

Steve Hirsch

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State Crime Records and the FBI

This month Attorney General Edward Levi will make the Justice Department's final ruling on an FBI plan to tie its computer crime information center into the criminal history records of every state in the country. He was to make it July 7 but postponed the move, possibly because of the mass of unanswered political questions raised.

The National Crime Information Center's Computerized Criminal History files currently hold records on people who have committed federal crimes, state crimes in more than one state and the state criminal records of five states. The proposal would return the records of single-state offenders to the five states and set up an index to all state crime records in Washington. Using the index, states would be able to locate and receive state criminal files via the FBI through a computer terminal. When a state criminal became a federal offender or committed a crime in a second state, the FBI would retrieve the state record and convert the federal index entry into a full criminal record.

The FBI says the plan would decentralize state criminal records by moving them out of Washington and into the states. The plan would also, according to the FBI, give the states quicker access to other states' criminal files. Critics of the plan, however, question whether the plan would inject the FBI too far into state and local law enforcement and give the bureau access to too much information.

The FBI is not a national police force—police departments are state and local government agencies, instead of an arm of the FBI. The plan would route a lot of interstate law enforcement messages through the FBI in Washington. The bureau would be able to monitor these messages and keep tabs on nonfederal law enforcement operations. Although the FBI has stressed that it is not interested in monitoring traffic on the proposed system, it would have to assemble a certain amount of administrative information about the transmissions just to keep the system running. That information could be used to influence police operations around the country. For example, a state that did not use the system as much as the FBI wanted might be pressured to concentrate

more on the types of activities which would require more use of the system.

The FBI could also lean on states by refusing to let them maintain their own records, thus forcing them to rely on the FBI for participation in the system. Under the plan, the bureau is to hold records until states develop the necessary equipment. The bureau could continue to maintain a state's records indefinitely on the pretext that the state had not set up the necessary machinery. As long as the FBI was holding the records, it would be maintaining a data bank full of files on people who had done nothing to warrant a federal file and exerting pressure on the states.

The plan may have advantages, even according to some critics, in that its implementation would be a boon to

Mr. Hirsch is a Washington reporter who has written frequently on computers and data banks.

state and local law enforcement. The benefits of the plan, however, are not tied to federal involvement.

The states already operate the National Law Enforcement Telecommunications System (NLETS). NLETS currently transmits only non-criminal record information but could, according to the Law Enforcement Assistance Administration, handle criminal history records by the end of 1976. With NLETS or another nonfederal entity running the show, the system could still be used by states to transmit criminal records, but the federal government would not gain any records and the system would not be under FBI control.

The plan has been touted as a means of decentralizing state criminal records, which is considered desirable because it would seem to lessen federal control over state operations. But since only five states currently maintain their records with the FBI, the records of most states do not need to be decentralized. Given decentralization, though, an FBI-run telecommunications system would give the FBI much of the same kind of control over access and content that actual possession would. All requests for information from the records would pass through the FBI and the FBI

would have access to all of the records. For practical purposes, the records could be in Timbuktu, but with the FBI controlling the telecommunications system they might as well be in Washington.

The plan has given rise to misgivings in many quarters of Washington. Reaction from members of Congress and such executive agencies as the Office of Telecommunications Policy has been negative. A bill introduced in the House by Rep. Don Edwards (D-Calif.) and in the Senate by Sen. John Tunney (D-Calif.) would require a federal commission to endorse the plan before implementation. The White House Domestic Council has sent Levi a list of considerations it feels should influence his decision and may seek presidential or vice presidential review if it thinks the considerations have been ignored.

The question is not whether states should be able to transmit criminal record information to other states. The question raised by the plan is whether states should have to be dependent on the FBI to provide the method of doing so and whether the FBI has come up with sufficient safeguards to prevent abuse of the system. The question is also whether the FBI should be granted this kind of control over information whose relevance to federal concerns is questionable at best.