

Statement for the Record of  
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Before the  
House Judicial Committee  
Regarding  
House Bill 241 – National Crime Prevention and Privacy Compact Act

Good Morning Chairman Vallario and members of the Judicial Committee. I am Todd Commodore. In April 2003, I was appointed by FBI Director Robert Mueller to serve as the FBI's Compact Officer. As part of my responsibilities, I serve as the FBI's primary liaison to the National Crime Prevention and Privacy Compact Council and am responsible for administering and enforcing the Compact within the Federal Government.

I thank you for the opportunity to appear before this committee and discuss the National Crime Prevention and Privacy Compact. It is my hope today to further your understanding of the significance in Maryland's actions through supporting the Compact.

#### Historical Reference

I would like to begin by briefly describing the development of the federal criminal history record keeping system. The FBI began acquiring identification records in 1924, pursuant to authority established in Title 28 United States Code, requiring the U. S. Attorney General to acquire, collect, classify and preserve identification and criminal identification records. The FBI fulfills this statutory responsibility by acquiring from states, fingerprint and criminal history record information. The states provide this information primarily on a voluntary basis and derive the benefit from drawing on the FBI's national repository of such information.

Historically, in providing these essential identification services, the FBI relied on labor intensive methods, with a duplication of effort and cost by the FBI and respective state repositories.

To overcome these burdens, the FBI and states developed and implemented a decentralized record keeping and exchange system known as the Interstate Identification Index or III. The III would allow for an automated exchange of criminal records and eliminate much of the duplication of data, effort and cost at the state and federal level, with the added benefit of providing more complete and accurate data from state criminal history repositories.

Upon full implementation, the decentralized system would in large part replace the use of records stored in the FBI's national repository since 1924.

Four key elements of the decentralized concept :

- ✍ ✍ State criminal records would be used in lieu of FBI records when possible
- ✍ ✍ the FBI would continue to maintain and furnish records of Federal offenders
- ✍ ✍ the FBI would provide an automated index, accessible via a network maintained by the FBI, to facilitate the exchange of state records
- ✍ ✍ the FBI would operate a National Fingerprint File containing only one set of fingerprints from each state for each individual arrested in that state. Fingerprint cards from that individual's second and subsequent arrests in the same state would not be sent to the FBI; rather they would be identified at the state level and used for updating the state's record.

The FBI and participating state agencies developed the III decentralization program over ten years through a series of several test phases. The test phases measured the operational, technical, fiscal, managerial, and political aspects of decentralizing criminal records to state agencies.

Following the positive review of the test results, the United States Attorney General approved the compact proposal as the base document for ratification by the Congress and state legislators. On Oct 10, 1998 President Clinton signed into law the National Crime Prevention and Privacy Compact Act.

This Compact was effective on April 28, 1999, when ratified by two states. The Compact serves as the final critical element toward complete decentralization of criminal history records.

Under the Compact, the FBI and states agree to maintain detailed databases of their respective criminal history records, including arrests and dispositions and to make them available to parties of the Compact for authorized noncriminal justice purposes. The FBI manages the federal data facilities that provide a significant part of the infrastructure of the system.

#### Advantages of Compact Ratification

Part of the education process for today is to outline the advantages envisioned under the concept of the Compact. The major advantages are thought to be two fold - cost avoidance and improved data content and quality.

First, the enactment of the Compact and subsequent participation in the National Fingerprint File provides a tremendous potential for significant cost avoidance by both the FBI and states ratifying the Compact. At the state level, savings result from a more streamlined record entry process. By not forwarding second and subsequent arrest data, disposition or custodial data for arrest events, the Maryland central repository housed at the Department of Public Safety will experience a labor reduction.

This has translated historically into substantial financial benefits. In calendar year 2004, on average, 73% of the criminal workload from participating states was not forwarded to the FBI. This equates to almost 1.6 million subsequent arrest events from the seven National Fingerprint File participating states.

The second advantage is improved criminal history record content and quality. Decentralization of the national records system is intended to streamline the record entry process and reduce potential for error. Additionally, since dispositions are often not provided to the FBI, records maintained by the FBI may be incomplete; the probability that disposition information will be included in state records is much greater. A decentralized records system will facilitate more timely entry of state and local arrest and disposition information, thus providing more comprehensive records from participating states than is currently received from the FBI.

There is no increase in the applicant background checks to states based on the passage of the Compact. Enacting Compact legislation does not change the type or amount of approved Public Law 92-544 Maryland statutes which authorizes a national background check. The Compact does not circumvent state legislative authority to enact statutes which authorizes national background checks for applicants. For example, if Maryland requires through statutory enactment, that the transportation industry have a national background check prior to employment, the same process continues once the Compact is ratified. If however, the Maryland legislature requires only a Maryland state records check for its school teachers, the Compact does not require or enable a national background check.

Adoption of the Compact allows Maryland to share a subject's record in its entirety with the FBI and other compact states once a positive fingerprint identification has been made. In case example, Colorado, a Compact state, has a statute mandating a national background check for applicant Real Estate Brokers. As a Compact state, Maryland would be required to release its criminal record if the Colorado applicant was identified as a subject with an arrest(s) from Maryland.

However, Maryland is not required to screen, redact or track down additional disposition data for the receiving state. It is the responsibility of the receiving state to apply its own policy on record redaction prior to record dissemination.

The Compact also does not require Maryland to disseminate its records on a intrastate basis differently than it does today. Intrastate dissemination will still be based on Maryland or Executive Order. If it so chooses, Maryland may not release state arrests without dispositions to Maryland users.

In closing, I would like to thank you for the opportunity to comment. I would be glad to address any questions you or your staff may have at this time.

Respectfully submitted by Todd C. Commodore, FBI Compact Officer,  
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