it

does not have message-switching authority or capability. ”

April 5, 1977

FBI Director Kelley requests authority from Deputy Attorney General Flaherty to implement a new NCIC message-switching plan, unrelated to CCH. The proposed switch would provide Federal agencies “and localities such as Puerto Rico” with access to NLETS through NCIC communication circuits. It would also enable the Royal Canadian Mounted Police information center in Ottawa, Canada to access non-CCH NCIC files.

April 15, 1977

FBI Director Kelley reiterates his request to terminate FBI participation in CCH.

May 10, 1977

Congressman Edwards, in a letter to Deputy Attorney General Flaherty, suggests that the ultimate decision by the Justice Department regarding CCH and message switching should be preceded by testimony before the House Subcommittee on Civil and Constitutional Rights.

May 19, 1977

Deputy Attorney General Flaherty approves FBI April 5th proposal but cautions that “this approval should not be construed to authorize the switching of CCH messages. ”

May 19, 1977

Deputy Attorney General Flaherty advises FBI Director Kelley not to terminate FBI participation in CCH pending review of the matter by Flaherty’s staff.

June 7, 1977

Congressman Edwards asks Deputy Attorney General Flaherty to defer approval of FBI’s April 5th request for limited message-switching capability “until we have testimony” from the Department of Justice and other interested parties.

July 11, 1977

Deputy Attorney General Flaherty revokes his May 19th memo authorizing FBI to proceed with limited message-switching plan. Flaherty says “we are thoroughly reviewing the subject of message-switching. . . in cooperation with Members of Congress. ”

August 3, 1977

Scientists Institute for Public Information (SIPI), after evaluating NCIC at request of Edwards subcommittee, issues critical report.

It alleges, among other shortcomings, that NCIC data and procedures are not audited regularly, and that the system’s actual benefits “remain in the area of surmise. ”

September 12, 1977

Congressmen Edwards, Rodino ask OTA to conduct study of NCIC for House Subcommittee on Civil and Constitutional Rights.

September 28, 1977

FBI responds to SIPI report, disagreeing with most of its findings. For example: NCIC is audited, although not by an independent agency, and it is “incorrect to say that the actual benefits of NCIC ‘remain in the area of surmise. ”

September 29, 1977

Deputy Attorney General Flaherty, in letter to Congressman Edwards, proposes “interim measures” to improve NCIC operation. They include:

a) Continuing FBI participation in CCH while taking steps to decentralize the files. The first step would be adoption of a CCH decentralization blueprint, developed “in concert with Congress” and other interested parties.

b) Adding message-switching capability to NCIC’S computer system but not employing it until the blueprint is approved.

c) Negotiating with GAO to provide an independent NCIC system audit capability.

d) Reviewing NCIC Advisory Policy Board reporting procedures to ensure their “maximum effectiveness. ” Deputy Attorney General says he favors having Board report directly to the Attorney General or Deputy Attorney General through the FBI Director.

October 20, 1977

Congressman Edwards, answering Deputy Attorney General Flaherty’s September 29th proposal, emphasizes need to develop standards assuring that CCH records, when distributed to the States, will be protected against misuse. Congressman Edwards also says the Justice Department blueprint should consider seriously whether another agency—NLETS or some similar one—should perform message switching. He recommends that Justice consider adding “persons not directly involved in the NCIC System” to the NCIC Policy Advisory Board.

December 6, 1977

Justice Department gives States until March

1, 1978, to implement dissemination/security regulations issued in March 1976. The original deadline was December 31, 1977.

December 13, 1977

Attorney General Bell proposes abolishing LEAA and replacing it with a National Institute of Justice. The official reorganization proposal is to be submitted to Congress in the spring of 1978. Major provisions: State criminal justice plans and projects would no longer require prior Federal approval; regional criminal justice planning boards would no longer be subsidized by the Federal Government; administrative costs would be funded by the Federal Government on a more limited basis, requiring dollar-for-dollar matching by State/local recipients.

January 6, 1978

SIPI responds to FBI comment on 1977 SIPI study of NCIC. "It is our considered opinion

that an indepth study of NCIC, performed by the Office of Technology Assessment, the General Accounting Office, a qualified independent organization, or all three is called for."

95th Cong., 2d Session: No legislation was enacted. Hearings and studies continued on LEAA restructuring and guidelines before the House Judiciary Subcommittee on Crime and the Senate Judiciary Subcommittee on Criminal Laws and Procedure. The full Senate Judiciary Committee also conducted hearings and studies related to the FBI statutory charter. This subject is also of concern to the House Judiciary Committee.