

Comments on the National Crime Prevention and Privacy Compact
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Greetings Chairman _____ and members of the Committee Task Force. Thank you for the invitation to address you and answer your questions on this very important topic—the National Crime Prevention and Privacy Compact (Compact), as proposed in _____. The adoption of the Compact by _____ is a very important step in the overall movement of New Federalism—the sharing of responsibility and control between the federal government and the states. Within the criminal justice community that means expanded information sharing between the FBI and state and local law enforcement and criminal justice agencies.

In the Compact, this is highlighted by the creation of a Compact Council which is made up of nine state compact officers and two state representatives appointed by the Council Chairman and three federal representatives recommended by the FBI, and one representative from the CJIS Advisory Policy Board. This numerical advantage given to states was a part of Congress's original intent to weigh in heavily on the side of state's rights.

The Compact Council takes this responsibility seriously and has been in the process of adopting standards, policies and procedures for non-criminal justice background checks and the sharing of state criminal history records directly between states and the FBI. That is the most important point about the Compact states will be on an equal footing with the FBI in making those determinations

Increase in Requests for Background Checks

I assume that _____, like Montana, has seen a rapid increase in the number of non-criminal justice background checks, certainly some of it is due to the events of September 11th, but even before that we have wanted to know the criminal background of people who are volunteers or employees caring for children, the elderly and the disabled. I am sure that the _____ State Central Repository have seen a tremendous interest in conducting background checks for non-criminal justice purposes—schools, daycare centers, nursing homes, respite care facilities, foster parents, residential treatment programs, boys and girls clubs, and even local scouting, soccer and little league organizations. Technology has enabled us to provide that information in a timely manner and our citizens want to know who is caring for their children, the elderly and the disabled.

For public safety reasons, more and more groups are requesting background checks. The USA Patriots Act passed by Congress this past fall requires a fingerprint background check of every truck driver with a Commercial Drivers License (CDL) and a Hazardous Materials endorsement. I assume that in _____ that is a significant number, probably a lot more than the 30,000 we have in Montana. With the HazMat drivers license background check your State central repository may face a tremendous increase in non-criminal justice background checks.

_____ currently participates in the federal Interstate Identification Index system by submitting fingerprint cards to the national centralized files maintained by the FBI. Every time a law enforcement officer arrests someone in _____, two fingerprint cards are printed: one is kept in the criminal history repository maintained by the State Central Repository and a duplicate card is sent to the FBI central repository.

Whenever an arrest results in a sentence, the record of the court's disposition is duplicated and, again, one stays in the State Central repository and the other is sent to the FBI national repository in order to accurately complete both sets of files.

The Compact will allow each state to control it's own records. No longer will a duplicate fingerprint card be required to be sent to the FBI, no longer will a duplicate disposition from a court have to be sent to the FBI to update their files. Only an initial arrest fingerprint card will need to be sent to the FBI. This alone will assist your state in dealing with the increased demands for more and more non-criminal justice background checks.

Laws Governing Access to and Release of Information

The Compact permits each state to continue to enforce its own record dissemination laws within its own borders. Under the Compact, state law would govern the release and use of the information obtained through the system for non-criminal justice purposes. The Compact would allow _____, in the future, to directly access another Compact state's III records electronically, as long as it is seeking the information based on fingerprint identification for a non-criminal justice purpose authorized under _____ and federal law.

This will be possible because in the future _____ if a Compact signatory will participate as a National Fingerprint File (NFF) state. Currently, four states, Florida, New Jersey, North Carolina and Oregon have qualified as NFF states and by this fall, Montana will qualify. The NFF is a fingerprint index maintained by the FBI that will tell a requesting state whether or not a person has a record in another state and will tell the requestor where the record is located.

_____ has taken a big step in this direction with the creation of the your Justice Network. Already, this network provides a common on-line environment whereby authorized state, county and local officials can access offender records and other justice information from participating agencies. It includes a network of livescan fingerprint devices in your state, so that fingerprint images can move from local law enforcement to the State Central repository in a matter of seconds. With this technology, _____ should be able, with minor modifications to become NFF qualified. _____ will truly own your own records and eliminate sending duplicate fingerprint cards and dispositions to the FBI. NFF participation would reduce the cost and effort required to process criminal fingerprints for state and local law enforcement agencies and the FBI.

Benefits of the National Crime Prevention and Privacy Compact

- Facilitate the exchange of criminal history information, state-to-state and federal-state.
- Streamline the process for running background checks for non-criminal justice purposes, reducing both the time it takes to complete a criminal history background check and the associated paperwork and costs.
- Provide a mechanism in the Compact Council for establishing uniform standards for record accuracy and the confidentiality and privacy interests of record subjects.
- The Compact Council is a part of the movement to a new Federalism in law enforcement by creating the forum to discuss and resolve differences and adopt policies and procedures that allow for maximum state participation and control.
- _____ laws will govern the release of any criminal history information received from another state.
- Does not require any change in _____ procedures or policies governing in-state name-checks or state resident's fingerprint based background checks currently processed by the State Central Repository.
- Minimal increase in costs associated with passage of the Compact because of the reduction in paperwork and effort required to do background checks and the elimination of sending duplicate fingerprint cards and dispositions to the FBI.

- The following sixteen states have currently passed the Compact:

Montana
Florida
Georgia
Nevada
Colorado
Iowa
Connecticut
Maine
South Carolina
Arkansas
Alaska
Oklahoma
New Jersey
Kansas
Minnesota
Arizona

Thank you for the opportunity to comment and I am available for any questions from you or your staff.

Respectfully submitted by Wilbur W. Rehmann, Chair, Compact Council