

TITL: Compendium of State Privacy and Security Legislation: 1997
Overview - ALASKA ; 1255, 147 Revised Statutes Annotated

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SALE: US Department of Justice, Bureau of Justice Statistics
National Institute of Justice/NCJRS Paper Reproduction Sales
Box 6000, Dept. F
Rockville, MD 20849

DOCUMENT #: 170037

DATE: 1997

PAGE: 49p

ORIG: United States

LANG: English

SUBJECT: Legislation/policy descriptions

ANNOTATION: This is a 1997 overview of State law pertinent to the
privacy and security of criminal justice information.

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Alaska Statutes Annotated

Sec. 12.55.147. Fingerprints at time of sentencing. When a defendant is convicted of a felony by a court of this state, the defendant's fingerprints shall be placed on the judgment of conviction in open court, on the record, at the time of sentencing. The defendant and the person administering the fingerprinting shall sign their names under the fingerprints. (§ 35 ch 143 SLA 1982)

Chapter 62. Criminal Justice Information Systems Security and Privacy.

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Sec. 12.62.005. INTENT. It is the intent of the legislature that the department administer the provisions of this chapter in a manner that protects victims of crime, allows the proper administration of justice, and avoids vigilantism.

Sec. 12.62.010. Regulations. (a) The Governor's Commission on the Administration of Justice established under AS 44.19.110 — 44.19.122 is authorized, after appropriate consultation with representatives of state and local law-enforcement agencies participating in information systems covered by this chapter, to establish rules, regulations, and procedures considered necessary to facilitate and regulate the exchange of criminal justice information and to insure the security and privacy of criminal justice information systems. The notice and hearing requirements of the Administrative Procedure Act (AS 44.62), relating to the adoption of regulations, apply to regulations adopted under this chapter.

(b) In addition to regulations adopted under (a) of this section, the commission shall, after appropriate consultation with representatives of state and local law-enforcement agencies, adopt regulations and procedures governing the gathering of intelligence information and the storage, security, and privacy of the intelligence information collected and maintained by law-enforcement agencies in the state. The notice and hearing requirements of the Administrative Procedure Act (AS 44.62), relating to the adoption of regulations, apply to regulations adopted under this subsection. In adopting these regulations, the commission shall take into account both the interest of law-enforcement agencies in maintaining the ability to conduct intelligence operations and each individual's right to privacy. (§ 1 ch 161 SLA 1972; am § 1 ch 38 SLA 1976)

Sec. 12.62.015. Collection and security of intelligence information. (a) Regulations of the commission, adopted under AS 12.62.010(b), shall include requirements and guidelines concerning the categories of intelligence information which may be gathered by law-enforcement agencies in the state, the purposes for which intelligence information may be collected, and the methods and

procedures which may be used in collecting intelligence information.

(b) The commission's regulations adopted under AS 12.62.010(b) shall establish standards for the confidentiality and security of intelligence information and provide for controls, access to and dissemination of intelligence information, and methods for updating, correcting and purging intelligence information while maintaining the security and confidentiality of the information. (§ 2 ch 38 SLA 1976)

Sec. 12.62.017. Annual report to commission. The chief officer of each state or municipal law-enforcement agency shall submit an annual report to the commission, in the form required by the commission, certifying compliance by the agency with the regulations adopted by the commission under AS 12.62.010(b). (§ 2 ch 38 SLA 1976)

Sec. 12.62.020. Collection and storage. (a) The commission shall establish regulations concerning the specific classes of criminal justice information which may be collected and stored in criminal justice information systems.

(b) No information collected under the provisions of any of the following titles of the Alaska Statutes, except for information related to criminal offenses under those titles, may be collected or stored in criminal justice information systems:

- (1) AS 02, except chs. 20, 30, and 35;
 - (2) AS 03 — AS 04;
 - (3) AS 05, except chs. 20, 25, 30, and 35;
 - (4) AS 06 — AS 10;
 - (5) AS 13 — AS 15;
 - (6) AS 17;
 - (7) AS 18, except AS 18.60.120 — 18.60.175 and ch. 65;
 - (8) AS 19 — AS 24;
 - (9) AS 25, except ch. 25;
 - (10) AS 26 — AS 27;
 - (11) AS 29 — AS 32;
 - (12) AS 34 — AS 46; and
 - (13) AS 47, except chs. 10 and 23.
- (§ 1 ch 161 SLA 1972; am § 30 ch 126 SLA 1977)

Sec. 12.62.030. Access and use. (a) Except as provided in (b) and (c) of this section, access to specified classes of criminal justice information in criminal justice information systems is available only to individual law enforcement agencies according to the specific needs of the agency under regulations established by the commission under AS 12.62.010. Criminal justice information may be used only for law

enforcement purposes or for those additional lawful purposes necessary to the proper enforcement or administration of other provisions of law as the commission may prescribe by regulations established under AS 12.62.010. No criminal justice information may be disseminated to an agency before the commission determines the agency's eligibility to receive that information.

(b) Criminal justice information may be made available to qualified persons for research related to law enforcement under regulations established by the commission. These regulations must include procedures to assure the security of information and the privacy of individuals about whom information is released.

(c) A person shall have the right to inspect criminal justice information which refers to him. If a person believes the information to be inaccurate, incomplete or misleading, he may request the criminal justice agency having custody or control of the records to purge, modify or supplement them. If the agency declines to do so, or if the person believes the agency's decision to be otherwise unsatisfactory, the person may in writing request review by the commission within 60 days of the decision of the agency. The commission, its representative or agent shall, in a case in which it finds a basis for complaint, conduct a hearing at which the person may appear with counsel, present evidence, and examine and cross-examine witnesses. Written findings and conclusions shall be issued. If the record in question is found to be inaccurate, incomplete or misleading, the commission shall order it to be appropriately purged, modified or supplemented by an explanatory notation. An agency or person in the state with custody, possession or control of the record shall promptly have every copy of the record altered in accordance with the commission's order. Notification of a deletion, amendment and supplementary notation shall be promptly disseminated by the commission to persons or agencies to which records in question have been communicated, as well as to the person whose records have been altered.

(d) An agency holding or receiving criminal justice information shall maintain, for a period determined by the commission to be appropriate, a listing of the agencies to which it has released or communicated the information. These listings shall be reviewed from time to time by the commission or staff members of the commission to determine whether the provisions of this chapter or any applicable regulations have been violated.

(e) Reasonable hours and places of inspection, and any additional restrictions, including fingerprinting, that are reasonably necessary both to assure the record's security and to verify the identities of those who seek to inspect them may be prescribed by published rules. Fingerprints taken under this subsection may not be transferred to another agency or used for any other purpose.

(f) A person or agency aggrieved by an order or decision of the commission under (c) of this section may appeal the order or decision to the superior court. The court shall in each case conduct a de novo hearing and may order the relief it determines to be necessary. If a person about whom information is maintained by an agency challenges that information in an action under this subsection as being inaccurate, incomplete or misleading, the burden is on the agency to prove that the information is not inaccurate, incomplete or misleading. (§ 1 ch 161 SLA 1972)

Sec. 12.62.035. Access to certain crime information. (a) An interested person may request from the Department of Public Safety records of all felony convictions, convictions involving contributing to the delinquency of a minor, and convictions involving any sex crimes of a person who holds or applies for a position of employment in which the person has or would have supervisory or disciplinary power over a minor or dependent adult. The Department of Public Safety shall disclose the information to the requesting interested person and shall provide a copy of the information to the person who is the subject of the request.

(b) A request for records under (a) of this section must include within it the fingerprints of the person who is the subject of the request and any other data specified in regulations adopted by the commission. The request must be on a form approved by the commission, and the commission may charge a fee to be paid by the requesting interested person for the actual cost of processing the request. The commission shall destroy an application within six months after the requested information is sent to the requesting interested person and the person who is the subject of the request.

(c) The commission shall adopt regulations to implement the provisions of this section.

(d) If an individual is denied employment as a result of the disclosure of inaccurate or incomplete records under this section, an action may be brought against the state. No other action may be brought against the state, or an agency or employee of the state, as a result of disclosing or failing to disclose criminal justice information.

(e) The Department of Education shall request and receive records under (a) of this section for a person seeking initial certification as a teacher or administrator.

(f) In this section

(1) "contributing to the delinquency of a minor" means a conviction for a violation or attempted violations of AS 11.51.130(a)(1), (3), or (5); former AS 11.40.130; or the laws of another jurisdiction if the offense would have been a crime in this state under AS 11.51.130(a)(1), (3), or (5) or former AS 11.40.130 if committed in the state;

(2) "dependent adult" means an adult with a physical or mental disability who requires assistance or supervision with the activities of daily living;

(3) "interested person" means a corporation, company, partnership, firm, association, organization, business trust, or society, as well as a natural person, that employs or solicits the employment of a person to serve with or without compensation in a position in which the person has or would have supervisory or disciplinary power over a minor or dependent adult;

(4) "sex crime" means a conviction for a violation or attempted violation of AS 11.41.410 — 11.41.470, AS 11.61.110(a)(7), or AS 11.66.100 — 11.66.130; former AS 11.15.120, 11.15.134, or 11.15.160; former AS 11.40.080, 11.40.110, 11.40.130, or 11.40.200 — 11.40.420; or the laws of another jurisdiction if the offense would have been a crime in this state under one of the sections listed in this paragraph if committed in the state. (§ 2 ch 66 SLA 1983; am § 44 ch 6 SLA 1984; am §§ 1 — 3 ch 7 SLA 1990)

Sec. 12.62.040. Security, updating, and purging. (a) Criminal justice information systems shall

(1) be dedicated to law enforcement purposes and be under the management and control of law enforcement agencies unless exempted under regulations prescribed under AS 12.62.010;

(2) include operating procedures approved by the commission which are reasonably designed to assure the security of the information contained in the system from unauthorized disclosure, and reasonably designed to assure that criminal offender record information in the system is regularly and accurately revised to include subsequently furnished information;

(3) include operating procedures approved by the commission which are designed to assure that information concerning an individual shall be removed from the records, based on considerations of age, nature of record, and reasonable interval following the last entry of information indicating that the individual is still under the jurisdiction of a law enforcement agency.

(b) Notwithstanding any provision of this section, any criminal justice information relating to minors which is maintained as part of a criminal justice information system must be afforded at least the same protection and is subject to the same procedural safeguards for the benefit of the individual with respect to whom the information is maintained, in matters relating to access, use and security as it would be under AS 47.10.090. (§ 1 ch 161 SLA 1972)

Sec. 12.62.050. Interstate systems for the exchange of criminal justice information. (a) The commission shall regulate the participation by all state and local criminal justice agencies in an interstate system for the exchange of criminal justice information, and shall be responsible to assure the consistency of the participation with the provisions and purposes of this chapter. The commission may not compel any criminal justice agency to participate in an interstate system.

(b) Direct access to an interstate system for the exchange of criminal justice information shall be limited to those criminal justice agencies that are expressly designated for that purpose by the commission. When the system employs telecommunications access terminals, the

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commission shall limit the number and placement of the terminals to those for which adequate security measures may be taken and as to which the commission may impose appropriate supervisory regulations. (§ 1 ch 161 SLA 1972)

Sec. 12.62.060. Civil and criminal remedies. (a) A person with respect to whom criminal justice information has been wilfully maintained, disseminated, or used, or intelligence information has been collected, obtained or used, in violation of this chapter has a civil cause of action against the person responsible for the violation and shall be entitled to recover actual damages and reasonable attorney fees and other reasonable litigation costs.

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

(c) A good faith reliance upon the provisions of this chapter or of applicable law governing maintenance, dissemination, or use of criminal justice information, or upon rules, regulations, or procedures prescribed under this chapter is a defense to a civil or criminal action brought under this chapter. (§ 1 ch 161 SLA 1972; am § 3 ch 38 SLA 1976)

Sec. 12.62.070. Definitions. In this chapter

(1) "criminal justice information system" means a system, including the equipment, facilities, procedures, agreements, and organizations related to the system funded in whole or in part by the Law Enforcement Assistance Administration, for the collection, processing, or dissemination of criminal justice information;

(2) "criminal justice information" means information concerning an individual in a criminal justice information system and indexed under the individual's name, or retrievable by reference to the individual by name or otherwise and which is collected or stored in a criminal justice information system;

(3) "commission" means the Governor's Commission on the Administration of Justice established under AS 44.19.110 — 44.19.122;

(4) "interstate systems" means agreements, arrangements and systems for the interstate transmission and exchange of criminal justice information, but does not include record keeping systems in the state maintained or controlled by a state or local agency, or a group of

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agencies, even if the agency receives information through, or otherwise participates in, systems for the interstate exchange of criminal justice information;

(5) "law enforcement" means any activity relating to crime prevention, control or reduction or the enforcement of the criminal law, including, but not limited to, police efforts to prevent, control or reduce crime or to apprehend criminals, activities of criminal prosecution, courts, public defender, corrections, probation or parole authorities;

(6) "law-enforcement agency" means a public agency which performs as one of its principal functions activities pertaining to law enforcement and includes the child support enforcement agency created by AS 47.23.

(7) "intelligence information" means information concerning the background, activities or associations of an individual or group collected or obtained by a law-enforcement agency for preventive, precautionary or general investigative purposes not directly connected with the investigation of a specific crime which has been committed nor with the apprehension of a specific person in connection with the commission of a particular crime. (§ 1 ch 161 SLA 1972; am § 4 ch 38 SLA 1976; am § 31 ch 126 SLA 1977)

Sec. 12.62.100. CRIMINAL JUSTICE INFORMATION ADVISORY BOARD; FUNCTIONS AND DUTIES. (a) The Criminal Justice Information Advisory Board is established in the department. The board consists of the following members:

(1) a member of the general public appointed by and serving at the pleasure of the governor;

(2) a municipal police chief appointed by and serving at the pleasure of the governor; in making this appointment, the governor shall consult with the Alaska Association of Chiefs of Police;

(3) the attorney general or the attorney general's designee;

(4) the chief justice of the supreme court or the chief justice's designee;

(5) the commissioner of administration or the commissioner's designee;

(6) the commissioner of corrections or the commissioner's designee;

(7) the commissioner of health and social services or the commissioner's designee;

(8) the commissioner of public safety or the commissioner's designee, who will serve as chair of the board; and

(9) the executive director of the Alaska Judicial Council or the executive director's designee.

(b) Members of the board receive no compensation for services on the board, but are entitled to per diem and travel expenses authorized for boards under AS 39.20.180.

(c) The board shall meet at least once every six months.

(d) The board shall advise the department and other criminal justice agencies on matters pertaining to the development and operation of the central repository described in AS 12.62.110(1) and other criminal justice information systems, including providing advice about regulations and procedures, and estimating the resources and costs of those resources, needed to carry out the provisions of this chapter.

Sec. 12.62.110. DUTIES OF THE COMMISSIONER REGARDING INFORMATION SYSTEMS. The commissioner shall

(1) develop and operate a criminal justice information system to serve as the state's central repository of criminal history record information, and to collect, store, and release criminal justice information as provided in this chapter;

(2) consult with the board established by AS 12.62.100 regarding matters concerning the operation of the department's criminal justice information systems;

(3) provide a uniform crime reporting system for the periodic collection, analysis, and reporting of crimes, and compile and publish statistics and other information on the nature and extent of crime in the state;

(4) cooperate with other agencies of the state, the criminal record repositories of other states, the Interstate Identification Index, the National Law Enforcement Telecommunications System, the National Crime Information Center, and other appropriate agencies or systems, in the development and operation of an effective interstate, national, and international system of criminal identification, records, and statistics; and

(5) in accordance with AS 44.62 (Administrative Procedure Act), adopt regulations necessary to implement the provisions of this chapter; in adopting the regulations, the commissioner may consult with affected law enforcement agencies regarding the fiscal implications of the regulations; regulations may not be adopted under this section that affect procedures of the court system.

Sec. 12.62.120. REPORTING OF CRIMINAL JUSTICE INFORMATION.

(a) The commissioner, by regulation and after consultation with the board and affected agencies, may designate which criminal justice agencies are responsible for reporting the events described in (b) of this section. An agency designated under this subsection shall report the events described in (b) of this section to the department, at the time, in the manner, and in the form specified by the department.

(b) An agency designated under (a) of this section shall report the following events to the department if they occur in connection with an arrestable offense:

(1) the issuance, receipt, withdrawal, quashing, or execution of a judicial arrest warrant, a governor's warrant of arrest for extradition, or a parole arrest warrant;

(2) an arrest, with or without a warrant, or an escape after arrest;

(3) the release of a person after arrest without charges being filed;

(4) the admittance to, release or escape from, or unlawful evasion of, official detention in a correctional facility, either pretrial or post-trial;

(5) a decision by a prosecutor or a grand jury not to commence criminal proceedings, to defer or indefinitely postpone prosecution, or to decline to prosecute charges;

(6) the filing of a charging document, including an indictment, criminal complaint, criminal information, or a petition or other document showing a violation of bail, probation, or parole, or the amendment of a charging document;

(7) an acquittal, dismissal, conviction, or other disposition of charges set out in a charging document described in (6) of this subsection;

(8) the imposition of a sentence or the granting of a suspended imposition of sentence under AS 12.55.085;

(9) the commencement or expiration of parole or probation supervision;

(10) the commitment to or release from a facility, designated by the Department of Health and Social Services, of a person who was previously accused of a crime but who has been found to be incompetent to stand trial or found not criminally responsible;

(11) the filing of an action in an appellate court or a federal court relating to a conviction or sentence;

(12) a judgment of a court that reverses, remands, vacates, or reinstates a criminal charge, conviction, or sentence;

(13) a pardon, reprieve, executive clemency, commutation of sentence, or other change in the length or terms of a sentence by executive or judicial action; and

(14) any other event required to be reported under regulations adopted under this chapter.

Sec. 12.62.130. REPORTING OF UNIFORM CRIME INFORMATION. A criminal justice agency shall submit to the department, at the time, in the manner, and in the form specified by the department, data regarding crimes committed within that agency's jurisdiction. The department shall compile, and provide to the governor and the attorney general, an annual report concerning the number and nature of criminal offenses committed, the disposition of the offenses, and any other data the commissioner finds appropriate relating to the method, frequency, cause, and prevention of crime.

Sec. 12.62.140. REPORTING OF INFORMATION REGARDING WANTED PERSONS AND STOLEN PROPERTY. (a) A criminal justice agency shall report

to the department, at the time, in the manner, and in the form specified by the department, data regarding

(1) a person the agency is trying to locate, whether that person is wanted in connection with the commission of a crime, and the discovery, if any, of that person;

(2) the theft, and recovery if any, of an identifiable motor vehicle; and

(3) the theft, and recovery if any, of identifiable property.

(b) A criminal justice agency, annually and at other times if requested by the department, shall confirm whether information already reported under (a) of this section continues to be valid, and shall cooperate with the department in periodic audits to validate the information reported.

Sec. 12.62.150. COMPLETENESS, ACCURACY, AND SECURITY OF CRIMINAL JUSTICE INFORMATION. (a) A criminal justice agency shall

(1) adopt reasonable procedures to ensure that criminal justice information that the agency maintains is accurate and complete;

(2) notify a criminal justice agency known to have received information of a material nature that is inaccurate or incomplete;

(3) provide adequate procedures and facilities to protect criminal justice information from unauthorized access and from accidental or deliberate damage by theft, sabotage, fire, flood, wind, or power failure;

(4) provide procedures for screening, supervising, and disciplining agency personnel in order to minimize the risk of security violations;

(5) provide training for employees working with or having access to criminal justice information;

(6) if maintaining criminal justice information within an automated information system operated by a noncriminal justice agency, develop or approve system operating procedures to comply with this chapter or regulations adopted under this chapter, and monitor the implementation of those procedures to ensure that they are effective; and

(7) maintain, for at least three years, and make available for audit purposes,

(A) records showing the accuracy and completeness of information maintained by the agency in a criminal justice information system; and

(B) records required to be maintained under AS 12.62.160(c)(4).

(b) The department shall adopt reasonable procedures designed to ensure that information about arrests and criminal charges that is stored in a criminal justice information system can be linked with information about the disposition of those arrests and charges.

(c) Every two years the department shall undertake an audit, and every four years shall obtain an independent audit, of the department's criminal justice information system that serves as the central repository and of a sample of other state and local criminal justice information systems, to verify adherence to the requirements of this chapter and other applicable laws. The department shall provide to the board the final report of each audit.

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Sec. 12.62.160. **RELEASE AND USE OF CRIMINAL JUSTICE INFORMATION; FEES.** (a) Criminal justice information and the identity of recipients of criminal justice information is confidential and exempt from disclosure under AS 09.25. The existence or nonexistence of criminal justice information may not be released to or confirmed to any person except as provided in this section and AS 12.62.180(d).

(b) Subject to the requirements of this section, and except as otherwise limited or prohibited by other provision of law or court rule, criminal justice information may be released by a criminal justice agency as follows:

(1) an assessment or summary of criminal justice information may be provided to a person when, and only to the extent, necessary to avoid imminent danger to life or extensive damage to property;

(2) criminal justice information may be provided to a person to the extent required by applicable court rules or under an order of a court of this state, another state, or the United States;

(3) criminal justice information may be provided to a person if the information is commonly or traditionally provided by criminal justice agencies in order to identify, locate, or apprehend fugitives or wanted persons or to recover stolen property, or for public reporting of recent arrests, charges, and other criminal justice activity;

(4) criminal justice information may be provided to a criminal justice agency for a criminal justice activity;

(5) criminal justice information may be provided to a government agency to the extent necessary for enforcement of or for a purpose specifically authorized by state or federal law;

(6) criminal justice information may be provided to a person specifically authorized by a state or federal law to receive such information;

(7) criminal justice information in aggregate form may be released to a qualified person, as determined by the agency, for criminal justice research, subject to written conditions that assure the security of the information and the privacy of individuals to whom the information relates;

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(8) current offender information may be provided to a person for any purpose, except that information may not be released if the release of the information would unreasonably compromise the privacy of a minor or vulnerable adult;

(9) past conviction information may be provided to a person for any purpose if less than 10 years has elapsed from the date of unconditional discharge to the date of the request;

(10) past conviction information relating to a serious offense may be provided to an interested person if the information is requested for the purpose of determining whether to grant a person supervisory or disciplinary power over a minor or dependent adult; and

(11) criminal justice information may be provided to the person who is the subject of the information.

(c) Unless otherwise provided for in regulations adopted by the commissioner, if access to criminal justice information is permitted under (b) of this section

(1) the information may be released only by the agency maintaining that information;

(2) the information may not be released under this section without first determining that the information is the most current information available within that criminal justice information system, unless the system is incapable of providing the most current information available within the necessary time period;

(3) the information may not be released under this section until the person requesting the information establishes the identity of the subject of the information by fingerprint comparison or another reliable means of identification approved by the department;

(4) the information may not be released under this section unless the criminal justice agency releasing the information records, and maintains for at least three years, the name of the person or agency that is to receive the information, the date the information was released, the nature of the information, and the statutory authority that permits the release; and

(5) information released under this section may be used only for the purpose or activity for which the information was released.

(d) Notwithstanding AS 09.25, a criminal justice agency may charge fees, established by regulation or municipal ordinance, for processing requests for records under this chapter, unless the request is from a criminal justice agency or is required for purposes of discovery in a criminal case. In addition to fees charged under AS 44.41.025 for processing fingerprints through the Alaska automated fingerprint system, the department may charge fees for other services in connection with the processing of information requests, including fees for contacting other jurisdictions to determine the disposition of an out-of-state arrest or to clarify the nature of an out-of-state conviction. The department may also collect and account for fees charged by the Federal Bureau of Investigation for processing fingerprints forwarded to the bureau by the department. The annual estimated balance in the account maintained by the commissioner of administration under AS 37.05.142 may be used by the legislature to make appropriations to the department to carry out the purposes of this chapter.

Sec. 12.62.170. CORRECTION OF CRIMINAL JUSTICE INFORMATION.

(a) A criminal justice agency shall correct, modify, or add an explanatory notation to criminal history records that the agency is responsible for maintaining if the revision is necessary to achieve accuracy or completeness.

(b) A person may submit a written request to the head of the agency responsible for maintaining criminal justice information asking the agency to correct, modify, or add any information or explanatory notation to criminal justice information about the person that the person believes is inaccurate or incomplete. The decision of the head of the agency is the final administrative decision on the request.

(c) The person requesting revision of criminal justice information may appeal an adverse decision of the agency to the court under applicable rules of procedure for appealing the decision of an administrative agency. The appellant bears the burden on appeal of showing that the agency decision was in error. An appeal filed under this subsection may not collaterally attack a court judgment or a decision by prison, probation, or parole authorities, or any other action that is or could have been subject to appeal, post-conviction relief, or other administrative remedy.

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Sec. 12.62.180. SEALING OF CRIMINAL JUSTICE INFORMATION. (a) Under this section, a criminal justice agency may seal only the information that the agency is responsible for maintaining.

(b) A person may submit a written request to the head of the agency responsible for maintaining past conviction or current offender information, asking the agency to seal such information about the person that, beyond a reasonable doubt, resulted from mistaken identity or false accusation. The decision of the head of the agency is the final administrative decision on the request.

(c) The person requesting that the information be sealed may appeal an adverse decision of the agency to the court under applicable rules of procedure for appealing the decision of an administrative agency. The appellant bears the burden on appeal of showing that the agency decision was clearly mistaken. An appeal filed under this subsection may not collaterally attack a court judgment or a decision by prison, probation, or parole authorities, or any other action that is or could have been subject to appeal, post-conviction relief, or other administrative remedy.

(d) A person about whom information is sealed under this section may deny the existence of the information and of an arrest, charge, conviction, or sentence shown in the information. Information that is sealed under this section may be provided to another person or agency only

- (1) for record management purposes, including auditing;
- (2) for criminal justice employment purposes;
- (3) for review by the subject of the record;
- (4) for research and statistical purposes;
- (5) when necessary to prevent imminent harm to a person; or
- (6) for a use authorized by statute or court order.

Sec. 12.62.190. PURGING OF CRIMINAL JUSTICE INFORMATION. (a) A criminal justice agency may purge only the criminal justice information that the agency is responsible for maintaining. An agency may determine when and what information will be purged, under (b) of this section.

(b) Criminal justice information may be purged if the agency determines that the information is devoid of usefulness to a criminal justice agency due to the

- (1) death of the subject of the information;
- (2) age of the information;
- (3) nature of the offense or of the information;
- (4) volume of the agency's records or other record management considerations.

Sec. 12.62.200. CIVIL ACTION AND DEFENSE. (a) Failure to comply with a requirement of this chapter or a regulation adopted under this chapter is not a basis for civil liability, but may be the basis for employee discipline or administrative action to restrict a person's or agency's access to information. However, a person whose criminal justice information has been released or used in knowing violation of this chapter or a regulation adopted under this chapter may bring an action for damages in the superior court.

(b) It is a defense to a civil or criminal action based on a violation of this chapter, or regulations adopted under this chapter, if a person relied in good faith upon the provisions of this chapter or of other laws or regulations governing maintenance, release, or use of criminal justice information, or upon policies or procedures established by a criminal justice agency.

Sec. 12.62.900. DEFINITIONS. In this chapter,

- (1) "agency" means a criminal justice agency;
- (2) "automatic data processing" has the meaning given in AS 44.21.170;
- (3) "board" means the Criminal Justice Information Advisory Board;
- (4) "commissioner" means the commissioner of public safety;
- (5) "complete" means that a criminal history record contains information about the disposition of criminal charges occurring in the state and entered within 90 days after the disposition occurred;
- (6) "correctional treatment information" means information about an identifiable person, excluding past conviction information or current offender information, collected to monitor that person in a correctional facility or while under correctional supervision, including the person's current or past institutional behavior, medical or psychological condition, or rehabilitative progress;

(7) "criminal history record information" means information that contains

- (A) past conviction information;
- (B) current offender information;
- (C) criminal identification information;

(8) "criminal identification information" means fingerprints, photographs, and other information or descriptions that identify a person as having been the subject of a criminal arrest or prosecution;

(9) "criminal justice activity" means

(A) investigation, identification, apprehension, detention, pretrial or post-trial release, prosecution, adjudication, or correctional supervision or rehabilitation of a person accused or convicted of a crime;

(B) collection, storage, transmission, and release of criminal justice information; or

(C) the employment of personnel engaged in activities described in (A) or (B) of this paragraph;

(10) "criminal justice agency" means

(A) a court with criminal jurisdiction or an employee of that court;

(B) a government entity or subdivision of a government entity that allocates a substantial portion of its budget to a criminal justice activity under a law, regulation, or ordinance; or

(C) an individual or organization obligated to undertake a criminal justice activity under a written agreement with an agency described in (A) or (B) of this paragraph; as used in this subparagraph, "organization" includes an interagency or interjurisdictional task force formed to further common criminal justice goals;

(11) "criminal justice information" means any of the following, other than a court record, a record of traffic offenses maintained for the purpose of regulating drivers' licenses, or a record of a juvenile subject to the jurisdiction of the juvenile court under AS 47.10:

- (A) criminal history record information;
- (B) nonconviction information;
- (C) correctional treatment information;
- (D) information relating to a person to be located, whether or not that person is wanted in connection with the commission of a crime;

(12) "criminal justice information system" means an automatic data processing system used to collect, store, display, or transmit criminal justice information, and that permits information within the system, without action by the agency maintaining the information, to be directly accessed by another principal department of the state, another branch of state government, an agency of another state or the federal government, or by a political subdivision of a state or the federal government;

(13) "current offender information" means information showing that an identifiable person

- (A) is currently under arrest for or is charged with a crime and
 - (i) prosecution is under review or has been deferred by written or oral agreement;
 - (ii) a warrant exists for the person's arrest; or
 - (iii) less than a year has elapsed since the date of the arrest or filing of the charges, whichever is latest;

(B) is currently released on bail or on other conditions imposed by a court in a criminal case, either pretrial or post-trial, including the conditions of the release;

(C) is currently serving a criminal sentence or is under the custody of the commissioner of corrections for supervision purposes; "current offender information" under this subparagraph includes

- (i) the terms and conditions of any sentence, probation, suspended imposition of sentence, discretionary or mandatory parole, furlough, executive clemency, or other release; and

- (ii) the location of any place of incarceration, halfway house, restitution center, or other correctional placement to which the person is assigned; or

(D) has had a criminal conviction or sentence reversed, vacated, set aside, or has been the subject of executive clemency;

(14) "department" means the Department of Public Safety;

(15) "dependent adult" means an adult with a physical or mental disability who requires assistance or supervision with the activities of daily living;

(16) "information" means, unless the context clearly indicates otherwise, data compiled within a criminal justice information system;

(17) "interested person" means a person as defined in AS 01.10.060 that employs, appoints, or permits a person to serve with or without compensation in a position in which the employed, appointed, or permitted person has or would have supervisory or disciplinary power over a minor or dependent adult;

(18) "nonconviction information" means information that an identifiable person was arrested or that criminal charges were filed or considered against the person and

(A) a prosecutor or grand jury has elected not to begin criminal proceedings against the person and at least a year has elapsed since that decision;

(B) criminal charges against the person have been dismissed or the person has been acquitted and at least a year has elapsed since that action;

or

(C) there is no indication of the disposition of the criminal charges or the arrest and at least a year has elapsed since the arrest, filing of the charges, or referral of the matter for review by a prosecutor, whichever is latest;

(19) "past conviction information" means information showing that an identifiable person who has been unconditionally discharged has previously been convicted of a crime; "past conviction information" includes

(A) the terms of any sentence, probation, suspended imposition of sentence, or discretionary or mandatory parole; and

(B) information that a criminal conviction or sentence has been reversed, vacated, set aside, or been the subject of executive clemency;

(20) "purge" means to delete or destroy information in a criminal justice information system so that there can be no access to the information;

(21) "seal" means to retain information in a criminal justice information system subject to special restrictions on access or dissemination;

(22) "serious offense" means a conviction for a felony offense or a violation or attempted violation of any of the following laws, or of the laws of another jurisdiction with substantially similar elements:

(A) AS 11.41.410 - 11.41.470;

(B) AS 11.51.130(a)(1), (3), or (5);

(C) AS 11.61.110(a)(7);

(D) AS 11.66.100 - 11.66.130; or

(E) former AS 11.40.080, 11.40.110, 11.40.130, or 11.40.200 - 11.40.420, if committed before January 1, 1980;

(23) "unconditional discharge" has the meaning given in AS 12.55.185.

* **Sec. 3.** AS 44.99.310(f) is amended to read:

(f) This section does not apply to criminal intelligence or criminal investigative records, criminal justice information under AS 12.62, state agency personnel or retirement system records, records of applicants for employment with the state agency, or information in documents recorded under AS 40.17.

* **Sec. 4.** AS 12.62.010, 12.62.015, 12.62.017, 12.62.020, 12.62.030, 12.62.035, 12.62.040, 12.62.050, 12.62.060, 12.62.070; AS 18.65.060; and AS 44.41.040 are repealed.

* **Sec. 5. TRANSITION.** (a) Notwithstanding sec. 8 of this Act, an agency of the state that has regulation adoption authority or that is authorized by this Act to adopt regulations, may proceed to adopt regulations necessary to implement provisions in this Act that affect that agency. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not before July 1, 1995.

(b) Notwithstanding the repeal of AS 44.41.040 by sec. 4 of this Act, regulations adopted under AS 44.41.040 and in effect on the effective date of sec. 4 of this Act remain in effect until the effective date of regulations adopted under AS 12.62.160(d), added by sec. 2 of this Act.

* **Sec. 6. APPLICABILITY.** Notwithstanding sec. 8 of this Act, the mandatory reporting requirements of AS 12.62.120 - 12.62.140, added by sec. 2 of this Act, and regulations adopted under those statutes, are not applicable before July 1, 1996, to criminal activity that does not constitute a felony offense.

* **Sec. 7.** Section 5 of this Act takes effect immediately under AS 01.10.070(c).

* **Sec. 8.** Sections 1 - 4 and 6 of this Act take effect July 1, 1995.

Sec. 12.80.060. FINGERPRINTING. (a) When a person is arrested for an offense, with or without a warrant, fingerprints of the person may be taken by the law enforcement agency with custody of the person. If the law enforcement agency with custody of the person does not take the fingerprints, the person's fingerprints shall be taken by the correctional facility where the person is lodged following the arrest.

(b) At the initial court appearance or arraignment of a person for an offense, the court shall determine if the person's fingerprints have been taken in connection with the offense. If the court is unable to conclusively determine that the person's fingerprints have been taken, the court shall order the person to submit to fingerprinting within 24 hours at the appropriate correctional facility or another place for taking fingerprints that is more appropriate.

(c) When a defendant is sentenced or otherwise adjudicated for an offense, the court shall determine if legible fingerprints have been taken in connection with the proceedings. If the court is unable to conclusively determine that legible fingerprints have been taken, the court shall order that the defendant, as a condition of sentence, adjudication, suspended imposition of sentence, probation, or release, submit to fingerprinting within 24 hours at the appropriate correctional facility or another place for taking fingerprints that is more appropriate.

(d) The Department of Public Safety shall develop standard forms and procedures for the taking of fingerprints under this section. Fingerprints shall be

(1) taken on a form, and in the manner, prescribed by the Department of Public Safety; and

(2) forwarded within five working days to the Department of Public Safety.

(e) When the Department of Public Safety receives fingerprints of a person in connection with an offense, the Department of Public Safety shall make a reasonable effort to confirm the identity of the person fingerprinted. If the Department of Public Safety finds that the person fingerprinted has criminal history record information under a name other than the name submitted with the fingerprints, the Department of Public Safety shall promptly notify the officer, agency, or facility that took the fingerprints.

(f) If the arresting officer, the law enforcement agency that employs the officer, or the correctional facility where fingerprints were taken is notified by the Department of Public Safety that fingerprints taken under this section are not legible, the officer, agency, or facility shall make a reasonable effort to obtain a legible set of fingerprints. If legible fingerprints cannot be obtained within a reasonable period of time, and if the illegible fingerprints were taken under a court order, the officer or agency shall inform the court, which shall order the defendant to submit to fingerprinting again.

(g) In this section,

(1) "correctional facility" has the meaning given in AS 33.30.901;

(2) "offense" means conduct subjecting a person to arrest as an adult offender, or as a juvenile charged as an adult,

(A) due to a violation of a federal or state criminal law, or municipal criminal ordinance;

(B) under AS 12.25.180;

(C) under AS 12.30.060; or

(D) under AS 12.70.

Sec. 33.30.011. DUTIES OF COMMISSIONER. The commissioner shall

(1) establish, maintain, operate, and control correctional facilities suitable for the custody, care, and discipline of persons charged or convicted of offenses against the state or held under authority of state law;

(2) classify prisoners;

(3) for persons committed to the custody of the commissioner, establish programs, including furlough programs that are reasonably calculated to

- (A) protect the public;
- (B) maintain health;
- (C) create or improve occupational skills;
- (D) enhance educational qualifications;
- (E) support court-ordered restitution; and
- (F) otherwise provide for the rehabilitation and reformation of prisoners, facilitating their reintegration into society;

(4) provide necessary medical services for prisoners in correctional facilities or who are committed by a court to the custody of the commissioner, including examinations for communicable and infectious diseases;

(5) provide necessary psychological or psychiatric treatment if a physician or other health care provider, exercising ordinary skill and care at the time of observation, concludes that

(A) a prisoner exhibits symptoms of a serious disease or injury that is curable or may be substantially alleviated; and

(B) the potential for harm to the prisoner by reason of delay or denial of care is substantial; [AND]

(6) establish minimum standards for sex offender treatment programs offered to persons who are committed to the custody of the commissioner; and

(7) provide for fingerprinting in correctional facilities in accordance with AS 12.80.060.

Sec. 44.41.050. UNIFORM HOMICIDE REPORTING. (a) A law enforcement agency shall report each homicide or suspected homicide committed within the jurisdiction of the agency to the Department of Public Safety within 25 days of the homicide's discovery. The report shall be on a form approved by the commissioner of public safety and must contain information as determined by the commissioner to be necessary to aid law enforcement personnel in comparing homicides and suspected homicides and discovering those that exhibit similar characteristics. If the Department of Public Safety determines that a homicide or suspected homicide meets the Violent Criminals Apprehension Program criteria, the department shall notify the law enforcement agency that submitted the report, and the agency shall complete and forward to the department within 30 days a Federal Bureau of Investigation Violent Criminals Apprehension Program form.

(b) The Department of Public Safety shall enter the information submitted under (a) of this section into a file and shall compare the information to information on other homicides or suspected homicides for the purpose of discovering similarities in criminal methods and suspect descriptions. If the Department of Public Safety finds homicides exhibiting similar criminal methods or suspect descriptions, the department shall notify the concerned law enforcement agencies of the discoveries.

(c) If a law enforcement agency terminates active investigation of a homicide or suspected homicide due to the arrest of a suspect, death of the primary suspect, or other reason, the agency shall notify the Department of Public Safety of the termination and the reason for the termination within 30 days following the termination.

(d) The Department of Public Safety shall participate in the Federal Bureau of Investigation, Violent Criminals Apprehension Program. The Department of Public Safety shall transmit each Violent Criminals Apprehension Program report received under (a) of this section concerning homicides or suspected homicides, discoveries under (b) of this section of homicides exhibiting similar criminal methods or suspect descriptions, and notices of and reasons for termination of investigations of homicides received under (c) of this section to the Federal Bureau of Investigation, Violent Criminals Apprehension Program manager, at least on a quarterly basis.

* Sec. 4. Notwithstanding AS 44.41.050, added by sec. 3 of this Act, each law enforcement agency in the state shall report each homicide or suspected homicide discovered in the one-year period before the effective date of this Act, and the termination of investigation of any of those homicides or suspected homicides, to the Department of Public Safety in the manner provided in AS 44.41.050 within 60 days of the date the Department of Public Safety prescribes forms for the reporting.

* Sec. 5. APPLICABILITY. The fingerprinting requirements of AS 12.80.060, enacted by sec. 1 of this Act, and regulations adopted under that statute, are not applicable before July 1, 1996, to criminal activity that does not constitute a felony offense.

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ALASKA STATUTES
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*** THIS SECTION IS CURRENT THROUGH THE 1993 SUPPLEMENT ***
*** (1993 SESSION OF THE LEGISLATURE) ***

TITLE 44. STATE GOVERNMENT
CHAPTER 99. MISCELLANEOUS PROVISIONS
ARTICLE 4. PERSONAL INFORMATION IN PUBLIC RECORDS

Alaska Stat. @ 44.99.310 (1993)

Sec. 44.99.310. Information accuracy and completeness

(a) A person who is the subject of personal information that is maintained by a state agency and subject to public disclosure under AS 09.25.110 -- 09.25.140 may challenge the accuracy or completeness of the personal information.

(b) To challenge the accuracy or completeness of personal information under (a) of this section, the person must file with the state agency a written request that the personal information be changed. The request must provide

(1) a description of the challenged personal information;

(2) the changes necessary to make the personal information accurate or complete; and

(3) the person's name and the address where the department may contact the person.

(c) Within 30 days after receiving a written request made under (b) of this section, the state agency may request verification of the disputed personal information from the person who made the request.

(d) Within 30 days after receiving the written request under (b) of this section or the verification under (c) of this section, the state agency shall review the request and

(1) change the personal information according to the request and notify the person in writing of the change; or

(2) deny the request and notify the person in writing of the reasons for the decision and the name, title, and business address of the person who denied the request.

(e) If a request is denied under (d) of this section, the person may provide to the state agency a concise written statement that states the person's reasons for disagreeing with the decision. The state agency shall maintain in its records the request made under (b) of this section and the statement provided by the person under this subsection. On all of the state agency's records that contain the disputed information, the state agency shall clearly note which portions of the records are disputed. If the record is in electronic form, the state agency may note the dispute in one field of the electronic form and maintain the other information about the dispute in paper form.

(f) This section does not apply to criminal intelligence or criminal investigative records, state agency personnel or retirement system records, records of applicants for employment with the state agency, or information in documents recorded under AS 40.17.

Public Records

Sec. 09.25.110. Public records open to inspection and copying; fees. (a) Unless specifically provided otherwise, the public records of all public agencies are open to inspection by the public under reasonable rules during regular office hours. The public officer having the custody of public records shall give on request and payment of the fee established under this section or AS 09.25.115 a certified copy of the public record.

(b) Except as otherwise provided in this section, the fee for copying public records may not exceed the standard unit cost of duplication established by the public agency.

(c) If the production of records for one requester in a calendar month exceeds five person-hours, the public agency shall require the requester to pay the personnel costs required during the month to complete the search and copying tasks. The personnel costs may not exceed the actual salary and benefit costs for the personnel time required to perform the search and copying tasks. The requester shall pay the fee before the records are disclosed, and the public agency may require payment in advance of the search.

(d) A public agency may reduce or waive a fee when the public agency determines that the reduction or waiver is in the public interest. Fee reductions and waivers shall be uniformly applied among persons who are similarly situated. A public agency may waive a fee of \$5 or less if the fee is less than the cost to the public agency to arrange for payment.

(e) Notwithstanding other provisions of this section to the contrary, the Bureau of Vital Statistics, the library archives in the Department of Education, and the division of banking, securities, and corporations in the Department of Commerce and Economic Development may continue to charge the same fees that they are charging on September 25, 1990 for performing record searches, and may increase the fees as necessary to recover agency expenses on the same basis that is used by the agency immediately before September 25, 1990.

Sec. 09.25.120. Public records; exceptions; certified copies. Every person has a right to inspect a public record in the state, including public records in recorders' offices except (1) records of vital statistics and adoption proceedings which shall be treated in the manner required by AS 18.50; (2) records pertaining to juveniles; (3) medical and related public health records; (4) records required to be kept confidential by a federal law or regulation or by state law; (5) to the extent the records are required to be kept confidential under 20 U.S.C. 1232g and the regulations adopted under 20 U.S.C. 1232g in order to secure or retain federal assistance; (6) records or information compiled for law enforcement purposes, but only to the extent that the production of the law enforcement records or information (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of the personal privacy of a suspect, defendant, victim, or witness, (D) could reasonably be expected to disclose the identity of a confidential source, (E) would disclose confidential techniques and procedures for law enforcement investigations or prosecutions, (F) would disclose guidelines for law enforcement investigations or prosecutions if the disclosure could reasonably be expected to risk circumvention of the law, or (G) could reasonably be expected to endanger the life or physical safety of an individual. Every public officer having the custody of records not included in the exceptions shall permit the inspection, and give ^{on}

demand and on payment of the fees under AS 09.25.110 — 09.25.115 a certified copy of the record, and the copy shall in all cases be evidence of the original. Recordors shall permit memoranda, transcripts, and copies of the public records in their offices to be made by photography or otherwise for the purpose of examining titles to real estate described in the public records, making abstracts of title or guaranteeing or insuring the titles of the real estate, or building and maintaining title and abstract plants; and shall furnish proper and reasonable facilities to persons having lawful occasion for access to the public records for those purposes, subject to reasonable rules and regulations, in conformity to the direction of the court, as are necessary for the protection of the records and to prevent interference with the regular discharge of the duties of the recordors and their employees. (§ 3.23 ch 101 SLA 1962; am § 5 ch 200 SLA 1990)

Sec. 09.25.125. Enforcement: Injunctive relief. A person having custody or control of a public record who obstructs or attempts to obstruct, or a person not having custody or control who aids or abets another person in obstructing or attempting to obstruct, the inspection of a public record subject to inspection under AS 09.25.110 or 09.25.120 may be enjoined by the superior court from obstructing, or attempting to obstruct, the inspection of public records subject to inspection under AS 09.25.110 or 09.25.120. (§ 1 ch 74 SLA 1975)

§ 18.65.060

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§ 18.65.080

Sec. 18.65.060. Peace officers to cooperate. (a) All peace officers in the state or any municipality or subdivision shall cooperate with the Department of Public Safety in creating and maintaining its files, and all information shall be classified upon standard forms and kept available for the detection of crime and the identification of criminals. Criminal justice information collected and maintained under this section is subject to the provisions of AS 12.62.

(b) The Department of Public Safety may adopt regulations necessary to carry out the purposes of this section; however, regulations proposed by the department shall be submitted to the presiding officer of each house of the legislature on the day the house convenes. The legislature has 60 days of a regular session, or a full session if of shorter duration to disapprove the proposed regulations. Unless disapproved by a special concurrent resolution introduced in either house, concurred in by a majority of the members of the legislature in joint session, the regulations become effective at a date to be designated by the department. (§ 7 ch 144 SLA 1953; am § 1 ch 107 SLA 1968; am § 43 ch 69 SLA 1970; am § 16 ch 71 SLA 1972; am § 2 ch 161 SLA 1972)

Alaska Regulations

**PART 3.
GOVERNOR'S COMMISSION ON THE
ADMINISTRATION OF JUSTICE**

- Chapter**
60. **Criminal Justice Information Systems**
(6 AAC 60.010 – 6 AAC 60.900)

**CHAPTER 60.
CRIMINAL JUSTICE INFORMATION
SYSTEMS**

- Article**
1. **Collection and Storage of Criminal Justice Information**
(6 AAC 60.010 – 6 AAC 60.020)
 2. **Security** (6 AAC 60.030 – 6 AAC 60.040)
 3. **Access and Use** (6 AAC 60.050 – 6 AAC 60.090)
 4. **Purging of Criminal Justice Information**
(6 AAC 60.100 – 6 AAC 60.130)
 5. **General Provisions** (6 AAC 60.900)

**ARTICLE 1.
COLLECTION AND STORAGE OF
CRIMINAL JUSTICE INFORMATION**

- Section**
10. **Scope of regulations**
 15. **Alaska justice information system**
 20. **Categories of criminal justice information which may be collected**

6 AAC 60.010. SCOPE OF REGULATIONS.
To the extent required by applicable federal regulations in 28 Code of Federal Regulations, sec. 20.20 (1976), this chapter applies to the collection, storage, processing, and dissemination of criminal justice information contained in a criminal justice information system. (Eff.

6 AAC 60.015. ALASKA JUSTICE INFORMATION SYSTEM. (a) The Governor's Commission on the Administration of Justice will monitor the Alaska justice information system and all individual criminal justice information systems for compliance with the provisions of AS 12.62 and this chapter.

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(b) Each criminal justice agency may, under the provisions of this chapter, develop a criminal justice information system to collect, process, store, and disseminate criminal justice information for those lawful purposes necessary to the proper administration of the responsibilities of that agency. (Eff. 5/29/82, Reg. 82)

Authority: AS 12.62.010
AS 44.19.010

6 AAC 60.020. CATEGORIES OF CRIMINAL JUSTICE INFORMATION WHICH MAY BE COLLECTED. The following categories of criminal justice information may be collected and stored in a criminal justice information system:

(1) an individual's full name, and any aliases known to refer to that person including, but not limited to, nicknames;

(2) an identifying number which each criminal justice information system may assign to an individual to whom criminal justice information relates;

(3) an individual's physical description and physical description classification including, but not limited to, height, weight, sex, color of hair, color of eyes, identification of race, and other identifying physical features;

(4) an individual's date of birth;

(5) an individual's citizenship;

(6) an individual's residence;

(7) an individual's social security number;

(8) an individual's Federal Bureau of Investigation file number;

(9) an individual's Alaska State Trooper file number, including date of entry, type of contact, and type of subject involvement;

(10) all other police agency file numbers which refer to an individual, including date of entry, type of contact, and type of subject involvement;

(11) an individual's fingerprint classification;

(12) all current arrest warrants, summons, missing person notifications, requests to contact for an emergency notification, and investigatory requests to locate without contacting;

(13) information originating from a source that is reasonably considered reliable by the law enforcement agency collecting the information, indicating that an individual who is the subject of an arrest warrant or a police investigation may be armed or dangerous, has attempted suicide, or has a disabling medical condition which may require immediate attention or treatment; information collected under this paragraph must include the date of collection;

(14) an individual's current driver's license class and number; the issuing authority; the date of expiration; any suspension, revocation, or cancellation of the license; a record of prior recorded violations of state statutes, regulations, or local ordinances pertaining to the operation of a motor vehicle; a record of accident involvement; license application information; and other information relevant to the issuance and regulation of driver's licenses;

(15) an individual's last recorded fish and game license numbers, including year of issue and current status;

(16) an individual's arrest history, which may include information relating to charge, date, and disposition;

(17) an individual's prior recorded convictions for criminal offenses, which may include information relating to charge, date, and disposition; the central repository must maintain its criminal history record information so that any disposition that occurs within the state is reflected on the individual's record within 90 days after the date of that disposition;

(18) a description of the circumstances surrounding an individual's prior recorded convictions for a criminal offense;

(19) parole, probation, and correctional information relating to an individual;

(20) information relating to the currently pending status or progress of a case involving

a criminal or regulatory offense against an individual, including a description of the circumstances of the offense;

(21) administrative and management information relating to the operation, management, and responsibilities of a law enforcement agency;

(22) court calendaring information;

(23) terminal security information;

(24) operator security information;

(25) system error information; and

(26) administrative messages. (Eff. 10/9/72, Reg. 44; am 3/10/73, Reg. 45; am 5/29/82, Reg. 82)

Authority: AS 12.62.010
AS 12.62.020(a) and (b)

**ARTICLE 2
SECURITY**

Section

30. Protection of computerized criminal justice information and linkage to investigatory information

40. Agency security

6 AAC 60.030. PROTECTION OF COMPUTERIZED CRIMINAL JUSTICE INFORMATION AND LINKAGE TO INVESTIGATORY INFORMATION. (a) Criminal justice information within an automated criminal justice information system must be stored in such a manner that it cannot be destroyed, accessed, changed, or overlaid in any fashion by any person not authorized to do so under this chapter.

(b) Each automated criminal justice information system must contain a program that will prevent criminal justice information from being destroyed, accessed, changed, or overlaid in any fashion from any terminal other than one under the management and control of the criminal justice agency maintaining that information within its system.

(c) Each automated criminal justice information system must contain a classified program

to detect, and store for classified output, all attempts to penetrate any criminal justice information system.

(d) The Alaska justice information system coordinator has sole authority to release, upon formal application, information and documentation relating to criminal justice information system control, including information maintained under (b) and (c) of this section. This information may not be released unless it is necessary for the maintenance or continued operation of a criminal justice information system and then only where the information will be kept continuously under appropriate security conditions.

(e) Constituent parts of the Alaska justice information system may not be linked in such a manner that a criminal history record information inquiry from one agency would result in the dissemination of information which indicates the existence in another agency of an investigatory or management file that is not a criminal case referred for prosecution.

(f) Constituent parts of the Alaska justice information system may be linked so that criminal history record information files can be accessed by an investigatory or management inquiry.

(g) The computer hardware of a criminal justice information system is exempt from the requirement of dedication to law enforcement purposes, as provided for in AS 12.62.040 (a) (1). (Eff. 10/9/72, Reg. 44; am 3/10/73, Reg. 45; am 5/29/82, Reg. 82)

Authority: AS 12.62.010
AS 12.62.040(a)(1) and (2)

6 AAC 60.040. AGENCY SECURITY. (a) Each criminal justice agency

(1) shall screen and may reject for employment, for good cause, a person who, if employed, would be authorized to have direct access to criminal justice information, and whose employment would compromise the security of a criminal justice information system;

(2) shall screen each employee before granting the employee access to criminal justice

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information, and may initiate administrative action leading to the transfer or termination of an employee if the employee has willfully violated a provision of this chapter or another security requirement established for the collection, storage, processing, and dissemination of criminal justice information;

(3) may not allow access to a criminal justice information system by unauthorized organizations or personnel, except under the direct supervision of authorized personnel;

(4) shall familiarize each employee working with or having access to criminal justice information with the content, substance, and intent of this chapter.

(b) Physical plant security must be provided by all agencies with access to a criminal justice information system to insure maximum safeguards against fire, theft, sabotage, flood, wind, or other natural or manmade disasters, and all unauthorized entry to areas where criminal justice information is collected, stored, processed, or disseminated. (Eff. 10/9/72, Reg. 44; am 3/10/73, Reg. 45; am 5/29/82, Reg. 82)

Authority: AS 12.62.010
AS 12.62.040(a)

ARTICLE 3. ACCESS AND USE

Section

- 50. Input and update
- 60. Access
- 70. Restrictions on dissemination of criminal history record information
- 80. Individual's right to information
- 90. Research use of criminal justice information

6 AAC 60.050. INPUT AND UPDATE. To the extent authorized by the commission or the coordinator, the following agencies may add, modify, or delete criminal justice information that is collected, stored, processed, or disseminated within the Alaska justice information system:

- (1) Department of Public Safety;
- (2) local Alaska police departments;

(3) Alaska State Court System;

(4) division of corrections of the Department of Health and Social Services;

(5) Alaska Board of Parole of the Department of Health and Social Services;

(6) Department of Law and local prosecution agencies;

(7) Alaska Public Defender Agency;

(8) Child Support Enforcement Agency;

(9) Federal Bureau of Investigation; and

(10) Governor's Commission on the Administration of Justice. (Eff. 10/9/72, Reg. 44; am 3/10/73, Reg. 45; am 5/29/82, Reg. 82)
Authority: AS 12.62.010
AS 12.62.020(a)

6 AAC 60.060. ACCESS. The following agencies may, to the extent authorized by the agency collecting the information, have access to the following categories of criminal justice information through the Alaska justice information system:

(1) Department of Public Safety: 6 AAC 60.020 (1) - (20), (22), and (26);

(2) local Alaska police departments: 6 AAC 60.020(1) - (20), (22), and (26);

(3) Alaska State Court System: 6 AAC 60.020(1) - (12), (14) - (20), (22), and (26);

(4) division of corrections of the Department of Health and Social Services: 6 AAC 60.020 (1) - (20), (22), and (26);

(5) Alaska Board of Parole of the Department of Health and Social Services: 6 AAC 60.020(1) - (20), (22), and (26);

(6) Department of Law and local prosecution agencies: 6 AAC 60.020(1) - (12), (14) - (20), (22), and (26);

(7) Alaska Public Defender Agency: 6 AAC 60.020(1) - (11), (14) - (20), (22), and (26), if the information has been collected with

reference to an individual represented by the agency; access by the Alaska Public Defender Agency is authorized only upon the condition that the agency, subject to 6 AAC 60.070, will make information that refers to an individual available to any attorney not employed by the agency, who certifies that he represents that individual in a criminal prosecution and that the information to be released relates to that prosecution; for the release of the information, the Alaska Public Defender Agency may impose a nominal fee, reflective of the administrative costs involved and consistent with any applicable regulations adopted by the governor regarding provision of information;

(8) Child Support Enforcement Agency: 6 AAC 60.020(1) - (7), (20), (22), and (26);

(9) Federal Bureau of Investigation: 6 AAC 60.020(1) - (20), (22), and (26); and

(10) Governor's Commission on the Administration of Justice: 6 AAC 60.020(1) - (26). (Eff. 10/9/72, Reg. 44; am 3/10/73, Reg. 45; am 5/29/82, Reg. 82)

Authority: AS 12.62.010
AS 12.62.020(a)

6 AAC 60.070. RESTRICTIONS ON DISSEMINATION OF CRIMINAL HISTORY RECORD INFORMATION. (a) Except as authorized in this chapter, criminal history record information may be used only for law enforcement purposes, for research related to law enforcement, or for those additional lawful purposes necessary to the proper enforcement or administration of other provisions of law. Except as authorized under (c) of this section, criminal history record information may only be disseminated to an individual, agency, or other entity associated with the agencies listed in 6 AAC 60.060, an attorney representing a criminal defendant, an individual under 6 AAC 60.080, or a research program under 6 AAC 60.090.

(b) Confirmation of the existence or nonexistence of criminal history record information may not be given to any individual agency or entity that would not be eligible to receive information under (a) of this section or another provision of this chapter.

(c) When necessary for the administration or

enforcement of state, municipal, or federal law, an individual, agency, or other entity, not listed in (a) of this section, may receive criminal history record information upon the approval of the commission or, in the interim between commission meetings, the chairman of the commission. Upon appropriate approval, and before receiving information, the individual, agency, or other entity must sign a contractual agreement approved by the commission or the chairman that specifically limits the use of that data to those legitimate purposes for which access was granted, ensures the security and confidentiality of data consistent with this chapter, and provides sanctions for violations of the agreement or the provisions of this chapter. The commission will, in its discretion, at any time, disapprove dissemination to any individual, agency, or other entity and rescind any agreement entered into under this subsection. In the interim between commission meetings, the chairman of the commission may disapprove dissemination and rescind such an agreement.

(d) A criminal justice agency, other than an agency which is the source of the information, shall contact the central repository before disseminating any criminal history record information, to assure that the most up-to-date disposition data is being used. This requirement does not apply in those cases where time is of the essence and the central repository is technically incapable of responding within the necessary time period. Criminal justice agencies shall establish procedures to ensure that the potential recipient is in fact permitted to receive information under this chapter.

(e) Each criminal justice agency shall maintain listings of the individuals, agencies, or other entities, both within and outside this state, to which it has disseminated criminal history record information. Each listing must be preserved until the commission expressly authorizes its destruction. Each listing must indicate the individual, agency, or other entity to which information was disseminated, the date of the dissemination, and the individual to whom the information relates. These listings must be made available for inspection by the commission or the coordinator, and individuals exercising their rights of access and review of under AS 12.62.030(c) and 6 AAC 60.080.

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(f) This section does not prevent a criminal justice agency from disclosing to the public criminal justice information related to the offense for which an individual is currently within the criminal justice system.

(g) This section does not apply to the dissemination of criminal history record information contained in

(1) posters, announcements, or lists for identifying or apprehending fugitives or wanted persons;

(2) original records of entry maintained by criminal justice agencies, if the records are routinely organized on a chronological or other easily accessible basis; or

(3) records, or statutory or regulatory offenses, maintained for the purpose of regulating the issuance, suspension, revocation, or renewal of drivers', pilots', or other operators' licenses. (Eff. 10/9/72, Reg. 44; am 3/10/73, Reg. 45; am 5/29/82, Reg. 82)

Authority: AS 12.62.010
AS 12.62.030(a) and (d)

6 AAC 60.080. INDIVIDUAL'S RIGHT TO INFORMATION. (a) Each individual has the right to review, in accordance with (b) of this section, criminal justice information relating to him. Each criminal justice agency shall make available facilities and personnel necessary to permit review of that information.

(b) Reviews must be conducted in accordance with the following procedures:

(1) Reviews may take place only within the facilities of a criminal justice agency and only under the supervision and in the presence of a designated employee or agent of that agency.

(2) Reviews may be permitted only after proper verification that the requesting individual is the subject of criminal justice information.

(3) This section does not prevent a criminal justice agency from refusing to allow an individual to review criminal justice information related to the offense for which the individual is currently within the criminal justice system if

that information would compromise an ongoing investigation, jeopardize institutional security, endanger any individual, or constitute nondiscoverable material under applicable rules of criminal law and procedure.

(4) Each criminal justice agency shall maintain a record of each review. The supervisory employee or agent present at the review shall complete and sign each review form. The form must include the name of the reviewing individual, the date of the review, and a statement as to whether any exception was taken to the accuracy, completeness, or contents of the information reviewed.

(5) An individual exercising his right to review criminal justice information may compile a written summary or make notes of information reviewed, and may take copies of it with him. Individuals may not, however, take any copy that might reasonably be confused with the original, unless the copy

(A) is clearly established to be necessary for the purpose of challenge or correction, and then only that part of the record which is being challenged or corrected may be released;

(B) consists solely of data pertaining to an individual's operator's license application and any operating record; or

(C) is necessary for purposes of international travel, such as issuing visas and granting citizenship.

(6) Each individual exercising his right to review criminal justice information must be informed of his right to challenge the inclusion of information, under AS 12.62.030 (c) and (f).

(7) Upon written request, an individual whose record has been purged, modified, or supplemented by an explanatory notation as a result of his review under this section must be given the names of any individuals, agencies, or other entities, which are not law enforcement agencies, to whom criminal justice information has been disseminated.

(8) Each criminal justice agency that has previously disseminated criminal justice information

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which has subsequently been purged, modified, or supplemented by an explanatory notation as a result of a review under this section, shall give notice of the action taken to all criminal justice agencies, both within and outside the state, to which the records have been previously disseminated, unless the record disseminated contained a notation making it invalid after a specific date within 90 days after the dissemination. When furnishing notice, the criminal justice agency shall at the same time request the recipient criminal justice agency to purge, modify, or supplement the information by an explanatory notation, as appropriate. Compliance with this request must be verified through a request made of the recipient agency to furnish an updated record. If the recipient agency refuses to comply with a request to purge, modify, or supplement with an explanatory notation the information which has been previously disseminated to it, no further criminal justice information may be disseminated to it by any criminal justice agency. (Eff. 10/9/72, Reg. 44; am 3/10/73, Reg. 45; am 5/29/82, Reg. 82)

Authority: AS 12.62.010
AS 12.62.030(c) and (f)

6 AAC 60.090. RESEARCH USE OF CRIMINAL JUSTICE INFORMATION. (a) No research program, conducted by an individual or organization not authorized to have access to criminal justice information under this chapter, may have access to that information without the written authorization from the commission or the coordinator, after formal application has been made.

(b) No criminal justice agency may permit a research program to have access to criminal history record information until the agency has been notified by the commission or the coordinator that access is authorized.

(c) Access to criminal history record information under this section will be permitted only if a research program demonstrates that threats to individual privacy which might be created by the program

(1) have been minimized by methods and procedures calculated to prevent injury or embarrassment to individuals; and

(2) are clearly outweighed by the prospective advantages accruing to the administration of justice.

(d) Access to criminal history record information under this section will be restricted in such a manner that an individual's identity will not be disclosed, unless a research program conclusively demonstrates in its formal application for access that access by name is a prerequisite to conducting the research for which application has been made.

(e) The following requirements are applicable to all research programs, and each criminal justice agency is responsible for their full and prompt enforcement:

(1) Criminal justice information which has been made available to a research program may not be used to the detriment of individuals to whom the information relates.

(2) Criminal justice information which has been made available to a research program may not be used for any other purpose, nor may that information be used for any other research program unless authorized by the commission or the coordinator.

(f) A research program requesting access to criminal history record information shall, before receiving authorization of access, execute a nondisclosure agreement approved by the commission or the coordinator and post a bond in the amount of \$500 with the commission. The bond is subject to forfeiture if any requirement of this section is violated.

(g) Authorization of access to criminal history record information under this section is subject to the following conditions:

(1) The commission and the coordinator have the right to fully monitor any research program to assure compliance with the requirements of this section.

(2) The commission and the coordinator have the right to examine and verify all data generated by the research program, and if a material error or omission is found, to order that the data not be released or used for any purpose unless corrected.

(h) Each criminal justice agency is responsible for the formulation of methods and procedures which assure compliance with the requirements of this section with respect to the use of criminal history record information for purposes of any program of behavioral or other research, whether those programs are conducted by a criminal justice agency or by any other agency or individual. (Eff. 10/9/72, Reg. 44; am 3/10/73, Reg. 45; am 5/29/82, Reg. 82)

Authority: AS 12.62.010(b)
AS 12.62.030(b)

ARTICLE 4. PURGING OF CRIMINAL JUSTICE INFORMATION

Section

- 100. Purging of criminal history record information
- 110. Purging of certain investigative records
- 120. Notification of purging and requests for compliance
- 130. Formulation of procedures

6 AAC 60.100. PURGING OF CRIMINAL HISTORY RECORD INFORMATION. (a) Criminal history record information collected, stored, processed or disseminated within the Alaska justice information system must be purged as follows:

(1) All criminal history record information collected and stored as a result of an arrest, except fingerprint classifications, must be closed 90 days after the date of arrest unless a criminal proceeding is pending.

(2) Upon final disposition of an arrest or criminal proceeding in favor of the arrestee, all criminal history record information collected and stored as a result of that arrest or proceeding must be immediately closed, except fingerprint classifications and medical information under 6 AAC 60.110.

(3) Criminal history record information closed under (1) or (2) of this subsection must be expunged no sooner than 60 and no later than 90 days after closure. If the individual makes written application within 60 days after closure, a copy of the records to be expunged must be sent to him.

(4) All criminal history record information relating to an individual who has been convicted in this state, or convicted in another jurisdiction of an offense which would be a crime in this state, must be closed if, for a period of 10 years if the offense is or would be a felony in this state, and seven years for a misdemeanor the individual: (A) has not been imprisoned for that offense in this or any other jurisdiction in the United States; (B) has not been subject to the control of parole or probation authorities in this or any other jurisdiction in the United States; (C) has not been convicted in this or any other jurisdiction in the United States for an offense which would be an offense in this state the penalty for which denotes criminality; and (D) is not currently under indictment for, or otherwise charged with a criminal offense, or the subject of an arrest warrant, by any criminal justice agency in this or any other jurisdiction in the United States. With regard to (D) of this paragraph, when no conviction results, periods of elapsed time while the individual was under indictment for, or otherwise charged with, a crime, or was the subject of an arrest warrant must be included in the computation of the period provided for in this paragraph. Closing of records under this paragraph must occur at least annually.

(b) Information closed under this section may not be disseminated, except for the time and to the extent necessary for the following purposes:

(1) administrative, management, and statistical activities of the recordkeeping agency or for the regulatory responsibilities of the commission;

(2) where the information is to be used for statistical compilations or research programs under 6 AAC 60.090;

(3) where the individual to whom the information relates seeks to exercise rights of access and review under 6 AAC 60.080;

(4) to permit an adjudication of a claim by the individual to whom the information relates that the information is misleading, inaccurate, or incomplete, under AS 12.62.030 (c) and (f);

(5) where a statute of this state specifically requires inquiry into criminal history record information beyond the limitations of this section; and

(6) where the information is to be used for executive clemency investigations conducted under AS 33.20.070 or 33.20.080.

(c) When criminal history record information has been purged under this section, and the individual to whom the information relates is subsequently arrested for a crime, his records may be reopened during the subsequent investigation, prosecution, and disposition of that offense. If the arrest does not terminate in a conviction, the records must again be closed within 90 days. If a conviction does result, the records may remain open and available for dissemination and use under this chapter.

(d) Criminal history record information supplied by another state to criminal justice agencies in this state must be closed or expunged as required under the laws or regulations of that other jurisdiction in the United States. Information may not be closed or expunged under this subsection until the commission or a criminal justice agency in this state has received written notification from another jurisdiction that expunging or closing is required under the laws or regulations of that other jurisdiction.

(e) Where the commission or the coordinator orders the alteration of criminal history record information, that order may include a requirement that the information be closed or expunged or otherwise treated in accordance with the requirements of this chapter.

(f) Where required by statute or regulation of this state, or the judgment of any court of competent jurisdiction in this state, criminal history record information must be closed, expunged, or otherwise treated in accordance with the requirements of this chapter.

(g) The requirements of this section impose no obligation upon criminal justice agencies to retain records beyond that time which may otherwise be provided by law. (Eff. 10/9/72.

Reg. 44: am 3/10/73, Reg. 45; am 5/29/82, Reg. 82)

Authority: AS 12.62.010
AS 12.62.030(c) and (f)
AS 12.62.040(a)

6 AAC 60.110. PURGING OF CERTAIN INVESTIGATIVE RECORDS. Upon termination of an arrest or a police investigation in favor of an individual, information collected and stored under 6 AAC 60.020 (13) must be closed, except information indicating that an individual may have a disabling medical condition which may require immediate attention or treatment. That information must be expunged within one year after closure. In any event, information collected and stored under 6 AAC 60.020(13) may not be retained for longer than five years, and must be expunged after that. (Eff. 10/9/72, Reg. 44; am 3/10/73, Reg. 45; am 5/29/82, Reg. 82)

Authority: AS 12.62.010
AS 12.62.040(a)

6 AAC 60.120. NOTIFICATION OF PURGING AND REQUESTS FOR COMPLIANCE. (a) Each criminal justice agency shall promptly furnish notice to the commission of any criminal history record information which has been closed, expunged, or reopened under 6 AAC 60.100 or 6 AAC 60.110, including notice of the specific provisions under which the action was taken.

(b) Each criminal justice agency may periodically, but shall at least annually, furnish notice that criminal history record information has been closed, expunged, or reopened under 6 AAC 60.100 or 6 AAC 60.110 to criminal justice agencies in this state with access to that category of criminal justice information, unless the information disseminated contained a notation making it invalid after a specific date within 90 days after dissemination.

(c) Each criminal justice agency which has disseminated criminal justice information, which has subsequently been closed or expunged under 6 AAC 60.100 or 6 AAC 60.110, to any law enforcement agency, both within and outside this state, shall promptly furnish notice to those agencies that the information has been closed

or expunged, unless the information disseminated contained a notation making it invalid after a specific date within 90 days after dissemination.

(d) When notice is required under (c) of this section, a criminal justice agency shall at the same time request the law enforcement agency to close or expunge, as appropriate, criminal justice information which has previously been disseminated to the agency, but which has subsequently been closed or expunged under 6 AAC 60.100 or 6 AAC 60.110. Compliance with this request to close or expunge criminal history record information must be verified through a request made of the law enforcement agency to furnish the criminal justice agency with an updated record. If the recipient agency refuses to comply with a request to purge, modify, or supplement with an explanatory notation the information which has been disseminated to it, no further criminal history record information may be disseminated to it by any criminal justice agency. (Eff. 10/9/72, Reg. 44; am 3/10/73, Reg. 45; am 5/29/82, Reg. 82)

Authority: AS 12.62.010 AS 12.62.040(a)
AS 12.62.030(c) AS 12.62.050(a)

6 AAC 60.130. FORMULATION OF PROCEDURES. (a) Each criminal justice agency shall formulate methods and procedures to assure its continuing compliance with the requirements of this chapter. The commission will, in its discretion, require any modifications or additions to those methods and procedures which it finds necessary for full and prompt compliance with this chapter.

(b) Each criminal justice agency shall develop systematic audit procedures to ensure that dispositions of actions are reflected within 90 days after entry and to ensure that data is correctly entered.

(c) Where the commission finds that any public agency in this state has willfully or repeatedly violated the requirements of AS 12.62 or this chapter the commission will, where other statutory provisions permit, prohibit the dissemination, release or communication of criminal justice information to that agency, for periods and under conditions that the commission con-

siders appropriate. (Eff. 10/9/72, Reg. 44; am 3/10/73, Reg. 45; am 5/29/82, Reg. 82)

Authority: AS 12.62.010
AS 12.62.030(c) and (f)
AS 12.62.040(a)

**ARTICLE 5.
GENERAL PROVISIONS**

Section
140. (Repealed)
900. Definitions

6 AAC 60.140. DEFINITIONS. Repealed 5/29/82.

Editor's Note: The definition section has been relocated from 6 AAC 60.140 to 6 AAC 60.900.

6 AAC 60.900. DEFINITIONS. In this chapter, unless otherwise provided

(1) "Alaska justice information system" means a criminal justice information system comprised of one or more subsystems, programs, or linkages which allow access to criminal history record information by creating a direct connection between criminal justice information systems maintained by different executive branch departments or by different branches of government;

(2) "Alaska justice information system coordinator" means the person selected to perform staff responsibilities under this chapter for the Governor's Commission on the Administration of Justice as provided in AS 44.19.122;

(3) "central repository" means the records and identification section of the commissioner's office of the Department of Public Safety;

(4) "close" means the retention of criminal history record information in a criminal justice information system subject to further restrictions on access and dissemination under 6 AAC 60.100 (b);

(5) "commission" means the Governor's Commission on the Administration of Justice established under AS 44.19.110 - 44.19.122;

(6) "coordinator" means the Alaska justice information system coordinator;

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(7) "criminal history record information" means criminal justice information collected under the authority of 6 AAC 60.020 (8) - (13) and (16) - (19); it does not include information or statistical records and reports in which individuals are not identified and from which their identities are not ascertainable;

(8) "criminal justice agency" means a law enforcement agency in this state that collects, stores, processes, or disseminates criminal justice information;

(9) "criminal justice information" means information concerning an individual which is indexed under the individual's name or retrievable by reference to the individual by name or otherwise;

(10) "criminal justice information system" means a manual or automated system, including the equipment, facilities, procedures, and agreements related to a system, for the collection, processing, storage, or dissemination of criminal justice information, which has been funded in whole or in part with funds made available by the Law Enforcement Assistance Administration;

(11) "criminal offense" means an offense for which a sentence of imprisonment or fine is authorized;

(12) "expunge" means the deletion of criminal justice information collected, stored, processed, or disseminated within the Alaska justice information system;

(13) "law enforcement" means any activity relating to crime prevention, control, or reduction, or the enforcement of the criminal law, including, but not limited to, police efforts to prevent, control, or reduce crime or to apprehend criminals, and the activities and efforts of prosecution agencies, courts, public defender agencies, correctional institutions, and probation or parole agencies; and

(14) "law enforcement agency" means a public agency which performs as one of its principal functions activities pertaining to law enforcement. (Eff. 10/9/72, Reg. 44; am 3/10/73, Reg. 45; am 5/29/82, Reg. 82)

ARTICLE 2.
CRIMINAL AND IDENTIFICATION
RECORDS

Section

- 210. Declaration of intent
- 220. Required information
- 230. Submission of information
- 240. Completion of reports
- 250. Custody and maintenance of information
- 260. Distribution of information
- 270. Requesting information
- 280. Records and information confidential
- 290. Required contributors
- 300. Definitions

13 AAC 25.210. DECLARATION OF INTENT. It is the intent of the department that 13 AAC 25.210. — 13 AAC 25.300 will provide a means of planning and establishing a centralized records system available to all facets of law enforcement throughout the state and to provide a system compatible with the National Crime Information Center system; however, the contributions required by 13 AAC 25.220 will be requested only when the department has the resources necessary to adequately file, retrieve and distribute the information to those persons required to contribute. (Eff. 7/1/69, Reg. 30)

Authority: AS 18.65.060

13 AAC 25.220. REQUIRED INFORMATION. (a) The information or reports which are required to be submitted to the department by those persons or agencies set out in 13 AAC 25.290 are as follows:

- (1) daily, reports of lost, stolen, found, pledged or pawned property;
- (2) daily, classifiable copies of fingerprints and descriptions of all persons arrested and incarcerated in this state;
- (3) upon completion, classifiable copies of fingerprints of each person employed as a peace officer by the state, a city, village, borough or other political subdivision;
- (4) upon completion, classifiable copies of fingerprints and descriptions of each person who is required by statute, ordinance or regulation to

be fingerprinted in order to obtain a license, permit or as otherwise required as a condition of employment;

(5) daily, photographs of each person who is arrested and incarcerated in this state;

(6) daily, copies of booking sheets for each person who is incarcerated in this state. The sheet shall contain at least the full name, date of birth, race, sex, physical description, residence address, mailing address, next of kin, offense charged, name of agency by whom arrested, name of arresting officer, booking number, date booked, time booked, location where booked and name of booking officer;

(7) daily, copies of commitment forms for each person sentenced by a court in this state. The form shall contain at least the full name, date of birth, race, sex, the booking number, the sentence of the court and the offense for which sentence was given;

(8) daily, copies of release forms for each person released from confinement in this state, either on bail or after serving sentence. The form shall contain, depending upon circumstances of release, at least the full name, date of birth, race, sex, booking number, the offense for which sentence was served or for which booked if released on bail, date of release, conditions of release and any forwarding address;

(9) daily, copies of transfer forms for each person transferred from one institution to the custody of another institutional facility. The form shall contain at least the full name, date of birth, race, sex, booking number, the offense for which booked or for which sentence is being served, date of transfer and name of institution to which the transfer is made;

(10) daily, copies of modus operandi (M.O.) offense reports by type of offense;

(11) daily, copies of traffic citations, except those issued only for a parking violation;

(12) daily, copies of weapons registrations and permits issued;

(13) daily, copies of outstanding warrant lists. List shall contain at least full name, warrant

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ber, offense, amount of bail, physical location of warrant and date warrant was issued;

(14) daily, the ultimate disposition of each criminal proceeding; such as, dropping of charges, dismissing a case, not guilty or terms of sentence;

(15) monthly, semi-monthly, annual or semi-annual compilations of information as required by the departments.

(b) An agency or person is required to submit only that information which is available in that

agency's or person's normal course of business.
(Eff. 7/1/69, Reg. 30)

Authority: AS 18.65.060

13 AAC 25.230. SUBMISSION OF INFORMATION. (a) All required information, except photographs, shall be submitted on forms approved by the department.

(b) The submission of information to the department shall begin 30 days after the department supplies the approved forms to an agency, or upon notice of approval of an agency's forms which are already in use.

(c) Required information shall be submitted in compliance with the submission scheduled for the specific information as provided by sec. 220 of this chapter. (Eff. 7/1/69, Reg. 30)

Authority: AS 18.65.060

13 AAC 25.240. COMPLETION OF REPORTS. (a) All required information shall be provided on the forms supplied or approved by the department and completion shall conform to the instructions of the department.

(b) The department shall provide an instruction manual concerning form completion to each agency which contributes to the department. (Eff. 7/1/69, Reg. 30)

Authority: AS 18.65.060

13 AAC 25.250. CUSTODY AND MAINTENANCE OF INFORMATION. (a) All required information becomes the property of the department upon receipt and is subject to the department's control as provided by secs. 210-300 of this chapter.

(b) The department will file and index all required information received in a manner which will allow retrieval within the currently available facilities of the department.

(c) Access to department files is denied to a person not authorized by the department. Persons having access are required to undergo such background investigation and inquiry as the department considers appropriate.

(d) The original files of the department may not be removed from the immediate custody and control of the department except on order

of a court of competent jurisdiction, and the viewing of department records by authorized persons may be done only in the presence of an authorized employee of the department. (Eff. 7/1/69, Reg. 30)

Authority: AS 18.65.060
AS 44.17.030

13 AAC 25.260. DISTRIBUTION OF INFORMATION. The department shall provide, upon proper request, information concerning the identification of a person or any data of record in the department which was received as information required by sec. 220 of this chapter to persons required by sec. 290 of this chapter to contribute to the department, and to law enforcement officers of the United States or peace officers of other states, territories or United States possessions, or at the discretion of the department, peace officers of other countries for the purpose of the detection of crime and identification and apprehension of criminals. (Eff. 7/1/69, Reg. 30)

Authority: AS 18.65.060

13 AAC 25.270. REQUESTING INFORMATION. A person to whom distribution is authorized under sec. 260 of this chapter may obtain information as follows:

(1) by verbal request, in person, to the department or a local member of the division of state troopers;

(2) by telephonic request to the department; however, the information will be provided only by return call to the agency the caller represents;

(3) by telegraphic request to the department. The request must identify the person requesting the information and the agency which he represents;

(4) by written request to the department on the official stationery of the agency which the person making the request represents. (Eff. 7/1/69, Reg. 30)

Authority: AS 18.65.060

13 AAC 25.280. RECORDS AND INFORMATION CONFIDENTIAL. The criminal identification and criminal investigation records and information of the department are maintained for the detection of crime and the

ification and apprehension of criminals and are confidential. They may not be released to or viewed by a person who is not authorized by sec. 260 of this chapter except upon order of a court of competent jurisdiction, issued for good cause shown and where they will not be put to an improper use or to a use which will impair the prevention and detection of crime or impair the prosecution of persons charged with criminal acts. (Eff. 7/1/69, Reg. 30)

Authority: AS 18.65.060
AS 44.17.030

13 AAC 25.290. REQUIRED CONTRIBUTORS. The following persons are required to contribute information and records, as set out in sec. 220 of this chapter, to the department:

(1) the chief of police and peace officers of the state, a city, village or borough;

(2) a district attorney and investigators of his office;

(3) the director and investigators of the Alcoholic Beverage Control Board;

(4) the director and officers of the airport security police;

(5) the director and officers of the transportation commission, empowered to enforce size, weight and load-limitation;

(6) the director and correctional and probation officers of the division of corrections and other supervisors and guards of a penal or correctional institution;

(7) the director and protection officers of the Department of Fish and Game, division of protection;

(8) the fire chief or fire marshal and arson investigators of the state or a local fire department;

(9) the Attorney General and investigators assigned to his office;

(10) the director and officers of the Department of Natural Resources empowered to enforce laws governing parks and recreation;

(11) the director and investigators of the Department of Labor empowered to enforce employment security laws;

(12) the chief and officers of a state college or university security patrol. (Eff. 7/1/69, Reg. 30)
Authority: AS 18.65.060

13 AAC 25.300. DEFINITIONS. In secs. 210-300 of this chapter

(1) "commissioner" means the commissioner of the Department of Public Safety;

(2) "department" means the Department of Public Safety of the State of Alaska. (Eff. 7/1/69, Reg. 30)

Authority: AS 18.65.060

MEMORANDUM

State of Alaska

ALASKA

TO: James D. Vaden
Deputy Commissioner
Department of Public Safety

DATE: December 10, 1986

FILE NO: 663-86-0479

THRU:

TELEPHONE NO: 465-3428

Ronald W. Lorensen
Acting Attorney General

SUBJECT: Applicability of
AS 12.62 to Alaska
Public Safety
Information Network

FROM:

By: Dean J. Guaneli *DG*
Assistant Attorney General

You have asked for our opinion whether existing statutes under AS 12.62 and regulations under 6 AAC 60, relating to criminal justice information systems, apply to the Alaska Public Safety Information Network (APSIN). Based on the information your office has provided to me regarding the financing of the system, it is our opinion that these statutes and regulations do not apply to APSIN. Nonetheless, the policy embodied in these statutes and in the right to privacy under article I, section 22, of the Alaska Constitution requires that APSIN be operated in a way that is designed to serve legitimate state interests in law enforcement, while at the same time respecting reasonable expectations of individual privacy.

Background

In the early seventies the federal Law Enforcement Assistance Administration (LEAA) provided millions of dollars in grant funds to state and local law enforcement agencies nationwide. In Alaska, one of the primary projects to be undertaken with this federal money was the development of the Alaska Justice Information System (AJIS), a computerized databank containing, among other things, criminal histories of persons committing crimes in Alaska.

Because federal money was used for the major portion of the project, the development of AJIS proceeded at a rapid rate and, prior to 1972, state legislative committees had not given the project the degree of scrutiny that usually precedes the expenditure of large amounts of state money. At that time computers were viewed as somewhat more threatening than they are today. For that reason, and because of persistent rumors that the Alaska State Troopers were compiling secret dossiers on Alaska citizens, there was considerable concern in the legislature in 1972 over the potential of systems like AJIS for invasion into the privacy of individuals. Indeed, by the time of the 1972 legislature, AJIS had already been put into operation.

In order to try to exert some control over AJIS, and to avoid similar perceptions of potential abuse with all future federally-funded systems which might bypass careful legislative

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scrutiny, the 1972 legislature adopted certain safeguards in AS 12.62, making them applicable to all systems "funded in whole or in part by the Law Enforcement Assistance Administration." AS 12.62.070(3). 1/ At the same time, in response to a broader concern over government computers generally, whether or not federally funded, the legislature also passed House Committee Substitute for Senate Joint Resolution 68, which placed on the ballot a proposed amendment to the Alaska Constitution to guarantee the right to privacy. 2/ The amendment was approved by the voters and became article I, section 22, of the Alaska Constitution.

Over the years the AJIS system, as was the case with many early computer systems, became badly outdated in terms of both the equipment and the software it used. By the time the Department of Public Safety decided to replace AJIS with a more modern system, two significant changes had occurred. First, the general attitude of the public and the legislature toward computers had changed greatly. Computers were recognized as a useful management tool and were not viewed with the same degree of apprehension as in 1972. Indeed, in addition to being a repository for arrest warrants and conviction records, the APSIN system was specifically designed to be used by the department for things like property inventory, vehicle maintenance records, and personnel and budget management. The second major change that had occurred since 1972 was the demise of LEAA and the end to federal funding.

The design, development, and implementation of APSIN was therefore undertaken entirely with money appropriated by the Alaska State Legislature from the state general fund. According

1/ Other systems developed in recent years with LEAA funds are the Prosecutor's Management Information System and the Offender-Based State Correctional Information System.

2/ Newspaper reports at the time contained statements by the sponsors and supporters of the constitutional amendment that the AJIS system was the primary motivation for the right-to-privacy provision. See articles appearing in Alaska newspapers in 1972: Anchorage Daily News, March 21 at 8, March 22 at 5, March 31 at 1-2, April 1 at 4, April 6 at 2; Anchorage Daily Times, March 20 at 8, March 27 at 2, March 31 at 2-3; Fairbanks Daily News-Miner, March 20 at 2; Southeast Alaska Empire, March 17 at 2, March 20 at 1 and 8, March 21 at 1 and 8, May 18 at 4.

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to your office, APSIN software constitutes a complete redesign and does not in any way utilize federally-funded AJIS software. In addition, the equipment which operates the new system is also funded entirely with state money, primarily through the Department of Administration, and thus does not rely on the old federally-funded AJIS hardware. In fact, the two systems are wholly incompatible.

**AS 12.62 Does Not Apply To The
Alaska Public Safety Information
Network But Restrictions On The
System Should Nonetheless Be Imposed**

Based on the observations contained in the preceding paragraph, it is apparent that APSIN was not "funded in whole or in part by the Law Enforcement Assistance Administration" and is thus not a "criminal justice information system" as that term is defined in AS 12.62.070(3). 3/ Title 12, chapter 62, of the Alaska Statutes and regulations adopted under the authority of that chapter therefore do not apply to APSIN. 4/

3/ Although some of the original data in AJIS was entered into the system at federal expense, and it is arguable that federal funds facilitated the computerized storage of that data, the information itself has always belonged to the state and was under state control. The statutes in AS 12.62 apply to "systems" funded by LEAA, the definition of which does not include the data stored within the system. AS 12.62.070(3). The mere fact that data was once stored, collected, or processed through the help of federal funds does not of itself subject any future system which might hold that data to federal oversight. Indeed, it would make no sense to apply one set of rules to all old data that had at one time been stored in AJIS, and a completely different set of rules to new data entered directly into APSIN.

4/ Our opinion is shared by the Division of Legislative Audit. See A Special Report On The Oversight Of Criminal Justice Information Systems In Alaska And The Alaska Public Safety Information Network (March 19, 1986). At page 8 of that report the legislative auditor stated, "APSIN was funded with State and not LEAA money, and as such is not covered by current State statutes and regulations."

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Despite the fact that APSIN is not governed by the "letter" of AS 12.62, the "spirit" of that statute 5/ and of the right to privacy under article I, section 22, of the Alaska Constitution nonetheless imposes certain restrictions on the department. Therefore, what is needed is a reasonably detailed set of written procedures 6/ that will recognize and implement the privacy guarantees contained in the state constitution. Although a complete list of topics that should be addressed within these written procedures is beyond the scope of this opinion, at a minimum the department should adopt: (1) reasonable guidelines for collection, security, dissemination, and use of information; (2) policies designed to insure the completeness and accuracy of data; and (3) procedures to permit individuals to have access to data about themselves and a mechanism to allow individuals to obtain correction of inaccurate data.

You should also make a policy decision whether, and to what extent, data will be released to private individuals, in addition to government agencies. For example, you will certainly want to continue to provide information about sex offenders to employers under procedures similar to those set forth in AS 12.62.035. You may also want to continue to disseminate information in categories listed in 6 AAC 60.070(f) and (g). 7/ Beyond this, however, you should carefully consider what

5/ In our view, AS 12.62.070(3) is clear and unambiguous on its face. One therefore need not attempt to divine whether the legislature's "intent" in adopting AS 12.62 was to exclude state-funded systems from its ambit. Nonetheless, the legislature's approach to regulating federally-funded systems is something that should be taken into consideration in any policy decisions made about APSIN.

6/ Our use of the term "written procedures" is intended to be read broadly to include, where applicable, regulations promulgated under AS 44.62.

7/ Those regulations permit dissemination of information relating to wanted persons, driver's records, and offenses for which an individual is currently within the criminal justice system. Although there is no definition for the term "currently within the criminal justice system," we have always interpreted it to mean that the person has not been "unconditionally discharged" as that term is defined in AS 12.55.185.

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information should be released to individuals and under what circumstances. If the department would ordinarily not release certain information contained in its manual files, then there is probably no justification for releasing that same information after it has been transferred to the APSIN database.

The primary question to be addressed in making these decisions is whether the state's interest in legitimate law enforcement and public protection outweighs an individual's expectation of privacy. Obviously that expectation must be one that society is willing to recognize as reasonable. For example, it is probably safe to say that reasonable people would expect that information about arrests and investigations which do not result in prosecution will remain private, at least insofar as preventing such information from being given to other individuals. On the other hand, there are legitimate reasons for making this type of information available to other law enforcement agencies for use in subsequent investigations, and the legitimate government interest in having police agencies share such relevant information with other police agencies outweighs any interest in individual privacy. 8/

A more difficult question is presented by conviction records. Such documents in the possession of the court system are clearly public records and are available to any interested person. Nor are conviction records "sensitive personal information" as that term was used by the Alaska Supreme Court in Falcon v. Alaska Public Offices Commission, 570 P.2d 469 (Alaska 1977), even though a convicted person may desire to keep this information private because it causes embarrassment. Thus there is no constitutional prohibition from releasing this information to interested persons, although it has always been the practice in this state to prevent private individuals from obtaining this information from state computers after the offender has been unconditionally discharged. 9/ See 6 AAC 60.070(f) and note 7

8/ Current federal regulations governing federally-funded criminal justice information systems in 28 C.F.R. pt. 20 make just this distinction by permitting "nonconviction" data to be disseminated to criminal justice agencies, but not to individuals. See 28 C.F.R. § 20.3(k) and 20.21(b).

9/ Under certain circumstances, the state may have an affirmative duty to disseminate information about offenders who

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supra. While this past practice is not determinative, it should be considered in deciding whether as a policy matter there is any legitimate government interest in disseminating this information to private persons, after an offender has "paid his debt to society." 10/ In making this decision you should also take into consideration AS 12.62.035, which permits dissemination of conviction data to interested persons, but only if the information relates to a conviction for a sexual offense and only if the interested person is considering the employment of the offender in a position of supervisory control over children. See also AS 28.15.151(f), declaring that conviction records for driving offenses in the possession of the department may be given to government agencies or to a person designated by the offender, but are otherwise "confidential and private." These recent expressions of legislative intent may be interpreted as an indication that unlimited dissemination of conviction data after an offender has been unconditionally discharged would probably not meet with legislative approval.

If you have any questions, please contact me.

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(Footnote Continued)

have been released on probation and parole and are therefore still under the jurisdiction of the state. See Division of Corrections v. Neakok, 721 P.2d 1121 (Alaska 1986).

10/ Federal regulations neither require nor prohibit dissemination of conviction data to private individuals, but leave that decision to each state. 28 C.F.R. § 20.21(c)(3).