

Comments on the National Crime Prevention and Privacy Compact
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Greetings Chairman Vallario and members of the Judicial Committee. 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 House Bill 241. The adoption of the Compact by Maryland 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 Maryland, like Kansas, 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 Maryland State Central Repository has seen a tremendous interest in conducting background checks for non-criminal justice purposes—schools, daycare centers, nursing homes, health 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 is just one example of federal legislation which could impact thousands of truck drivers with a Commercial Drivers License (CDL) and a Hazardous Materials endorsement.

In March 1998, Maryland began participation in the federal Interstate Identification Index system by submitting fingerprint cards to the national centralized files maintained by the FBI. In this system, the FBI houses arrest records for more than 53 million subjects. Of those, Maryland has contributed over 963,000 with the state already controlling almost 600,000 of those records for criminal justice purposes. In support of the III system, every time a law enforcement officer arrests someone in Maryland, 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 its 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 Maryland, 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 noncriminal justice purpose authorized under Maryland and federal law.

This will be possible because in the future Maryland if a Compact signatory will participate as a National Fingerprint File (NFF) state. Currently, seven states, Florida, New Jersey, North Carolina, Oregon, Montana, Oklahoma, and Colorado have qualified as NFF states. 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. States that have become participants in the program have been relieved of the burden and cost of submitting arrest fingerprint and disposition data to the FBI for all arrests. Avoiding this duplicate maintenance has resulted in an increase in personnel resources and a cost savings which could be diverted to other state initiatives.

Maryland has taken a big step in this direction with your Maryland Livescan initiative. Already, this project provides a common on-line environment whereby authorized state, county and local officials can electronically submit fingerprints. 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, Maryland should be able, with minor modifications to become NFF qualified. Maryland will truly own your own records and eliminate sending duplicate fingerprint cards and dispositions to 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.
- Maryland laws will govern the release of any criminal history information received from another state.
- Does not require any change in Maryland 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 twenty-one states have currently passed the Compact:
 - Montana
 - Florida
 - Georgia
 - Nevada
 - Colorado
 - Iowa
 - Connecticut
 - Maine
 - South Carolina
 - Arkansas
 - Alaska

Oklahoma
New Jersey
Kansas
Minnesota
Arizona
Tennessee
North Carolina
New Hampshire
Missouri
Ohio

Further, in addition to Maryland, six other states are currently considering Compact ratification. They are: Hawaii, Kentucky, Oregon, Pennsylvania, Washington, and Wyoming. All of this momentum for the Compact clearly demonstrates that there is a national movement towards a reciprocal interoperable system of decentralized record keeping.

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

Respectfully submitted by David G. Sim, Vice-Chair, Compact Council
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