

Frequently Asked Questions Regarding the National Crime Prevention and Privacy Compact Act of 1998



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National Crime Prevention and Privacy Compact (Compact)

What is the Compact?



On October 9, 1998, President Clinton signed into law the National Crime Prevention and Privacy Compact Act of 1998 (Compact) United States Code, (U.S.C.) Title 42, Chapter 140, Subchapter II, Sections 14611-14616.¹ The Compact facilitates electronic information sharing among the Federal Government and the states and permits the exchange of criminal history records for noncriminal justice purposes when authorized by federal or state law.

When did the Compact become effective?

The Compact became effective on April 28, 1999, when it was ratified by two states: Montana - March 31, 1999 and Georgia - April 28, 1999.

Why was the Compact needed?

It was determined in the late 1970's that state criminal history records were more accurate and complete than records maintained by the FBI, in that the states may have additional arrest and disposition information from state files such as District Attorney records and court records. Because states had varying statutes or policies that restricted the dissemination of records for noncriminal justice purposes, it was determined a federal law, or Compact, was necessary to facilitate interstate criminal record dissemination authority. For this reason, the landmark legislation was signed. This legislation continued the movement toward decentralization of criminal history record information (CHRI) that began in 1978 with the Interstate Identification Index (III) Project. The Compact provides the legal framework for the noncriminal justice use of the III System and facilitates complete decentralization of criminal history records.

What are the benefits of ratifying the Compact to the noncriminal justice community?

Compact ratification benefits the noncriminal justice community as it assures that the most complete and accurate CHRI is made available for licensing and employment purposes on an interstate basis.

¹See Appendix A for a copy of 42 U.S.C., Chapter 140, §14611-14616.

Why is it advantageous to the Federal government for states to ratify the Compact?

Compact ratification provides the legal framework for the establishment of a cooperative Federal-State system for the interstate exchange of criminal history records for noncriminal justice uses. Federal agencies conducting background checks for employment and licensing purposes benefit from receipt of the most complete and accurate CHRI available.

How does ratifying the Compact benefit the United States?

Compact ratification provides for the availability and use of the most complete and accurate CHRI on an interstate basis. The Compact requires the establishment of positive identification to obtain CHRI for a background check for employment and licensing. This positive identification requirement guards against the use of fraudulent identity documents by an individual attempting to conceal a criminal past.

Why should my state ratify the Compact?

The Compact provides a signatory state the legal authority to share its CHRI on an interstate basis as it supersedes any conflicting state laws that may prohibit the exchange of CHRI on interstate basis for noncriminal justice purposes.

Compact ratification ensures that authorized state agencies continue to receive the out-of-state records needed to screen state employees and licensees, as well as other authorized noncriminal justice purposes. In addition, federal agencies will continue to receive state criminal records needed to screen persons for employment in sensitive positions and for other authorized purposes.

Following are five specific benefits of Compact ratification:

- (1) **Provides Compact signatories a uniform criminal history record dissemination standard** - The Compact provides the legal framework for the noncriminal justice use of the III System and facilitates complete decentralization of criminal history records.
- (2) **Provides Compact signatories a role in setting III System policy** - Compact states have the assurance of a policy voice sufficient to protect states' interests in the evolution of the III System. Since the criminal history records available through the III System are predominantly state-maintained records, the Compact states assure that the use of these records will be consistent with state concerns in areas such as privacy, system security, and data quality. Compact signatory states' representatives are encouraged to actively participate in National Crime Prevention and Privacy Compact Council (Compact Council) meetings.

(3) Provides Compact signatories the authority to determine what CHRI is disseminated within its borders for noncriminal justice purposes - A Compact state will continue to apply its own in-state dissemination laws to in-state use of its own records, and will screen out-of-state records received through the III System pursuant to the state's own laws.

(4) Provides Compact signatories (after National Fingerprint File (NFF) implementation) the assurance of complete and accurate CHRI - There will be an increase in the completeness of records made available on an interstate basis for both criminal justice and noncriminal justice purposes. This is beneficial since records maintained at the state repositories commonly contain additional arrest and disposition information that is not in the FBI's files. Also, many states maintain records not maintained by the FBI.

(5) Provided NFF participants decreased operational expenses - Duplicate maintenance of criminal history records by the states and the FBI, and attendant costs, will be eliminated. The states will be relieved of the burden and cost of submitting all arrest fingerprints and charge/disposition data for state-maintained records to the FBI. Instead, the states will generally submit to the FBI only fingerprints and textual identification data for each person's first arrest within the state, which will update the FBI's index and the NFF.

How does a state enact the Compact?

By enacting state legislation. Some states have enacted the Compact verbatim as a stand alone bill. Others states have enacted the Compact via a line item within a larger bill or amending current statutes to include the Compact by reference.² The enactment of the Compact generally requires a governor's signature.

How many states or territories have ratified the Compact?

As of November 1, 2009, 28 states have ratified the Compact. The Compact signatories are Alaska, Arkansas, Arizona, Connecticut, Colorado, Florida, Georgia, Hawaii, Idaho, Iowa, Kansas, Maine, Maryland, Michigan, Minnesota, Missouri, Montana, Nevada, New Hampshire, New Jersey, North Carolina, Ohio, Oklahoma, Oregon, South Carolina, Tennessee, West Virginia, and Wyoming.

²See Appendix B for copies of sample legislation.

Are there any technical requirements that a state criminal history record repository must program in its state system when it becomes a Compact signatory?

Yes. Upon ratification of the Compact, a state criminal history record repository must program its system to respond to all III System purpose code record requests.

Does ratifying the Compact enable a state to become an NFF participant?

Yes, only Compact signatories may join the NFF Program.

Does ratifying the Compact increase the number of background checks that a state must conduct?

No. The Compact does not circumvent state legislative authority to enact statutes which authorize national background checks for noncriminal justice purposes. Compact ratification does not increase in the number of applicant background checks that a state must conduct. Enacting Compact legislation does not change the type or number of Attorney General approved Public Law 92-544³ state statutes which authorize a national background check.

Is a specific industry (e.g., school teachers, day care providers) authorized to submit criminal history record checks directly to the FBI?

No. A national criminal history record check of an individual applying for a teaching position, when authorized by state statute, must be processed through the state's criminal history record repository.⁴

Does the Compact require the submission of fingerprints in order to obtain a criminal history record for a noncriminal justice related background check?

Yes. A subject's fingerprints or other approved forms of positive identification shall be submitted with all requests for criminal history records checks for noncriminal justice purposes.

³Public Law 92-544 provided that state and local governmental agencies may exchange CHRI for purposes of employment and licensing if authorized by a state statute approved by the Attorney General and that the FBI may exchange CHRI with officials of federally chartered banking institutions to promote or maintain the security of those institutions.

⁴See Appendix A for 42 U.S.C., Chapter 140, §14616, Article V.

What does the term positive identification mean?

The term positive identification means a determination of a subject's identity based upon the comparison of fingerprints or other equally reliable biometric identification techniques, such as an iris scan or facial recognition. Identifications based solely upon a comparison of subject's names or other non-unique identification characteristics or numbers, or combinations thereof, shall not constitute positive identification. A name check, for example, does not constitute positive identification.

What are the accepted forms of positive identification?

The two forms of currently accepted positive identification for noncriminal justice record requests are 10 rolled fingerprints and 10 flat fingerprints.⁵

Does ratifying the Compact affect the way a state disseminates records within its borders?

No. The Compact does not require a signatory state to disseminate its records on an intrastate basis differently than it currently does. Intrastate dissemination is based on the signatory state's legislation or executive orders.

Does ratifying the Compact affect state gun laws?

No. Nothing in the Compact interferes in any manner with access, direct or otherwise, to records pursuant with the Brady Handgun Violence Prevention Act.⁶

Are there any other pertinent federal laws that are not affected by ratifying the Compact?

Yes. According to the Compact, the following federal laws are **not** affected: The Privacy Act of 1974; Title 5, United States Code, Section 9101 (the Security Clearance Information Act); The National Child Protection Act; the Violent Crime Control and Law Enforcement Act of 1994; the United States Housing Act of 1937; the Native American Housing Assistance and Self-Determination Act of 1996; or any direct access to federal criminal history records authorized by law.⁷

Does ratifying the Compact authorize a national background check?

No. If a state has enacted a statutory requirement to conduct a **national** background check for specific industry, the same process continues after Compact

⁵ See Appendix C for the published *Federal Register* notice.

⁶ See Appendix A for 42 U.S.C., Chapter 140, §14614.

⁷ See Appendix A for 42 U.S.C., Chapter 140, §14614.

ratification. Likewise, if a signatory state statute requires only a **state** records check, Compact ratification neither requires nor enables a national check.

The Compact Council

How is the Compact implemented - nationally and in my state or federal agency?



Each Compact signatory state appoints a State Compact Officer who is responsible for administering the Compact within that state and regulating the in-state use of records received by means of the III System for noncriminal justice purposes. The FBI appoints an FBI Compact Officer who is responsible for administering the Compact within the Department of Justice and other federal agencies. In addition, the Compact established a 15-member Council whose role is to monitor the operations of the III System and to prescribe system rules and procedures for the effective and proper operations of the III System for noncriminal justice purposes.

Who comprises the Council?

The Council is comprised of nine State Compact Officers, two at-large members nominated by the FBI Director, two at-large members nominated by the Compact Council Chair, one FBI representative, and one FBI Advisory Policy Board representative.

How often does the Council meet?

The Council meets in a public forum at least once a year at the call of the Chairman. A notice of each Council meeting is published in the *Federal Register* at least 30 days prior to the meeting.⁸

Where can I find more information regarding the Compact, the Council, and its current initiatives?

For more information regarding the Compact, the Council, and its initiatives, please visit the Council's Web site at www.fbi.gov/hq/cjisd/web%20page/cc.htm. Additional information may be located on the National Consortium for Justice Information and Statistics Web site at www.search.org.

Does the Council have the authority to promulgate rules?

The Council has the authority to promulgate rules and procedures governing the

⁸See Appendix D for the Council's Bylaws Section 8.0.

use of the III System for noncriminal justice purposes, not to conflict with the FBI administration of the III System for criminal justice purposes .⁹

Is there an interim step a state can take prior to enacting Compact legislation?

Yes. A state may enter into a Memorandum of Understanding (MOU) with the Council, thus indicating the state's support of the Compact and Council rules, procedures and policies relating to the noncriminal justice use of the III System information.

What are the differences between signing the MOU and ratifying the Compact?

An MOU signatory state agrees to voluntarily abide by the Compact and Council's rules, procedures, and policies regarding the noncriminal justice use of III System information without actually ratifying Compact legislation.

What is the benefit of signing the MOU?

The approval process of signing the MOU is quicker than the process of ratifying the Compact. An MOU signatory can support all III System purpose codes to exchange CHRI in the same manner as Compact signatories.

What is the disadvantage of signing the MOU?

An MOU signatory state does not have a voice in the Council process and may not fully implement the Compact until ratification.

If a state or territory becomes an MOU signatory state, is there a requirement that it must become an NFF Program participant?

No. Only a state or territory that has ratified the Compact is required to become an NFF Program participant.

If a state or territory becomes an MOU signatory state, must it ratify the Compact within two years?

No. While signing the MOU with the Council is often seen as a precursor to Compact ratification, there is no specific time-frame requirement for an MOU signatory state or territory to ratify the Compact.

How many non-signatory states or territories have executed the MOU?

As of November 1, 2009, 12 states and territories have executed the MOU including: American Samoa, Guam, Illinois, Kentucky, Mississippi, Nebraska, New Mexico,

⁹See Appendix A for 42 U.S.C., Chapter 140, §14616, Article VI.

North Dakota, Puerto Rico, South Dakota, Vermont, and Virginia.¹⁰

Where can I find a sample copy of the MOU with the Compact Council?

A blank copy of the MOU is attached as Appendix E and may also be found on the Council's Web site.

Who should a state contact if it is interested in seeking guidance on ratifying the Compact or executing the MOU?

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Compact Council Chairman
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¹⁰Hawaii and Missouri were MOU signatories prior to enacting the Compact.

Interstate Identification Index (III) System



What is the III System?

The III System is an index pointer system that ties computerized criminal history record files of the FBI and the centralized files maintained by each III participating state into a national system. This system serves as the vehicle for data sharing and integration across the country. The final phase of III implementation is decentralization, whereby the FBI compiles a national criminal history record from participating state records.

What are the three steps to decentralization of records?

(1) States participate in the III

The state's centralized criminal history record repository agrees to make its III indexed records available in response to requests from federal and out-of-state criminal justice agencies for criminal justice purposes. The FBI maintains a duplicate record to meet the needs of federal, state, and local noncriminal justice agencies and private entities that use III information for authorized noncriminal justice purposes.

(2) States ratify the Compact

States must make all unsealed CHRI available in response to authorized noncriminal justice requests. The Compact, when signed by a state or territory, supersedes any conflicting state laws, and thus allows for uniform criminal history record dissemination among states, while ensuring that each state will participate in the NFF Program.

(3) Compact States participate in the NFF Program

The NFF concept places the management and responsibility for the effective control, collection, maintenance, and dissemination of state criminal record files solely with the state. The NFF states respond to record requests for all authorized purposes, and the FBI ceases to maintain duplicate criminal records.

Is a Compact signatory state or territory required to respond to all purpose codes for criminal history record requests?

Yes. Compact signatory states are responsible for providing the state's III-indexed criminal history records for noncriminal justice purposes. This would include Purpose Code D - Domestic Violence/Stalking, Purpose Code I - noncriminal justice employment and licensing, and Purpose Code X - exigent

circumstances.¹¹

National Fingerprint File (NFF) Program

What is the NFF Program?

The NFF is a database of fingerprints, or other uniquely personal identification information relating to an arrested or charged individual, which is maintained by the FBI to provide positive identification of record subjects indexed in the III System.

NFF participation is the final stage of III implementation and the decentralization of criminal history records. A state becomes the sole maintainer and provider of its criminal history records.

Is a Compact signatory state required to immediately join the NFF program?

No. A Compact state is required to join the NFF program, however there is no specific time-frame.

Is there a requirement that a state must first join the NFF program in order for the State Compact Officer to become a member of the Council?

No. Any State Compact Officer may run for an open state representative position on the Council.

If a state or territory becomes an MOU signatory state, is there a requirement that it must become an NFF program participant?

No. Only a state or territory that has ratified the Compact may become an NFF Program participant.

Do guidelines exist for NFF participation?

Yes. The Council developed, in cooperation with the FBI CJIS Division's Advisory Policy Board, the NFF Qualification Requirements for all states and the FBI.¹²

Is an NFF program participant required to take control of all its criminal history records at the national level?

No. However, in order for an NFF program participant to realize the full benefits of being a program participant, the state should take control of all state criminal history records it can support. When a state controls the majority of the criminal

¹¹See Appendix A for 42 U.S.C., Chapter 140, §14616, Article III.

¹²See Appendix F for the published *Federal Register* notice.

history records, this eliminates the need for the state to submit supporting documents to the FBI such as subsequent arrests, expungement requests, disposition reports, and death notices.

Are there any new III technical requirements for NFF participation?

Yes. A state must program for the receipt of two new III System unsolicited messages. The messages include the \$.A.Previously Established Single Source (PES) message and \$.A.Previously Established Multi-Source (PEM) message. The state must program to submit one new III message, the Criminal Print Ident (CPI) message key.

Are there any new Integrated Automated Fingerprint Identification System (IAFIS) technical requirements for NFF participation?

Yes. A state must program for the submission of one new Integrated Automated Fingerprint Identification System Type of Transaction (STOT), the Fingerprint Image Submission (FIS) STOT.

Can an NFF state seal an entire criminal history record for an authorized purpose?

Yes. A state statute may authorize that an NFF state's entire criminal history record cannot be disseminated for a specific purpose(s). The III System contains a feature that sets flags in the III System that indicate that the state's criminal history record is sealed, thus only providing the criminal history record to authorized agencies for authorized purposes.

Are NFF states audited?

Once a state becomes an NFF participant, the CJIS Audit Unit's (CAU's) staff performs an NFF audit during the regular triennial IAFIS audit. The CAU compares the state's NFF performance to the State NFF Qualification Requirements. The CAU staff and the Council's Sanctions Committee consider the first NFF audit as an information sharing, educational assessment, that is designed to assist the NFF state in meeting the State NFF Qualification Requirements.

Who can a state contact to get more information about the NFF Program?

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**FREQUENTLY ASKED QUESTIONS REGARDING THE NATIONAL CRIME
PREVENTION AND PRIVACY COMPACT ACT OF 1998**

APPENDICES A through F

Appendix

- A** NATIONAL CRIME PREVENTION AND PRIVACY COMPACT OF 1998
UNITED STATES CODE, TITLE 42, CHAPTER 140, SUBCHAPTER II,
SECTIONS 14611-14616
- B** SAMPLE COPIES OF COMPACT LEGISLATION
- C** NOTICE OF TWO ACCEPTED METHODS FOR DETERMINING POSITIVE
IDENTIFICATION FOR EXCHANGING CRIMINAL HISTORY RECORD
INFORMATION FOR NONCRIMINAL JUSTICE PURPOSES
- D** NATIONAL CRIME PREVENTION AND PRIVACY COMPACT
COUNCIL BYLAWS
- E** MEMORANDUM OF UNDERSTANDING
- F** NATIONAL FINGERPRINT FILE REQUIREMENTS

APPENDIX A

NATIONAL CRIME PREVENTION AND PRIVACY COMPACT ACT OF 1998

UNITED STATES CODE, TITLE 42, CHAPTER 140

SUBCHAPTER II, SECTIONS §14611 - §14616

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UNITED STATES CODE ANNOTATED
TITLE 42. THE PUBLIC HEALTH AND WELFARE
CHAPTER 140--CRIMINAL JUSTICE IDENTIFICATION, INFORMATION, AND
COMMUNICATION
SUBCHAPTER II--EXCHANGE OF CRIMINAL HISTORY RECORDS FOR
NONCRIMINAL JUSTICE
PURPOSES

§ 14611. Findings

Congress finds that--

(1) both the Federal Bureau of Investigation and State criminal history record repositories maintain fingerprint-based criminal history records;

(2) these criminal history records are shared and exchanged for criminal justice purposes through a Federal-State program known as the Interstate Identification Index System;

(3) although these records are also exchanged for legally authorized, noncriminal justice uses, such as governmental licensing and employment background checks, the purposes for and procedures by which they are exchanged vary widely from State to State;

(4) an interstate and Federal-State compact is necessary to facilitate authorized interstate criminal history record exchanges for noncriminal justice purposes on a uniform basis, while permitting each State to effectuate its own dissemination policy within its own borders; and

(5) such a compact will allow Federal and State records to be provided expeditiously to governmental and nongovernmental agencies that use such records in accordance with pertinent Federal and State law, while simultaneously enhancing the accuracy of the records and safeguarding the information contained therein from unauthorized disclosure or use.

§ 14612. Definitions.

In this subchapter:

(1) Attorney general

The term "Attorney General" means the Attorney General of the United States.

(2) Compact

The term "Compact" means the National Crime Prevention and Privacy Compact set forth in section 14616 of this title.

(3) Council

The term "Council" means the Compact Council established under Article VI of the Compact.

(4) FBI

The term "FBI" means the Federal Bureau of Investigation.

(5) Party State

The term "Party State" means a State that has ratified the Compact.

(6) State

The term "State" means any State, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

§ 14613. Enactment and consent of the United States.

The National Crime Prevention and Privacy Compact, as set forth in section 14616 of this title, is enacted into law and entered into by the Federal Government. The consent of Congress is given to States to enter into the Compact.

§ 14614. Effect on other laws

(a) Privacy Act of 1974

Nothing in the Compact shall affect the obligations and responsibilities of the FBI under section 552a of Title 5 (commonly known as the "Privacy Act of 1974").

(b) Access to certain records not affected

Nothing in the Compact shall interfere in any manner with--

(1) access, direct or otherwise, to records pursuant to--

(A) section 9101 of title 5, United States Code;

(B) the National Child Protection Act [42 U.S.C.A. § 5119 et seq.];

(C) the Brady Handgun Violence Prevention Act (Public Law 103-159; 107 Stat. 1536);

(D) the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322; 108 Stat. 2074) or any amendment made by that Act;

(E) the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.); or

(F) the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.); or

(2) any direct access to Federal criminal history records authorized by law.

(c) Authority of FBI under Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1973

Nothing in the Compact shall be construed to affect the authority of the FBI under the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1973 (Public Law 92-544 (86 Stat. 1115)).

(d) Federal Advisory Committee Act

The Council shall not be considered to be a Federal advisory committee for purposes of the Federal Advisory Committee Act (5 U.S.C. App.).

(e) Members of Council not Federal officers or employees

Members of the Council (other than a member from the FBI or any at-large member who may be a Federal official or employee) shall not, by virtue of such membership, be deemed--

(1) to be, for any purpose other than to effect the Compact, officers or employees of the United States (as defined in sections 2104 and 2105 of Title 5); or

(2) to become entitled by reason of Council membership to any compensation or benefit payable or made available by the Federal Government to its officers or employees.

§ 14615. Enforcement and implementation

All departments, agencies, officers, and employees of the United States shall enforce the Compact and cooperate with one another and with all Party States in enforcing the Compact and effectuating its purposes. For the Federal Government, the Attorney General shall make such rules, prescribe such instructions, and take such other actions as may be necessary to carry out the Compact and this subchapter.

§ 14616. National Crime Prevention and Privacy Compact

The Contracting Parties agree to the following:

OVERVIEW

(a) In general

This Compact organizes an electronic information sharing system among the Federal Government and the States to exchange criminal history records for noncriminal justice purposes authorized by Federal or State law, such as background checks for governmental licensing and employment.

(b) Obligations of parties

Under this Compact, the FBI and the Party States agree to maintain detailed databases of their respective criminal history records, including arrests and dispositions, and to make them available to the Federal Government and to Party States for authorized purposes. The FBI shall also manage the Federal data facilities that provide a significant part of the infrastructure for the system.

ARTICLE I--DEFINITIONS

In this Compact:

(1) Attorney General

The term "Attorney General" means the Attorney General of the United States.

(2) Compact officer

The term "Compact officer" means--

(A) with respect to the Federal Government, an official so designated by the Director of the FBI; and

(B) with respect to a Party State, the chief administrator of the State's criminal history record repository or a designee of the chief administrator who is a regular full-time employee of the repository.

(3) Council

The term "Council" means the Compact Council established under Article VI.

(4) Criminal history records

The term "criminal history records"--

(A) means information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, or other formal criminal

charges, and any disposition arising therefrom, including acquittal, sentencing, correctional supervision, or release; and

(B) does not include identification information such as fingerprint records if such information does not indicate involvement of the individual with the criminal justice system.

(5) Criminal history record repository

The term "criminal history record repository" means the State agency designated by the Governor or other appropriate executive official or the legislature of a State to perform centralized recordkeeping functions for criminal history records and services in the State.

(6) Criminal justice

The term "criminal justice" includes activities relating to the detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. The administration of criminal justice includes criminal identification activities and the collection, storage, and dissemination of criminal history records.

(7) Criminal justice agency

The term "criminal justice agency"--

(A) means--

(i) courts; and

(ii) a governmental agency or any subunit thereof that--

(I) performs the administration of criminal justice pursuant to a statute or Executive order; and

(II) allocates a substantial part of its annual budget to the administration of criminal justice; and

(B) includes Federal and State inspectors general offices.

(8) Criminal justice services

The term "criminal justice services" means services provided by the FBI to criminal justice agencies in response to a request for information about a particular individual or as an update to information previously provided for criminal justice purposes.

(9) Criterion offense

The term "criterion offense" means any felony or misdemeanor offense not included on the list of nonserious offenses published periodically by the FBI.

(10) Direct access

The term "direct access" means access to the National Identification Index by computer terminal or other automated means not requiring the assistance of or intervention by any other party or agency.

(11) Executive order

The term "Executive order" means an order of the President of the United States or the chief executive officer of a State that has the force of law and that is promulgated in accordance with applicable law.

(12) FBI

The term "FBI" means the Federal Bureau of Investigation.

(13) Interstate Identification System [FN1]

The term "Interstate Identification Index System" or "III System"--

(A) means the cooperative Federal-State system for the exchange of criminal history records; and

(B) includes the National Identification Index, the National Fingerprint File and, to the extent of their participation in such system, the criminal history record repositories of the States and the FBI.

(14) National Fingerprint File

The term "National Fingerprint File" means a database of fingerprints, or other uniquely personal identifying information, relating to an arrested or charged individual maintained by the FBI to provide positive identification of record subjects indexed in the III System.

(15) National Identification Index

The term "National Identification Index" means an index maintained by the FBI consisting of names, identifying numbers, and other descriptive information relating to record subjects about whom there are criminal history records in the III System.

(16) National indices

The term "National indices" means the National Identification Index and the National Fingerprint File.

(17) Nonparty State

The term "Nonparty State" means a State that has not ratified this Compact.

(18) Noncriminal justice purposes

The term "noncriminal justice purposes" means uses of criminal history records for purposes authorized by Federal or State law other than purposes relating to criminal justice activities, including employment suitability, licensing determinations, immigration and naturalization matters, and national security clearances.

(19) Party State

The term "Party State" means a State that has ratified this Compact.

(20) Positive identification

The term "positive identification" means a determination, based upon a comparison of fingerprints or other equally reliable biometric identification techniques, that the subject of a record search is the same person as the subject of a criminal history record or records indexed in the III System. Identifications based solely upon a comparison of subjects' names or other nonunique identification characteristics or numbers, or combinations thereof, shall not constitute positive identification.

(21) Sealed record information

The term "sealed record information" means--

(A) with respect to adults, that portion of a record that is--

(i) not available for criminal justice uses;

(ii) not supported by fingerprints or other accepted means of positive identification; or

(iii) subject to restrictions on dissemination for noncriminal justice purposes pursuant to a court order related to a particular subject or pursuant to a Federal or State statute that requires action on a sealing petition filed by a particular record subject; and

(B) with respect to juveniles, whatever each State determines is a sealed record under its own law and procedure.

(22) State

The term "State" means any State, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

ARTICLE II--PURPOSES

The purposes of this Compact are to--

- (1) provide a legal framework for the establishment of a cooperative Federal- State system for the interstate and Federal-State exchange of criminal history records for noncriminal justice uses;
- (2) require the FBI to permit use of the National Identification Index and the National Fingerprint File by each Party State, and to provide, in a timely fashion, Federal and State criminal history records to requesting States, in accordance with the terms of this Compact and with rules, procedures, and standards established by the Council under Article VI;
- (3) require Party States to provide information and records for the National Identification Index and the National Fingerprint File and to provide criminal history records, in a timely fashion, to criminal history record repositories of other States and the Federal Government for noncriminal justice purposes, in accordance with the terms of this Compact and with rules, procedures, and standards established by the Council under Article VI;
- (4) provide for the establishment of a Council to monitor III System operations and to prescribe system rules and procedures for the effective and proper operation of the III System for noncriminal justice purposes; and
- (5) require the FBI and each Party State to adhere to III System standards concerning record dissemination and use, response times, system security, data quality, and other duly established standards, including those that enhance the accuracy and privacy of such records.

ARTICLE III--RESPONSIBILITIES OF COMPACT PARTIES

(a) FBI responsibilities

The Director of the FBI shall--

- (1) appoint an FBI Compact officer who shall--
 - (A) administer this Compact within the Department of Justice and among Federal agencies and other agencies and organizations that submit search requests to the FBI pursuant to Article V(c);
 - (B) ensure that Compact provisions and rules, procedures, and standards prescribed by the Council under Article VI are complied with by the Department of Justice and the Federal agencies and other agencies and organizations referred to in Article III(1)(A); and
 - (C) regulate the use of records received by means of the III System from Party States when such records are supplied by the FBI directly to other Federal agencies;

(2) provide to Federal agencies and to State criminal history record repositories, criminal history records maintained in its database for the noncriminal justice purposes described in Article IV, including--

(A) information from Nonparty States; and

(B) information from Party States that is available from the FBI through the III System, but is not available from the Party State through the III System;

(3) provide a telecommunications network and maintain centralized facilities for the exchange of criminal history records for both criminal justice purposes and the noncriminal justice purposes described in Article IV, and ensure that the exchange of such records for criminal justice purposes has priority over exchange for noncriminal justice purposes; and

(4) modify or enter into user agreements with Nonparty State criminal history record repositories to require them to establish record request procedures conforming to those prescribed in Article V.

(b) State responsibilities

Each Party State shall--

(1) appoint a Compact officer who shall--

(A) administer this Compact within that State;

(B) ensure that Compact provisions and rules, procedures, and standards established by the Council under Article VI are complied with in the State; and

(C) regulate the in-State use of records received by means of the III System from the FBI or from other Party States;

(2) establish and maintain a criminal history record repository, which shall provide--

(A) information and records for the National Identification Index and the National Fingerprint File; and

(B) the State's III System-indexed criminal history records for noncriminal justice purposes described in Article IV;

(3) participate in the National Fingerprint File; and

(4) provide and maintain telecommunications links and related equipment necessary to support the services set forth in this Compact.

(c) Compliance with III System standards

In carrying out their responsibilities under this Compact, the FBI and each Party State shall comply with III System rules, procedures, and standards duly established by the Council concerning record dissemination and use, response times, data quality, system security, accuracy, privacy protection, and other aspects of III System operation.

(d) Maintenance of record services

(1) Use of the III System for noncriminal justice purposes authorized in this Compact shall be managed so as not to diminish the level of services provided in support of criminal justice purposes.

(2) Administration of Compact provisions shall not reduce the level of service available to authorized noncriminal justice users on the effective date of this Compact.

ARTICLE IV--AUTHORIZED RECORD DISCLOSURES

(a) State criminal history record repositories

To the extent authorized by section 552a of Title 5, (commonly known as the "Privacy Act of 1974"), the FBI shall provide on request criminal history records (excluding sealed records) to State criminal history record repositories for noncriminal justice purposes allowed by Federal statute, Federal Executive order, or a State statute that has been approved by the Attorney General and that authorizes national indices checks.

(b) Criminal justice agencies and other governmental or nongovernmental agencies

The FBI, to the extent authorized by section 552a of Title 5, (commonly known as the "Privacy Act of 1974"), and State criminal history record repositories shall provide criminal history records (excluding sealed records) to criminal justice agencies and other governmental or nongovernmental agencies for noncriminal justice purposes allowed by Federal statute, Federal Executive order, or a State statute that has been approved by the Attorney General, that authorizes national indices checks.

(c) Procedures

Any record obtained under this Compact may be used only for the official purposes for which the record was requested. Each Compact officer shall establish procedures, consistent with this Compact, and with rules, procedures, and standards established by the Council under Article VI, which procedures shall protect the accuracy and privacy of the records, and shall--

(1) ensure that records obtained under this Compact are used only by authorized officials for authorized purposes;

(2) require that subsequent record checks are requested to obtain current information whenever a new need arises; and

(3) ensure that record entries that may not legally be used for a particular noncriminal justice purpose are deleted from the response and, if no information authorized for release remains, an appropriate "no record" response is communicated to the requesting official.

ARTICLE V--RECORD REQUEST PROCEDURES

(a) Positive identification

Subject fingerprints or other approved forms of positive identification shall be submitted with all requests for criminal history record checks for noncriminal justice purposes.

(b) Submission of State requests

Each request for a criminal history record check utilizing the national indices made under any approved State statute shall be submitted through that State's criminal history record repository. A State criminal history record repository shall process an interstate request for noncriminal justice purposes through the national indices only if such request is transmitted through another State criminal history record repository or the FBI.

(c) Submission of Federal requests

Each request for criminal history record checks utilizing the national indices made under Federal authority shall be submitted through the FBI or, if the State criminal history record repository consents to process fingerprint submissions, through the criminal history record repository in the State in which such request originated. Direct access to the National Identification Index by entities other than the FBI and State criminal history records repositories shall not be permitted for noncriminal justice purposes.

(d) Fees

A State criminal history record repository or the FBI--

(1) may charge a fee, in accordance with applicable law, for handling a request involving fingerprint processing for noncriminal justice purposes; and

(2) may not charge a fee for providing criminal history records in response to an electronic request for a record that does not involve a request to process fingerprints.

(e) Additional search

(1) If a State criminal history record repository cannot positively identify the subject of a record request made for noncriminal justice purposes, the request, together with fingerprints or other approved identifying information, shall be forwarded to the FBI for a search of the national indices.

(2) If, with respect to a request forwarded by a State criminal history record repository under paragraph (1), the FBI positively identifies the subject as having a III System-indexed record or records--

(A) the FBI shall so advise the State criminal history record repository; and

(B) the State criminal history record repository shall be entitled to obtain the additional criminal history record information from the FBI or other State criminal history record repositories.

ARTICLE VI--ESTABLISHMENT OF COMPACT COUNCIL

(a) Establishment

(1) In general

There is established a council to be known as the "Compact Council", which shall have the authority to promulgate rules and procedures governing the use of the III System for noncriminal justice purposes, not to conflict with FBI administration of the III System for criminal justice purposes.

(2) Organization

The Council shall--

(A) continue in existence as long as this Compact remains in effect;

(B) be located, for administrative purposes, within the FBI; and

(C) be organized and hold its first meeting as soon as practicable after the effective date of this Compact.

(b) Membership

The Council shall be composed of 15 members, each of whom shall be appointed by the Attorney General, as follows:

(1) Nine members, each of whom shall serve a 2-year term, who shall be selected from among the Compact officers of Party States based on the recommendation of the Compact officers of all Party States, except that, in the absence of the requisite number of Compact officers available to serve, the chief administrators of the criminal history record repositories of Nonparty States shall be eligible to serve on an interim basis.

(2) Two at-large members, nominated by the Director of the FBI, each of whom shall serve a 3-year term, of whom--

(A) 1 shall be a representative of the criminal justice agencies of the Federal Government and may not be an employee of the FBI; and

(B) 1 shall be a representative of the noncriminal justice agencies of the Federal Government.

(3) Two at-large members, nominated by the Chairman of the Council, once the Chairman is elected pursuant to Article VI(c), each of whom shall serve a 3- year term, of whom--

(A) 1 shall be a representative of State or local criminal justice agencies; and

(B) 1 shall be a representative of State or local noncriminal justice agencies.

(4) One member, who shall serve a 3-year term, and who shall simultaneously be a member of the FBI's advisory policy board on criminal justice information services, nominated by the membership of that policy board.

(5) One member, nominated by the Director of the FBI, who shall serve a 3- year term, and who shall be an employee of the FBI.

(c) Chairman and Vice Chairman

(1) In general

From its membership, the Council shall elect a Chairman and a Vice Chairman of the Council, respectively. Both the Chairman and Vice Chairman of the Council--

(A) shall be a Compact officer, unless there is no Compact officer on the Council who is willing to serve, in which case the Chairman may be an at- large member; and

(B) shall serve a 2-year term and may be reelected to only 1 additional 2- year term.

(2) Duties of Vice Chairman

The Vice Chairman of the Council shall serve as the Chairman of the Council in the absence of the Chairman.

(d) Meetings

(1) In general

The Council shall meet at least once each year at the call of the Chairman. Each meeting of the Council shall be open to the public. The Council shall provide prior public notice in the Federal Register of each meeting of the Council, including the matters to be addressed at such meeting.

(2) Quorum

A majority of the Council or any committee of the Council shall constitute a quorum of the Council or of such committee, respectively, for the conduct of business. A lesser number may meet to hold hearings, take testimony, or conduct any business not requiring a vote.

(e) Rules, procedures, and standards

The Council shall make available for public inspection and copying at the Council office within the FBI, and shall publish in the Federal Register, any rules, procedures, or standards established by the Council.

(f) Assistance from FBI

The Council may request from the FBI such reports, studies, statistics, or other information or materials as the Council determines to be necessary to enable the Council to perform its duties under this Compact. The FBI, to the extent authorized by law, may provide such assistance or information upon such a request.

(g) Committees

The Chairman may establish committees as necessary to carry out this Compact and may prescribe their membership, responsibilities, and duration.

ARTICLE VII--RATIFICATION OF COMPACT

This Compact shall take effect upon being entered into by 2 or more States as between those States and the Federal Government. Upon subsequent entering into this Compact by additional States, it shall become effective among those States and the Federal Government and each Party State that has previously ratified it. When ratified, this Compact shall have the full force and effect of law within the ratifying jurisdictions. The form of ratification shall be in accordance with the laws of the executing State.

ARTICLE VIII--MISCELLANEOUS PROVISIONS

(a) Relation of Compact to certain FBI activities

Administration of this Compact shall not interfere with the management and control of the Director of the FBI over the FBI's collection and dissemination of criminal history records and the advisory function of the FBI's advisory policy board chartered under the Federal Advisory Committee Act (5 U.S.C. App.) for all purposes other than noncriminal justice.

(b) No authority for nonappropriated expenditures

Nothing in this Compact shall require the FBI to obligate or expend funds beyond those appropriated to the FBI.

(c) Relating to Public Law 92-544

Nothing in this Compact shall diminish or lessen the obligations, responsibilities, and authorities of any State, whether a Party State or a Nonparty State, or of any criminal history record repository or other subdivision or component thereof, under the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1973 (Public Law 92-544), or regulations and guidelines promulgated thereunder, including the rules and procedures promulgated by the Council under Article VI(a), regarding the use and dissemination of criminal history records and information.

ARTICLE IX--RENUNCIATION

(a) In general

This Compact shall bind each Party State until renounced by the Party State.

(b) Effect

Any renunciation of this Compact by a Party State shall--

(1) be effected in the same manner by which the Party State ratified this Compact; and

(2) become effective 180 days after written notice of renunciation is provided by the Party State to each other Party State and to the Federal Government.

ARTICLE X--SEVERABILITY

The provisions of this Compact shall be severable, and if any phrase, clause, sentence, or provision of this Compact is declared to be contrary to the constitution of any participating State, or to the Constitution of the United States, or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If a portion of this Compact is held contrary to the constitution of any Party State, all other portions of this Compact shall remain in full force and effect as to the remaining Party States and in full force and effect as to the Party State affected, as to all other provisions.

ARTICLE XI--ADJUDICATION OF DISPUTES

(a) In general

The Council shall--

(1) have initial authority to make determinations with respect to any dispute regarding--

(A) interpretation of this Compact;

(B) any rule or standard established by the Council pursuant to Article V; and

(C) any dispute or controversy between any parties to this Compact; and

(2) hold a hearing concerning any dispute described in paragraph (1) at a regularly scheduled meeting of the Council and only render a decision based upon a majority vote of the members of the Council. Such decision shall be published pursuant to the requirements of Article VI(e).

(b) Duties of FBI

The FBI shall exercise immediate and necessary action to preserve the integrity of the III System, maintain system policy and standards, protect the accuracy and privacy of records, and to prevent abuses, until the Council holds a hearing on such matters.

(c) Right of appeal

The FBI or a Party State may appeal any decision of the Council to the Attorney General, and thereafter may file suit in the appropriate district court of the United States, which shall have original jurisdiction of all cases or controversies arising under this Compact. Any suit arising under this Compact and initiated in a State court shall be removed to the appropriate district court of the United States in the manner provided by section 1446 of Title 28, or other statutory authority.

APPENDIX B

COPIES OF COMPACT LEGISLATION

FLORIDA

ENROLLED

1999 Legislature

HB 391, First Engrossed

1 943.0543 National Crime Prevention and Privacy
2 Compact; ratification and implementation.--
3 (1) In order to facilitate the authorized interstate
4 exchange of criminal history information for noncriminal
5 justice purposes, including, but not limited to, background
6 checks for the licensing and screening of employees and
7 volunteers under the National Child Protection Act of 1993, as
8 amended, and to implement the National Crime Prevention and
9 Privacy Compact, 42 U.S.C. s. 14616, the Legislature approves
10 and ratifies the compact. The executive director of the
11 Department of Law Enforcement shall execute the compact on
12 behalf of the state.
13 (2) The department is the repository of criminal
14 history records for purposes of the compact and shall do all
15 things necessary or incidental to carrying out the compact.
16 (3) The executive director of the department, or the
17 director's designee, is the state's compact officer and shall
18 administer the compact within the state. The department may
19 adopt rules and establish procedures for the cooperative
20 exchange of criminal history records between the state and
21 Federal Government for use in noncriminal justice cases.
22 (4) The state's ratification of the compact remains in
23 effect until legislation is enacted which specifically
24 renounces the compact.
25 (5) This compact and this section do not affect or
26 abridge the obligations and responsibilities of the department
27 under other provisions of this chapter, including s. 943.053,
28 and does not alter or amend the manner, direct or otherwise,
29 in which the public is afforded access to criminal history
30 records under state law.

31

6

CODING: words ~~stricken~~ are deletions; words underlined are additions

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H

1

HOUSE BILL 1024

Short Title: Criminal History Record Checks. (Public)
Sponsors: Representatives Goodwin; Farmer-Butterfield,
Goforth, Jones, and Parmon.
Referred to: Judiciary II.

April 10, 2003

A BILL TO BE ENTITLED
AN ACT ADOPTING THE NATIONAL CRIME PREVENTION AND PRIVACY
COMPACT FOR NORTH CAROLINA.

The General Assembly of North Carolina enacts:

SECTION 1. Article 4 of Chapter 114 of the
General Statutes is amended by:

- (1) Designating G.S. 114-12 through G.S. 114-19 as:
"Part 1. General Powers and Duties of the State Bureau of
Investigation.";
- (2) Designating G.S. 114-19.1 through G.S. 114-19.11 as:
"Part 2. Criminal History Record Checks.";
- (3) Designating G.S. 114-20 through G.S. 114-21 as:
"Part 3. Protection of Public Officials.";
- (4) Recodifying G.S. 114-21 as G.S. 114-12.1.

SECTION 2. Part 2 of Article 4 of Chapter 114 of
the General Statutes is amended by adding the following new
section to read:

"§ 114-19.20. The National Crime Prevention and Privacy
Compact.

The National Crime Prevention and Privacy Compact is
enacted into law and entered into with all jurisdictions legally
joining in the compact in the form substantially as set forth in
this section, as follows:

Preamble.

Whereas, it is in the interest of the State to facilitate
the dissemination of criminal history records from other states
for use in North Carolina as authorized by state law; and

Whereas, the National Crime Prevention and Privacy Compact
creates a legal framework for the cooperative exchange of
criminal history records for noncriminal justice purposes;
and

Whereas, the compact provides for the organization of an
electronic information-sharing system among the federal
government and the states to exchange criminal history records
for noncriminal justice purposes authorized by federal or state
law, such as background checks for governmental licensing and
employment; and

Whereas, under the compact, the FBI and the party states
agree to maintain detailed databases of their respective
criminal history records, including arrests and dispositions,
and to make them available to the federal government and party
states for authorized purposes; and

Whereas, the FBI shall manage the federal data facilities that provide a significant part of the infrastructure for the system; and

Whereas, entering into the compact would facilitate the interstate and federal-state exchange of criminal history information to streamline the processing of background checks for noncriminal justice purposes; and

Whereas, release and use of information obtained through the system for noncriminal justice purposes would be governed by the laws of the receiving state; and

Whereas, entering into the compact will provide a mechanism for establishing and enforcing uniform standards for record accuracy and for the confidentiality and privacy interests of record subjects.

Article I.

Definitions.

As used in this compact, the following definitions apply:

- (1) "Attorney General" means the Attorney General of the United States.
- (2) "Compact officer" means:
 - a. With respect to the federal government, an official so designated by the director of the FBI; and
 - b. With respect to a party state, the chief administrator of the state's criminal history record repository or a designee of the chief administrator who is a regular, full-time employee of the repository.
- (3) "Council" means the compact council established under Article VI.
- (4) "Criminal history record repository" means the State Bureau of Investigation's Division of Criminal Information.
- (5) "Criminal history records" means information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, or other formal criminal charges and any disposition arising therefrom, including acquittal, sentencing, correctional supervision or release. The term does not include identification information such as fingerprint records if the information does not indicate involvement of the individual with the criminal justice system.
- (6) "Criminal justice" includes activities relating to the detection, apprehension, detention, pretrial release, posttrial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. The administration of criminal justice includes criminal identification activities and the collection, storage, and dissemination of criminal history records.
- (7) "Criminal justice agency" means: (i) courts; and (ii) a governmental agency or any subunit of an agency that performs the administration of criminal justice pursuant to a statute or executive order and allocates a substantial part of its annual budget to the

administration of criminal justice. The term includes federal and state inspector general offices.

- (8) "Criminal justice services" means services provided by the FBI to criminal justice agencies in response to a request for information about a particular individual or as an update to information previously provided for criminal justice purposes.
- (9) "Direct access" means access to the national identification index by computer terminal or other automated means not requiring the assistance of or intervention by any other party or agency.
- (10) "Executive order" means an order of the President of the United States or the chief executive officer of a state that has the force of law and that is promulgated in accordance with applicable law.
- (11) "FBI" means the Federal Bureau of Investigation.
- (12) "III system" means the interstate identification index system, which is the cooperative federal-state system for the exchange of criminal history records. The term includes the national identification index, the national fingerprint file, and, to the extent of their participation in the system, the criminal history record repositories of the states and the FBI.
- (13) "National fingerprint file" means a database of fingerprints or of other uniquely personal identifying information that relates to an arrested or charged individual and that is maintained by the FBI to provide positive identification of record subjects indexed in the III system.
- (14) "National identification index" means an index maintained by the FBI consisting of names, identifying numbers, and other descriptive information relating to record subjects about whom there are criminal history records in the III system.
- (15) "National indices" means the national identification index and the national fingerprint file.
- (16) "Noncriminal justice purposes" means uses of criminal history records for purposes authorized by federal or state law other than purposes relating to criminal justice activities, including employment suitability, licensing determinations, immigration and naturalization matters, and national security clearances.
- (17) "Nonparty state" means a state that has not ratified this compact.
- (18) "Party state" means a state that has ratified this compact.
- (19) "Positive identification" means a determination, based upon a comparison of fingerprints or other equally reliable biometric identification techniques, that the subject of a

record search is the same person as the subject of a criminal history record or records indexed in the III system. Identifications based solely upon a comparison of subjects' names or other nonunique identification characteristics or numbers, or combinations thereof, does not constitute positive identification.

(20) "Sealed record information"

means:

a. With respect to adults, that portion of a record that is:

1. Not available for criminal justice uses;
2. Not supported by fingerprints or other accepted means of positive identification; or
3. Subject to restrictions on dissemination for noncriminal justice purposes pursuant to a court order related to a particular subject or pursuant to a federal or state statute that requires action on a sealing petition filed by a particular record subject; and

b. With respect to juveniles, whatever each state determines is a sealed record under its own law and procedure.

(21) "State" means any state, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

Article II.

Purposes.

The purposes of this compact are to:

- (1) Provide a legal framework for the establishment of a cooperative federal-state system for the interstate and federal-state exchange of criminal history records for noncriminal justice uses;
- (2) Require the FBI to permit use of the national identification index and the national fingerprint file by each party state and to provide, in a timely fashion, federal and state criminal history records to requesting states, in accordance with the terms of this compact and with rules, procedures, and standards established by the council under Article VI;
- (3) Require party states to provide information and records for the national identification index and the national fingerprint file and to provide criminal history records, in a timely fashion, to criminal history record repositories of other states and the federal government for noncriminal justice purposes, in accordance with the terms of this compact and with rules, procedures, and standards established by the council under Article VI;
- (4) Provide for the establishment of a council to monitor III system operations and to prescribe system rules and procedures for the effective and proper operation of the III system

- for noncriminal justice purposes; and
- (5) Require the FBI and each party state to adhere to III system standards concerning record dissemination and use, response times, system security, data quality, and other duly established standards, including those that enhance the accuracy and privacy of such records.

Article III.

Responsibilities of Compact Parties

- (a) The director of the FBI shall:
- (1) Appoint an FBI compact officer who shall:
- a. Administer this compact within the Department of Justice and among federal agencies and other agencies and organizations that submit search requests to the FBI pursuant to Article V(c);
- b. Ensure that compact provisions and rules, procedures, and standards prescribed by the council under Article VI are complied with by the Department of Justice and federal agencies and other agencies and organizations referred to in sub-subdivision (a)(1)a. of this Article III; and
- c. Regulate the use of records received by means of the III system from party states when such records are supplied by the FBI directly to other federal agencies;
- (2) Provide to federal agencies and to state criminal history record repositories criminal history records maintained in its database for the noncriminal justice purposes described in Article IV, including:
- a. Information from nonparty states; and
- b. Information from party states that is available from the FBI through the III system but is not available from the party states through the III system;
- (3) Provide a telecommunications network and maintain centralized facilities for the exchange of criminal history records for both criminal justice purposes and the noncriminal justice purposes described in Article IV and ensure that the exchange of records for criminal justice purposes has priority over exchange for noncriminal justice purposes; and
- (4) Modify or enter into user agreements with nonparty state criminal history record repositories to require them to establish record request procedures conforming to those prescribed in Article V.
- (b) Each party state shall:
- (1) Appoint a compact officer who shall:
- a. Administer this compact within that state;
- b. Ensure that compact provisions and rules, procedures, and standards established by the council under Article VI are complied

with in the state; and

c. Regulate the in-state use of records received by means of the III system from the FBI or from other party states;

(2) Establish and maintain a criminal history record repository, which shall provide:

a. Information and records for the national identification index and the national fingerprint file; and

b. The state's III system-indexed criminal history records for noncriminal justice purposes described in Article IV;

(3) Participate in the national fingerprint file; and

(4) Provide and maintain telecommunications links and related equipment necessary to support the criminal justice services set forth in this compact.

(c) In carrying out their responsibilities under this compact, the FBI and each party state shall comply with III system rules, procedures, and standards duly established by the council concerning record dissemination and use, response times, data quality, system security, accuracy, privacy protection, and other aspects of III system operation.

(d) Use of the III system for noncriminal justice purposes authorized in this compact must be managed so as not to diminish the level of services provided in support of criminal justice purposes. Administration of compact provisions may not reduce the level of service available to authorized noncriminal justice users on the effective date of this compact.

Article IV.

Authorized Record Disclosures.

(a) To the extent authorized by section 552a of Title 5, United States Code (commonly known as the Privacy Act of 1974), the FBI shall provide on request criminal history records, excluding sealed record information, to state criminal history record repositories for noncriminal justice purposes allowed by federal statute, federal executive order, or a state statute that has been approved by the Attorney General to ensure that the state statute explicitly authorizes national indices checks.

(b) The FBI, to the extent authorized by section 552a of Title 5, United States Code (commonly known as the Privacy Act of 1974), and state criminal history record repositories shall provide criminal history records, excluding sealed record information, to criminal justice agencies and other governmental or nongovernmental agencies for noncriminal justice purposes allowed by federal statute, federal executive order, or a state statute that has been approved by the Attorney General to ensure that the state statute explicitly authorizes national indices checks.

(c) Any record obtained under this compact may be used only for the official purposes for which the record was requested. Each compact officer shall establish procedures consistent with this compact and with rules, procedures, and standards established by the council under Article VI, which procedures shall protect the accuracy and privacy of the records and shall:

(1) Ensure that records obtained under this compact are used only by authorized officials

for authorized purposes;

- (2) Require that subsequent record checks are requested to obtain current information whenever a new need arises; and
- (3) Ensure that record entries that may not legally be used for a particular noncriminal justice purpose are deleted from the response and, if no information authorized for release remains, an appropriate "no record" response is communicated to the requesting official.

Article V.

Record Request Procedures.

(a) Subject fingerprints or other approved forms of positive identification must be submitted with all requests for criminal history record checks for noncriminal justice purposes.

(b) Each request for a criminal history record check utilizing the national indices made under any approved state statute must be submitted through that state's criminal history record repository. A state criminal history record repository shall process an interstate request for noncriminal justice purposes through the national indices only if the request is transmitted through another state criminal history record repository or the FBI.

(c) Each request for criminal history record checks utilizing the national indices made under federal authority must be submitted through the FBI or, if the state criminal history record repository consents to process fingerprint submissions, through the criminal history record repository in the state in which the request originated. Direct access to the national identification index by entities other than the FBI and state criminal history record repositories may not be permitted for noncriminal justice purposes.

(d) A state criminal history record repository or the FBI:

- (1) May charge a fee, in accordance with applicable law, for handling a request involving fingerprint processing for noncriminal justice purposes; and
- (2) May not charge a fee for providing criminal history records in response to an electronic request for a record that does not involve a request to process fingerprints.

- (e) (1) If a state criminal history record repository cannot positively identify the subject of a record request made for noncriminal justice purposes, the request, together with fingerprints or other approved identifying information, must be forwarded to the FBI for a search of the national indices.
- (2) If, with respect to a request forwarded by a state criminal history record repository under subdivision (e)(1) of this Article V, the FBI positively identifies the subject as having a III system-indexed record or records:
 - a. The FBI shall so advise the state criminal history record repository; and
 - b. The state criminal history record repository is entitled to obtain the additional criminal history record information

from the FBI or other state criminal history record repositories.

Article VI.

Establishment of Compact Council.

(a) There is established a council to be known as the compact council which has the authority to promulgate rules and procedures governing the use of the III system for noncriminal justice purposes, not to conflict with FBI administration of the III system for criminal justice purposes. The council shall:

- (1) Continue in existence as long as this compact remains in effect;
- (2) Be located, for administrative purposes, within the FBI; and
- (3) Be organized and hold its first meeting as soon as practicable after the effective date of this compact.

(b) The council must be composed of 15 members, each of whom must be appointed by the Attorney General, as follows:

- (1) Nine members, each of whom shall serve a two-year term, who must be selected from among the compact officers of party states based on the recommendation of the compact officers of all party states, except that in the absence of the requisite number of compact officers available to serve, the chief administrators of the criminal history record repositories of nonparty states must be eligible to serve on an interim basis;
- (2) Two at-large members, nominated by the director of the FBI, each of whom shall serve a three-year term, of whom:
 - a. One must be a representative of the criminal justice agencies of the federal government and may not be an employee of the FBI; and
 - b. One must be a representative of the noncriminal justice agencies of the federal government;
- (3) Two at-large members, nominated by the chair of the council once the chair is elected pursuant to subsection (c)(3) of this Article VI, each of whom shall serve a three-year term, of whom:
 - a. One must be a representative of state or local criminal justice agencies; and
 - b. One must be a representative of state or local noncriminal justice agencies;
- (4) One member who shall serve a three-year term and who shall simultaneously be a member of the FBI's advisory policy board on criminal justice information services, nominated by the membership of that policy board; and
- (5) One member, nominated by the director of the FBI, who shall serve a three-year term and who must be an employee of the FBI.

(c) From its membership, the council shall elect a chair and a vice-chair of the council. Both the chair and vice-chair of the council: (i) must be a compact officer, unless there is no compact officer on the council who is willing to

serve, in which case the chair may be an at-large member and (ii) shall serve two-year terms and may be reelected to only one additional two-year term. The vice-chair of the council shall serve as the chair of the council in the absence of the chair.

(d) The council shall meet at least once each year at the call of the chair. Each meeting of the council must be open to the public. The council shall provide prior public notice in the federal register of each meeting of the council, including the matters to be addressed at the meeting. A majority of the council or any committee of the council shall constitute a quorum of the council or of a committee, respectively, for the conduct of business. A lesser number may meet to hold hearings, take testimony, or conduct any business not requiring a vote.

(e) The council shall make available for public inspection and copying at the council office within the FBI and shall publish in the federal register any rules, procedures, or standards established by the council.

(f) The council may request from the FBI reports, studies, statistics, or other information or materials that the council determines to be necessary to enable the council to perform its duties under this compact. The FBI, to the extent authorized by law, may provide assistance or information upon a request.

(g) The chair may establish committees as necessary to carry out this compact and may prescribe their membership, responsibilities, and duration.

Article VII.

Ratification of Compact.

This compact takes effect upon being entered into by two or more states as between those states and the federal government. When additional states subsequently enter into this compact, it becomes effective among those states and the federal government and each party state that has previously ratified it. When ratified, this compact has the full force and effect of law within the ratifying jurisdictions. The form of ratification must be in accordance with the laws of the executing state.

Article VIII.

Miscellaneous Provisions.

(a) Administration of this compact may not interfere with the management and control of the director of the FBI over the FBI's collection and dissemination of criminal history records and the advisory function of the FBI's advisory policy board chartered under the Federal Advisory Committee Act (5 U.S.C. App.) for all purposes other than noncriminal justice.

(b) Nothing in this compact may require the FBI to obligate or expend funds beyond those appropriated to the FBI.

(c) Nothing in this compact may diminish or lessen the obligations, responsibilities, and authorities of any state, whether a party state or a nonparty state, or of any criminal history record repository or other subdivision or component thereof under the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1973 (Public Law 92-544) or regulations and guidelines promulgated thereunder, including the rules and procedures promulgated by the council under Article VI(a), regarding the use and dissemination of criminal history records and information.

Article IX.

Renunciation.

(a) This compact shall bind each party state until renounced by the party state.

(b) Any renunciation of this compact by a party state must:

(1) Be effected in the same manner by which the party state ratified this compact; and

(2) Become effective 180 days after written notice of renunciation is provided by the party state to each other party state and to the federal government.

Article X.

Severability.

The provisions of this compact must be severable. If any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any participating state or to the Constitution of the United States or if the applicability of any phrase, clause, sentence, or provision of this compact to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability of the remainder of the compact to any government, agency, person, or circumstance may not be affected by the severability. If a portion of this compact is held contrary to the constitution of any party state, all other portions of this compact must remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected, as to all other provisions.

Article XI.

Adjudication of Disputes.

(a) The council:

(1) Has initial authority to make determinations with respect to any dispute regarding:

- a. Interpretation of this compact;
- b. Any rule or standard established by the council pursuant to Article VI; and
- c. Any dispute or controversy between any parties to this compact; and

(2) Shall hold a hearing concerning any dispute described in subdivision (a)(1) of this Article XI at a regularly scheduled meeting of the council and only render a decision based upon a majority vote of the members of the council. The decision must be published pursuant to the requirements of Article VI(e).

(b) The FBI shall exercise immediate and necessary action to preserve the integrity of the III system, to maintain system policy and standards, to protect the accuracy and privacy of records, and to prevent abuses until the council holds a hearing on the matters.

(c) The FBI or a party state may appeal any decision of the council to the Attorney General and after that appeal may file suit in the appropriate district court of the United States that has original jurisdiction of all cases or controversies arising under this compact. Any suit arising under this compact and initiated in a state court must be removed to the appropriate district court of the United States in the manner provided by section 1446 of Title 28, United States Code,

or other statutory authority."

SECTION 3. The North Carolina Attorney General shall report to the General Assembly on or before March 1, 2004 on the following:

- (1) The compact officer to be appointed pursuant to Article III of the National Crime Prevention and Privacy Compact.
- (2) Any rules or procedures to be adopted to implement the Compact.
- (3) Any provisions of the General Statutes that must be repealed or amended to conform to the Compact.

SECTION 4. This act is effective when it becomes law.

APPENDIX C

**NOTICE OF TWO ACCEPTED METHODS FOR DETERMINING POSITIVE
IDENTIFICATION FOR EXCHANGING CRIMINAL HISTORY RECORD
INFORMATION FOR NONCRIMINAL JUSTICE PURPOSES**

Signed at Washington, DC, this 2nd day of June, 2005.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5-3236 Filed 6-21-05; 8:45 am]

BILLING CODE 4510-30-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-57,241]

Victor Forstmann, Inc.; East Dublin, GA; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on May 24, 2005 in response to a worker petition filed by the State of Georgia on behalf of workers at Victor Forstmann, Inc., East Dublin, Georgia.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 7th day of June, 2005.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5-3235 Filed 6-21-05; 8:45 am]

BILLING CODE 4510-30-P

NATIONAL CRIME PREVENTION AND PRIVACY COMPACT COUNCIL

Notice of Two Accepted Methods for Determining Positive Identification for Exchanging Criminal History Record Information for Noncriminal Justice Purposes

AGENCY: National Crime Prevention and Privacy Compact Council.

ACTION: Notice.

SUMMARY: Pursuant to the publication requirement in title 42, United States Code, 14616, Article VI(e), the Compact Council, established by the National Crime Prevention and Privacy Compact (Compact) Act of 1998, is providing public notice of two accepted methods for determining positive identification for exchanging criminal history record information (CHRI) for noncriminal justice purposes.

FOR FURTHER INFORMATION CONTACT:

Todd C. Commodore, FBI CJIS Division, 1000 Custer Hollow Road, Module C3, Clarksburg, WV 26306; Telephone (304) 625-2803; e-mail tcommodo@leo.gov; fax number (304) 625-5388.

SUPPLEMENTARY INFORMATION: The Compact establishes uniform standards and processes for the interstate and Federal-State exchange of criminal history records for noncriminal justice purposes. The Compact was approved by the Congress on October 9, 1998, (Pub. L. 105-251) and became effective on April 28, 1999, when ratified by the second state. Article VI of the Compact provides for a Compact Council that has the authority to promulgate rules and procedures governing the use of the Interstate Identification Index (III) System for noncriminal justice purposes. The III is the system of federal and state criminal history records maintained by the Federal Bureau of Investigation (FBI).

Due to innovative noncriminal justice initiatives in state and federal communities, the Compact Council has received numerous inquiries regarding its interpretation of the definition of positive identification which is defined in the Compact, Article I (20), as follows:

The term 'positive identification' means a determination, based upon a comparison of fingerprints or other equally reliable biometric identification techniques, that the subject of a record search is the same person as the subject of a criminal history record or records indexed in the III System. Identifications based solely upon a comparison of subjects' names or other nonunique identification characteristics or numbers, or combinations thereof, shall not constitute positive identification.

At its May 2004 meeting, the Compact Council accepted two methods for determining positive identification for the exchange of CHRI for noncriminal justice purposes. By way of background, ten-rolled fingerprints has been the method to determine positive identification for over 80 years in the criminal justice community. The use of ten-rolled fingerprints has also served as the standard business practice in the noncriminal justice community. As a result of this long standing practice and reliability of using ten-rolled fingerprints to determine positive identification, the Compact Council formally accepted ten-rolled fingerprints as one method of positive identification for exchanging CHRI for noncriminal justice purposes.

The FBI's Criminal Justice Information Services (CJIS) Division conducted a study, known as the National Fingerprint-based Applicant Check Study (N-FACS), to examine the reliability of using ten-flat fingerprints for determining positive identification. The results of the N-FACS study were presented to the Compact Council at its May 2004 meeting. After close

examination of various N-FACS pilot program findings, the Compact Council formally accepted ten-flat fingerprints as another method for determining positive identification for exchanging CHRI for noncriminal justice purposes.

Hereafter, interested parties should contact the FBI's Compact Council Office for future updates to the Compact Council's list of accepted methods of positive identification for exchanging CHRI for noncriminal justice purposes. Further, information regarding a state or federal agency's acceptable standards and technical capabilities to process fingerprints should be obtained from the State Compact Officer in a Compact Party State's criminal history record repository, the Chief Administrator of the State criminal history record repository in a Nonparty State, or the FBI Compact Officer for a federal or regulatory agency.

In addition, the definition of positive identification in Article I (20) of the Compact refers to a "comparison of fingerprints" without specifying the number of fingerprint images. Accordingly, the Compact Council has determined that the definition is flexible enough to accommodate any future position the Compact Council may favor concerning the use of less than ten-rolled or ten-flat fingerprints when acceptable reliability is sufficiently documented. Future alternatives for determining positive identification for exchanging CHRI for noncriminal justice purposes must be coordinated with the CJIS Division. The scientific reliability of any such future alternative should not significantly deviate from the reliability of ten-rolled fingerprints or ten-flat fingerprints; nor shall it degrade the standards for search accuracy and/or computing capacity of the Integrated Automated Fingerprint Identification System as determined by the CJIS Division. Agencies should coordinate the submission of ten-flat fingerprints with the CJIS Division.

Dated: May 12, 2005.

Donna M. Uzzell,

Compact Council Chairman.

[FR Doc. 05-12328 Filed 6-21-05; 8:45 am]

BILLING CODE 4410-02-P

NATIONAL CRIME PREVENTION AND PRIVACY COMPACT COUNCIL

National Fingerprint File Qualification Requirements

AGENCY: National Crime Prevention and Privacy Compact Council.

ACTION: Notice of approval of the National Fingerprint File (NFF)

Appendix D

NATIONAL CRIME PREVENTION AND PRIVACY COMPACT

COMPACT COUNCIL

BYLAWS

NOVEMBER 4, 2009

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APPENDIX 1

National Crime Prevention and Privacy Compact Act of 1998

1.0 ESTABLISHMENT OF THE NATIONAL CRIME PREVENTION AND PRIVACY COMPACT COUNCIL

The National Crime Prevention and Privacy Compact (Compact Council) is created pursuant to the "National Crime Prevention and Privacy Compact Act of 1998" (Compact) (Title 42, United States Code, Chapter 140, Subchapter II, Sections 14611-14616).

2.0 FBI COMPACT OFFICER

The Director of the FBI shall appoint an FBI Compact officer who shall:

- (A) Administer the Compact within the Department of Justice and among Federal agencies and other agencies and organizations that submit search requests to the FBI.
- (B) Ensure that Compact provisions and rules, procedures, and standards prescribed by the Compact Council under Article VI of the Compact are complied with by the Department of Justice and the Federal agencies and other agencies and organizations; and
- (C) Regulate the use of records received by means of the Interstate Identification Index (III) system from Party States when such records are supplied by the FBI directly to other Federal agencies.

The FBI Compact officer shall facilitate the election process, the appointment of Compact Council members with the Attorney General and provide staff support to the Compact Council, its officers, and its committees.

3.0 MEMBERSHIP OF THE COMPACT COUNCIL

The Compact Council shall be composed of 15 members, each of whom shall be appointed by the Attorney General, as follows:

- (A) Nine members, each of whom shall serve a two-year term, who shall be selected from among the Compact officers of Party States based on the recommendation of the Compact officers of all Party States, except that, in the absence of the requisite number of Compact officers available to serve, the chief administrators of the criminal history record repositories of Nonparty States shall be eligible to serve on an interim basis for a one-year term.
- (B) Two at-large members, nominated by the Director of the FBI, each of whom shall serve a three-year term, of whom:
 - (1) One shall be a representative of the criminal justice agencies of the Federal Government and may not be an employee of the FBI; and

- (2) One shall be a representative of the noncriminal justice agencies of the Federal Government.
- (C) Two at-large members, nominated by the Chairman of the Compact Council (“Chairman”), once the Chairman is elected, each of whom shall serve a three-year term, of whom:
 - (1) One shall be a representative of State or local criminal justice agencies; and
 - (2) One shall be a representative of State or local noncriminal justice agencies.
- (D) One member, who shall serve a three-year term, and who shall simultaneously be a member of the FBI’s Advisory Policy Board (APB) on criminal justice information services, nominated by the membership of that policy board.
- (E) One member, nominated by the Director of the FBI, who shall serve a three-year term, and who shall be an employee of the FBI.

4.0 TERM OF MEMBERS

Each appointment term shall begin on October 1st. All terms shall end on September 30th at the end of one, two, or three years as necessary to fulfill the requisite term.

In the case of a vacancy that occurs before the end of a term, such vacancy shall be filled as specified in Section 6. There shall be no limit on the number of times a Compact Council member may be reappointed, provided that he/she shall have been renominated as specified in Section 3.0 of these Bylaws, before each reappointment.

5.0 END-OF-TERM APPOINTMENT PROCESS

Prior to the end of a Compact Council member’s term, the nomination process described in Section 3 and in this Section shall be followed to obtain an appointment for the next term. Nominations for the new term shall be submitted to the Attorney General by August 1st.

5.1 MEMBERS RECOMMENDED BY COMPACT OFFICERS OF ALL PARTY STATES

State Compact officer appointments are staggered such that expiration of terms occur on alternating years. In order to fill the requisite number of vacancies for state Compact officer appointments due to the expiration of terms, the Chairman shall ask each eligible state Compact officer whether he/she wants to be nominated to serve on the Compact Council.

If this solicitation results in less candidates than vacancies to be filled, the Chairman shall ask the state Compact officers for nominations of chief administrators of criminal history record repositories of Nonparty States. The Chairman shall ask each such chief administrator of the criminal history record repository of the Nonparty State whether he/she wants to be nominated to serve on the Compact Council.

The Chairman shall conduct an election prior to the month of July with each state Compact officer voting for the requisite number of candidates. In the case of an election that does not conclusively identify the requisite number of candidates for the vacancies that exist, the Chairman shall conduct a run-off election as necessary to resolve a tie(s).

The Chairman shall nominate the requisite number of candidates receiving the highest number of votes.

The Chairman shall retain a list of the number of votes received by the remaining candidates, identified as alternates, for use in filling vacancies. This list shall be valid until the next election. The Chairman shall forward these nominations for alternates to the Attorney General by August 1st along with the nominations for state Compact Officer appointments due to the expiration of terms.

5.2 MEMBERS NOMINATED BY THE DIRECTOR OF THE FBI

In those years when necessary, the Director of the FBI shall submit a nominee(s) to the Attorney General by August 1st.

5.3 MEMBERS NOMINATED BY THE CHAIRMAN OF THE COMPACT COUNCIL

Before making these nominations, the Chairman shall request recommendations for these nominations from all members of the Compact Council and the Compact officers of other Party States. The Chairman shall consider, but not necessarily nominate from the recommended individuals. The Chairman shall select two nominees and two alternates. The alternates shall be used to fill a vacancy that might occur, as specified in Section 6.2(C). In those years when necessary, the Chairman shall submit the two nominees and the two alternates to the Attorney General by August 1st.

5.4 FBI'S APB BOARD MEMBER NOMINATED BY THE APB

In those years when necessary, the Chairman of the APB shall submit a nominee to the Attorney General by August 1st.

6.0 VACANCIES

If a member vacates his/her position on the Compact Council follow procedures as described below. All members appointed due to vacancies shall have been duly nominated as specified in Section 3.0.

(A) COMPACT OFFICER OR NONPARTY STATE MEMBER RECOMMENDED BY COMPACT OFFICERS OF ALL PARTY STATES

As vacancies occur, the Chairman shall announce the individual who received the most votes as an alternate, as specified in Section 5.1, to serve out the term. As additional vacancies occur, the Chairman shall announce the individual(s) receiving the next highest votes as alternate(s) to serve out the term(s). If no available candidates remain on this list, the Chairman shall hold a special election to obtain this nomination(s) and possible alternates for future use.

(B) AT-LARGE MEMBER OR FBI EMPLOYEE NOMINATED BY THE DIRECTOR OF THE FBI

The Director of the FBI shall submit a nominee to the Attorney General to serve out the term.

(C) AT-LARGE MEMBER NOMINATED BY THE CHAIRMAN OF THE COMPACT COUNCIL

The Chairman shall select one of the alternates previously identified, as specified in Section 5.3, to serve out the term. If no available candidates remain, the Chairman shall request recommendations for the nomination from all members of the Compact Council and the Compact officers of other Party States. Considering the recommended individuals, the Chairman shall select a nominee.

(D) FBI'S APB MEMBER NOMINATED BY THE APB

The Chairman of the APB shall submit a nominee to the Attorney General to serve out the term.

7.0 OFFICERS

The officers of the Compact Council shall be a Chairman and Vice Chairman.

7.1 DUTIES OF OFFICERS

The Chairman shall:

- (A) Set the agenda for Compact Council meetings and preside over these meetings;
- (B) Designate another Compact Council member to preside over Compact Council meetings in the absence of both the Chairman and Vice Chairman;
- (C) Coordinate with the FBI Compact officer on all administrative matters relating to the Compact Council, including notification to the appropriate nominating authority(ies) concerning any vacancies on the Compact Council that must be filled;
- (D) Establish Committees of the Compact Council, appoint a Chairman and Vice Chairman of each Committee, and prescribe committee membership, responsibilities, and duration;
- (E) Hold elections with state Compact officers to nominate candidates for appointment to the Compact Council;
- (F) Nominate two persons to serve on the Compact Council as at-large members; and
- (G) Represent the Compact Council at various governmental and other functions to further the goals of the Compact Council.

The Vice Chairman of the Compact Council shall serve as the Chairman of the Compact Council in the absence of the Chairman.

7.2 QUALIFICATIONS OF CHAIRMAN AND VICE CHAIRMAN

The Chairman and Vice Chairman of the Compact Council—

- (A) shall be members of the Compact Council; and

(B) shall be Compact officers, unless there is no Compact officer on the Compact Council who is willing to serve, in which case the Chairman may be an at-large member; the Vice-Chairman may be any member of the Compact Council.

7.3 TERM OF OFFICERS

The term of the officers shall be two years in duration. An officer may not serve more than two terms consecutively in the same office.

7.4 ELECTIONS OF OFFICERS

Elections of the Chairman and Vice Chairman shall be held at the first Compact Council meeting after September 30th in those years when elections are necessary. The Compact Council member who is an FBI employee shall conduct the election of the Chairman.

Each member of the Compact Council may nominate a qualified candidate for Chairman. The election of the Chairman shall be held by a secret ballot of the Compact Council members, and the candidate with a simple majority vote is elected. If no candidate receives a simple majority, there shall be a run-off election involving the two candidates who received the most votes.

The newly elected Chairman shall conduct the election for the Vice Chairman. Each member of the Compact Council may nominate a qualified candidate for Vice Chairman. The election of the Vice Chairman shall be held by a secret ballot of the Compact Council members, and the candidate with a simple majority vote is elected. If no candidate receives a simple majority, there shall be a run-off election involving the two candidates who received the most votes.

7.5 VACANCIES

In the event of a vacancy in the office of Chairman, the Vice Chairman shall succeed the Chairman for the remainder of the term of office and shall hold a special election for a new Vice Chairman at the next Compact Council meeting. If both offices become vacant, the Compact Council member who is an FBI employee shall call for and hold a special election for the remainder of the terms of office. Nominations and voting shall be made in the same manner as stated in Section 7.4. Serving for a partial term will not be counted toward the two-term limit set in Section 7.3.

8.0 MEETINGS

8.1 FREQUENCY AND LOCATION OF MEETINGS

The Compact Council shall meet at least once a year at the call of the Chairman. Before adjourning a Compact Council meeting, the Chairman shall solicit recommendations from the Compact Council regarding the date and location for the next Compact Council meeting. All meetings shall be held at a place reasonably accessible to the public.

8.2 PRESENCE OF OFFICERS

The Chairman, Vice Chairman, or Chairman's designee must be present at Compact Council meetings.

8.3 NOTICE OF MEETINGS

A notice of each meeting of the Compact Council shall be published in the *Federal Register* at least 30 days prior to the meeting. The notice shall include the matters to be addressed at the meeting.

8.4 CONDUCT OF MEETINGS

All meetings shall be conducted in compliance with Roberts Rules of Order (latest revision) except as otherwise provided in these Bylaws.

8.5 PROXIES

A Compact Council member may designate a proxy for a Compact Council meeting by notifying the Chairman in writing prior to the meeting for which the proxy is given. The proxy shall be a knowledgeable person from the same agency as the Compact Council member who is being represented, or a Compact officer or the chief administrator of a criminal history record repository of another State which does not have a member on the Compact Council.

8.6 ATTENDANCE AT MEETINGS

Members of the Compact Council shall attend all Compact Council meetings or send a proxy if their attendance is not possible. If a Compact Council member or his/her proxy fails to attend two consecutive Compact Council meetings, then such Compact Council member shall relinquish membership on the Compact Council and the Chairman of the Compact Council shall begin the process of appointing a new member.

8.7 OPEN SESSIONS

Meetings of the Compact Council shall be in open session. Meetings shall be open to the public on a first-come, first seated basis. Any member of the public may file a written statement concerning matters related to the concerns and activities of the Compact Council. Anyone wishing to address a session of a Compact Council meeting should notify the FBI's Compact officer at least 24 hours prior to the start of the session. The notification should contain the requestor's name and corporate designation, consumer affiliation, or government designation, along with a short statement describing the topic to be addressed, and the time needed for the presentation. Vendors will not be permitted to promote products or make sales presentations while the Council meeting is in open session without the approval of the Chairman. The Chairman of the Compact Council shall have the discretion whether or not to recognize a requestor, who has provided the proper notification, as a speaker at a Compact Council meeting. Requestors shall ordinarily be allowed not more than 15 minutes to present a topic. Notifications and inquiries shall be addressed to: FBI Compact Officer, FBI, CJIS Division, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306, telephone (304) 625-2000.

8.8 QUORUM

A simple majority of the Compact Council or any Committee of the Compact Council shall constitute a quorum of the Compact Council or of such Committee, respectively, for the conduct of business. No vote shall be taken without a quorum. A lesser number may meet to hold hearings, take testimony, or conduct any business not requiring a vote.

8.9 VOTING

Only members or their proxies in attendance at Compact Council meetings shall be eligible to make motions and vote. Except for amendments to the Bylaws, all votes shall be decided by a simple majority of those members of the Compact Council present.

8.10 AGENDA

The agenda for a Compact Council meeting shall be set and mailed or communicated electronically to each member at least thirty days in advance of the meeting. The Chairman shall be the final arbiter of all agenda items.

8.11 MINUTES AND RECORDS OF THE COMPACT COUNCIL

Minutes, records, transcripts, and other documents of the Compact Council shall be administered by the FBI. The Compact Council shall make available for

public inspection and copying at the Compact Council office within the FBI, and shall publish in the *Federal Register*, any rules, procedures, or standards established by the Compact Council.

The FBI shall distribute draft minutes to the Compact Council members at least thirty days prior to the next Compact Council meeting. The draft minutes shall be considered for approval at the next Compact Council meeting. The final approved minutes of meetings shall be available to the public upon request. Minutes of Compact Council meetings shall be kept and maintained at the: Compact Council Office, FBI, CJIS Division, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306.

8.12 ADJOURNMENT OF MEETINGS

A meeting may be adjourned by the Chairman at any time with a majority vote of the Compact Council.

9.0 PROMULGATION OF RULES, PROCEDURES AND STANDARDS

The Compact Council shall promulgate rules, procedures, and standards upon a majority vote of its members at a scheduled public meeting except in cases in which the Compact Council determines that exigent circumstances require immediate action. In the latter cases, the Compact Council may approve a rule, procedure, or standard by telephone conference call or by other available means of communication, provided that such a rule, procedure, or standard shall expire unless adopted by the Compact Council at the next scheduled public Compact Council meeting.

9.1 COORDINATION WITH AFFECTED PERSONS, AGENCIES AND ORGANIZATIONS

If the Compact Council has reason to believe that a particular rule, procedure, or standard will have a major impact on a significant number of persons, agencies, or organizations and that the views and concerns of such persons, agencies, or organizations have not adequately been made known to the Compact Council, it may publish a proposed rule, procedure or standard in the *Federal Register* with a notice that written comments may be submitted to the Compact Council Office in the FBI during a period of at least thirty days. At its next meeting, the Council may, after due consideration of any comments received, approve the rule, procedure, or standard in final form.

9.2 EFFECTIVE DATE

Final rules, procedures, or standards shall become effective 30 days after

publication in the *Federal Register* unless the Council declares that a particular rule, procedure, or standard shall become effective immediately upon publication due to exigent circumstances.

10.0 COMPENSATION

Members of the Compact Council (other than a member from the FBI or any at-large member who may be a Federal official or employee) shall not, by virtue of such membership, be deemed--

- (A) to be, for any purpose other than to effect the Compact, officers or employees of the United States (as defined in sections 2104 and 2105 of title 5, United States Code); or
- (B) to become entitled by reason of Compact Council membership to any compensation or benefit payable or made available by the Federal Government to its officers or employees.

The FBI shall reimburse members or proxies of the Compact Council and members of Compact Council committees for approved travel and subsistence expenses for attendance at meetings from available funds. Reimbursement shall be pursuant to title 5, United States Code, Section 5703.

11.0 ASSISTANCE FROM THE FBI

The Compact Council may request from the FBI such reports, studies, statistics, or other information or materials as the Compact Council determines to be necessary to enable the Compact Council to perform its duties under this Compact. The FBI, to the extent authorized by law, may provide such assistance or information upon such a request. The FBI shall provide administrative support for the Compact Council, attend meetings, and provide assistance to the Compact Council during meetings as requested by the Chairman.

12.0 COMMITTEES

The Compact Council Chairman may establish Committees as necessary to carry out the Compact and may prescribe their membership, responsibilities, and duration. Committees may be composed of both Compact Council members and individuals who are subject matter specialists but are not Compact Council members.

Compact Council committee meetings are closed to the public. Attendance is limited to Committee members, Federal and State Government employees acting in an official capacity, and others by specific invitation of the Committee Chairman.

Due to the unique working knowledge of Compact Council members who shall be appointed to serve on Compact Council Committees, the members are expected to attend Committee meetings whenever possible. If it becomes necessary to send a proxy, the committee member should ensure that the proxy has the appropriate subject matter expertise.

An FBI representative shall attend all Committee meetings and provide reasonable assistance to the Committee as requested by the Committee Chairman.

13.0 DISCRIMINATION PROHIBITED

With regard to all Compact Council and Compact Council Committee matters, there shall be no discrimination on the basis of race, color, national origin, religion, age, sex, sexual orientation, or disability.

14.0 AMENDMENTS TO BYLAWS

Proposed amendments to these Bylaws shall be sponsored by a member of the Compact Council and shall be mailed or communicated electronically to the members of the Compact Council at least thirty days before the meeting at which the amendment will be considered. These Bylaws may be amended by adoption of a motion. The motion shall contain the exact wording of the change and contain an effective date. At least a two-thirds majority of the voting Compact Council members present is required for the motion to pass.

APPENDIX E

MEMORANDUM OF UNDERSTANDING

A MEMORANDUM OF UNDERSTANDING

Between

THE

And

THE NATIONAL CRIME PREVENTION
AND PRIVACY COMPACT COUNCIL

This Memorandum of Understanding (MOU) is an agreement between the of the nonparty state of and the National Crime Prevention and Privacy Compact Council (Council) established pursuant to the National Crime Prevention and Privacy Compact (Compact), Title 42, United States Code, Sections 14611 – 14616; Public Law 105-251 (1998).

WHEREAS the Compact was ratified by the Federal Government on October 9, 1998, and, by its terms, became effective when ratified by the second state on April 28, 1999; and

WHEREAS pursuant to the terms of the Compact, the Federal Bureau of Investigation (FBI) is a party to the Compact and subject to its terms; and

WHEREAS since it became effective, additional states have ratified the Compact, thereby becoming parties to it (party states) and subject to its terms; and

WHEREAS it is anticipated that nonparty states will ultimately ratify the Compact, thereby becoming party states; and

WHEREAS Article VI of the Compact establishes the Compact Council and authorizes it to promulgate rules and procedures governing the use of the Interstate Identification Index (III) System for noncriminal justice purposes, not to conflict with FBI administration of the III System for criminal justice purposes; and

WHEREAS Article III, Section (c), of the Compact provides that in carrying out their responsibilities under the Compact, the FBI and party states shall comply with III System rules, procedures and standards duly established by the Compact Council concerning record dissemination and use, response times, data quality, system security, accuracy, privacy protection and other aspects of III System operation; and

WHEREAS Article IV of the Compact requires the FBI and party states to provide criminal history records (excluding sealed records) to criminal justice agencies (including state criminal history record repositories) and other governmental or nongovernmental agencies for noncriminal justice purposes allowed by federal statute, federal executive order or a state statute that has been approved by the U. S. Attorney General that authorizes checks of the national indices;

THEREFORE the Council and the state criminal history record repository voluntarily enter into this MOU setting out the terms under which the FBI and party states will provide criminal

history records to the state criminal history record repository by means of the III System for use by legally authorized agencies in the State, as follows:

1. Availability of III System

Pursuant to the Compact, the FBI will provide the state criminal history record repository with access to the III System, including the National Identification Index, the National Fingerprint File and related computer and communication facilities, for use in processing requests for criminal history record searches for legally authorized noncriminal justice purposes.

2. Provision of Records

Pursuant to the Compact, the FBI (subject to the Privacy Act of 1974, 5 United States Code § 552a) and party state repositories that are participating in the National Fingerprint File will provide criminal history records (excluding sealed records) to the state criminal history record repository for use by governmental and nongovernmental agencies in the State for noncriminal justice purposes allowed by federal statute, federal executive order or a state statute that has been approved by the U. S. Attorney General that authorizes checks of the national indices.

3. Applicable Rules and Procedures

The use of the III System by the state criminal history record repository for noncriminal justice purposes and the use by agencies within the State of records obtained by means of the III System for such purposes will be governed by the Compact and by rules and procedures duly established by the Compact Council. Applicable provisions of the Compact include Article IV (Authorized Record Disclosures by Compact Parties), Article V (Record Request Procedures), Article XI (Adjudication of Disputes) and other provisions that are applicable to the use of the III System for noncriminal justice purposes. Provisions of the Compact and related Compact Council rules that concern the responsibilities of compact parties as record providers and as participants in the National Fingerprint File, including sections (a) and (b) of Article III (Responsibilities of Compact Parties), shall not be applicable. This MOU does not require the state criminal history record repository or any agency in the State to submit any criminal history record information to the FBI nor to provide any criminal history records to any out-of-state or federal agency or organization for any purpose.

4. Verification of Compliance; Sanctions

Verification of compliance with the terms of this MOU will be accomplished by Audits and investigations conducted by the FBI Audit Staff. The state criminal history record repository will comply with all applicable audit requirements and will cooperate in the performance of audits and investigations. Violations of the terms of access to the III System for noncriminal justice purposes accorded by this MOU or misuse of criminal

history record information obtained by means of such access will be reported to the Council and may result in the imposition of sanctions which may include discontinuation of access to the III System for noncriminal justice purposes.

5. Points of Contact

The state criminal history record repository shall appoint a Compact Liaison Officer who shall be the point of contact for oversight and enforcement of the terms of this MOU. The point of contact for the FBI and the Compact Council shall be the FBI Compact Officer in the Compact Council Office, FBI CJIS Division, 1000 Custer Hollow Rd., Clarksburg, WV 26306 [telephone: 304-625-2803].

6. Legal Effect of MOU

This MOU is a formal expression of the purposes and intent of the parties to it. Nothing in this MOU shall be construed to impose obligations on, or to bind, Compact party states or the United States beyond the requirements imposed by the Compact. It does not confer, grant or authorize any rights, privileges or obligations to any organization or person other than the parties to it and their official representatives. By written concurrence of both parties, it may be amended by the modification or deletion of any provision or by the addition of new provisions. This MOU is executed by the signatories in both an individual and representative capacity and shall remain in effect until an affirmative action is taken to amend or rescind it.

THE UNDERSIGNED PARTIES HEREBY AGREE TO ENTER INTO AND BE BOUND BY THIS MEMORANDUM OF UNDERSTANDING.

ENTERED INTO AND AGREED UPON By:

The

By _____ [Name and Title of Authorized Official] _____ [Date]

The National Crime Prevention and Privacy Compact Council

By _____ Donna M. Uzzell, Chair _____ [Date]

APPENDIX F

NATIONAL FINGERPRINT FILE QUALIFICATION REQUIREMENTS

Signed at Washington, DC, this 2nd day of June, 2005.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5-3236 Filed 6-21-05; 8:45 am]

BILLING CODE 4510-30-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-57,241]

Victor Forstmann, Inc.; East Dublin, GA; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on May 24, 2005 in response to a worker petition filed by the State of Georgia on behalf of workers at Victor Forstmann, Inc., East Dublin, Georgia.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 7th day of June, 2005.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5-3235 Filed 6-21-05; 8:45 am]

BILLING CODE 4510-30-P

NATIONAL CRIME PREVENTION AND PRIVACY COMPACT COUNCIL

Notice of Two Accepted Methods for Determining Positive Identification for Exchanging Criminal History Record Information for Noncriminal Justice Purposes

AGENCY: National Crime Prevention and Privacy Compact Council.

ACTION: Notice.

SUMMARY: Pursuant to the publication requirement in title 42, United States Code, 14616, Article VI(e), the Compact Council, established by the National Crime Prevention and Privacy Compact (Compact) Act of 1998, is providing public notice of two accepted methods for determining positive identification for exchanging criminal history record information (CHRI) for noncriminal justice purposes.

FOR FURTHER INFORMATION CONTACT:

Todd C. Commodore, FBI CJIS Division, 1000 Custer Hollow Road, Module C3, Clarksburg, WV 26306; Telephone (304) 625-2803; e-mail tcommodo@leo.gov; fax number (304) 625-5388.

SUPPLEMENTARY INFORMATION: The Compact establishes uniform standards and processes for the interstate and Federal-State exchange of criminal history records for noncriminal justice purposes. The Compact was approved by the Congress on October 9, 1998, (Pub. L. 105-251) and became effective on April 28, 1999, when ratified by the second state. Article VI of the Compact provides for a Compact Council that has the authority to promulgate rules and procedures governing the use of the Interstate Identification Index (III) System for noncriminal justice purposes. The III is the system of federal and state criminal history records maintained by the Federal Bureau of Investigation (FBI).

Due to innovative noncriminal justice initiatives in state and federal communities, the Compact Council has received numerous inquiries regarding its interpretation of the definition of positive identification which is defined in the Compact, Article I (20), as follows:

The term 'positive identification' means a determination, based upon a comparison of fingerprints or other equally reliable biometric identification techniques, that the subject of a record search is the same person as the subject of a criminal history record or records indexed in the III System. Identifications based solely upon a comparison of subjects' names or other nonunique identification characteristics or numbers, or combinations thereof, shall not constitute positive identification.

At its May 2004 meeting, the Compact Council accepted two methods for determining positive identification for the exchange of CHRI for noncriminal justice purposes. By way of background, ten-rolled fingerprints has been the method to determine positive identification for over 80 years in the criminal justice community. The use of ten-rolled fingerprints has also served as the standard business practice in the noncriminal justice community. As a result of this long standing practice and reliability of using ten-rolled fingerprints to determine positive identification, the Compact Council formally accepted ten-rolled fingerprints as one method of positive identification for exchanging CHRI for noncriminal justice purposes.

The FBI's Criminal Justice Information Services (CJIS) Division conducted a study, known as the National Fingerprint-based Applicant Check Study (N-FACS), to examine the reliability of using ten-flat fingerprints for determining positive identification. The results of the N-FACS study were presented to the Compact Council at its May 2004 meeting. After close

examination of various N-FACS pilot program findings, the Compact Council formally accepted ten-flat fingerprints as another method for determining positive identification for exchanging CHRI for noncriminal justice purposes.

Hereafter, interested parties should contact the FBI's Compact Council Office for future updates to the Compact Council's list of accepted methods of positive identification for exchanging CHRI for noncriminal justice purposes. Further, information regarding a state or federal agency's acceptable standards and technical capabilities to process fingerprints should be obtained from the State Compact Officer in a Compact Party State's criminal history record repository, the Chief Administrator of the State criminal history record repository in a Nonparty State, or the FBI Compact Officer for a federal or regulatory agency.

In addition, the definition of positive identification in Article I (20) of the Compact refers to a "comparison of fingerprints" without specifying the number of fingerprint images. Accordingly, the Compact Council has determined that the definition is flexible enough to accommodate any future position the Compact Council may favor concerning the use of less than ten-rolled or ten-flat fingerprints when acceptable reliability is sufficiently documented. Future alternatives for determining positive identification for exchanging CHRI for noncriminal justice purposes must be coordinated with the CJIS Division. The scientific reliability of any such future alternative should not significantly deviate from the reliability of ten-rolled fingerprints or ten-flat fingerprints; nor shall it degrade the standards for search accuracy and/or computing capacity of the Integrated Automated Fingerprint Identification System as determined by the CJIS Division. Agencies should coordinate the submission of ten-flat fingerprints with the CJIS Division.

Dated: May 12, 2005.

Donna M. Uzzell,

Compact Council Chairman.

[FR Doc. 05-12328 Filed 6-21-05; 8:45 am]

BILLING CODE 4410-02-P

NATIONAL CRIME PREVENTION AND PRIVACY COMPACT COUNCIL

National Fingerprint File Qualification Requirements

AGENCY: National Crime Prevention and Privacy Compact Council.

ACTION: Notice of approval of the National Fingerprint File (NFF)

Qualification Requirements as the standards for NFF participation.

Authority: 42 U.S.C. 14616.

SUMMARY: Pursuant to Title 42, United States Code, section 14616, Article VI(e), and Title 28, Code of Federal Regulations (CFR), chapter IX, the Compact Council (Council), established by the National Crime Prevention and Privacy Compact (Compact) Act of 1998, approved the attached NFF Qualification Requirements as the standards for NFF participation (see proposed rule "Qualification Requirements for Participation in the National Fingerprint File Program," published in today's **Federal Register**, which is to be codified at 28 CFR 905). The Council coordinated the development of the NFF Qualification Requirements with the Federal Bureau of Investigation's Criminal Justice Information Services (CJIS) Division staff and forwarded the document to the CJIS Advisory Policy Board for its endorsement prior to publication. Hereafter, the most current version of the NFF Qualification Requirements will be available upon request to the Compact Council Office, 1000 Custer Hollow Road, Module C3, Clarksburg, WV 26306, Attention: FBI Compact Officer. Interested parties should contact the Compact Council Office to request the most current version prior to utilizing the requirements document.

FOR FURTHER INFORMATION CONTACT: Todd C. Commodore, FBI CJIS Division, 1000 Custer Hollow Road, Module C3, Clarksburg, WV 26306; Telephone (304) 625-2803; e-mail tcommodo@leo.gov; fax number (304) 625-5388.

SUPPLEMENTARY INFORMATION: Since both the FBI and Compact Party States are to participate in the NFF Program and each has its unique system and responsibilities as outlined in the Compact, two sets of NFF Qualification Requirements were developed. One set applies to the requirements for the FBI's participation and the second for a Compact Party State's participation. The requirements are set forth as follows:

FBI NFF Qualification Requirements

I. Fingerprint Identification Matters

A. The FBI shall establish and maintain a National Fingerprint File (NFF) of criterion ¹ offenses provided by criminal justice agencies.

B. The FBI shall maintain a National Identification Index consisting of

¹ If 28 CFR is amended to permit the inclusion of all fingerprint-based arrests into the III System, these qualification requirements shall be amended accordingly.

names, identifying numbers, and other descriptive information relating to record subjects about whom there are criminal history records in the Interstate Identification Index (III) System.

C. The FBI shall also maintain the NFF consisting of a database of fingerprints, or other uniquely personal identifying information, relating to an arrested or charged individual to provide positive identification of record subjects indexed in the III System.

D. The FBI shall accept state requests for a criminal history record check of the national indices, when such requests are made under an approved state statute. Such requests shall be submitted only through the state central criminal history record repository.

E. The FBI shall accept Federal requests for criminal history record checks of the national indices, when such request are made under Federal authority. Said requests shall be submitted through the FBI or, if the state consents to process a Federal agency's fingerprint submissions, through the state central criminal history record repository as coordinated with the FBI.

F. The FBI shall inform the state central criminal history record repository or Federal agency when original fingerprint impressions provided to the FBI are not of sufficient quality to establish a subject's record and request that additional fingerprint impressions be forwarded to the FBI.

G. For each offender, the NFF shall maintain one full set of fingerprint impressions² to support the establishment of the subject's record for a NFF participating state.

H. The master fingerprint impressions maintained at the FBI shall include all ten fingers, noting amputation(s), scars, or missing fingers.

I. The FBI will not accept or maintain additional fingerprint submissions to support subsequent individual arrest events pertaining to a subject's record maintained by the NFF participating state.

J. The FBI shall maintain fingerprint submissions for criterion offenses from NFF participating states that have a unique State Identification Number (SID) for each individual and shall maintain only those fingerprint submissions that contain a SID not previously submitted from the NFF participating states to establish a NFF record.

² Fingerprint impressions are the subject's fingerprints in the Criminal Master File, which contain ten rolled and four plain impressions, and may be a composite of the "best" images taken from several sources (*i.e.*, arrest, civil, probation, corrections, court fingerprints, *etc.*). The source document (impression) must be available to support any image replacement in the master file.

K. The FBI shall not maintain multiple SIDs for the same individual from the same state due to missed identifications.

L. Fingerprint submissions containing an SID previously submitted by a NFF state to establish a NFF record shall be returned to the state central criminal history record repository for correction.

M. The FBI shall send electronic messages via Criminal Justice Information Services telecommunications network(s) to the NFF participating state regarding the results of the FBI's fingerprint processing for subjects arrested for the first time; the NFF participating state may elect to receive electronic messages regarding applicant fingerprint submissions.³

II. Record Content and III Maintenance

A. The FBI shall provide assistance to the NFF participating state central criminal history record repositories for identifying and correcting record discrepancies. FBI staff shall provide timely assistance so that the state may resolve record discrepancies within 90 calendar days of receiving the synchronization tape from the FBI.

B. The FBI shall update the National Identification Index and the NFF in a timely manner to assure record completeness and accuracy.

C. Upon receipt of a NFF participating state's Criminal Print Ident (CPI) message, the FBI will advise the appropriate agency⁴ of the subject's current arrest status.

D. The FBI shall provide the NFF state central criminal history record repository a means to electronically update the National Identification Index with supplemental identifiers not previously recorded (*i.e.*, scars, marks, tattoos, dates of birth, Social Security numbers, miscellaneous numbers, and aliases).

E. The FBI shall evaluate fingerprint submissions for image quality and feature vectors. The Criminal Master File will be updated if the new fingerprint impressions are of a better quality than the master fingerprint.

³ There are three options presently available for receiving responses for applicant processes. The state may utilize: The electronic unsolicited III messages reporting the results of applicant fingerprint processing (*S.A.CFN, S.A.CFR*); the Integrated Automated Fingerprint Identification System (IAFIS) Submission Results—Electronic (SRE) response which provides the identification results as communicated over the CJIS Wide Area Network; or the IAFIS System Type of Transaction which generates a manual response to an electronic fingerprint submission (NFFC).

⁴ Appropriate agency includes the agency that entered the want on the individual and/or the agency that registered the individual in the sex offender file.

F. The FBI shall conduct file maintenance such as record corrections and expungements in a timely manner and notify the NFF participating state central criminal history record repository of the corresponding state record maintenance. The FBI shall conduct consolidations within two (2) business days of notification; other file maintenance shall be conducted within seven (7) business days of notification.

III. Record Response

A. The FBI III System shall have sufficient capability to provide a normal on-line record response time⁵ of ten (10) minutes or less.

B. The FBI shall respond to III on-line record requests electronically, providing the FBI's portion of a subject's record to include a listing of all other III/NFF state record holders. The FBI shall electronically notify the III/NFF state(s) to send its portion of the record to the requesting agency.

C. The FBI shall, upon positive identification of the record subject, electronically request the indexed NFF portion(s) of the criminal history record, noting the authorized purpose for the record request. Upon receipt of the NFF state record response, the FBI shall append all portions of the subject record and provide the record to the authorized requesting agency(ies).

D. When the FBI's III System cannot provide on-line record responses within ten (10) minutes, experienced personnel shall be available as necessary to assist with problem resolutions and to restore the FBI III System capacity, allowing timely on-line responses.

E. The FBI shall provide criminal history records (those records for which the FBI has assumed responsibility) for all authorized purpose codes via III for both criminal justice purposes and noncriminal justice purposes as authorized by Federal statute, Federal Executive Order, or a State statute that has been approved by the Attorney General.

F. The FBI shall disseminate records (containing NFF participating state(s) data received by means of the III System) for all authorized purpose codes for both criminal justice purposes and noncriminal justice purposes as authorized by Federal statute, Federal Executive Order, or a state statute that has been approved by the Attorney General.

⁵Normal record response time should be measured from the receipt of the incoming III on-line record request (QR) until the FBI transmits its portion of the III record to the requesting agency (CR) and notifies all other III/NFF state(s) which maintain a portion of the record (\$A.CHR).

IV. Accountability

A. The FBI Compact Officer shall be responsible for ensuring that Compact provisions and rules, procedures, and standards prescribed by the Council are complied with by the FBI.

B. The FBI shall have written procedures requiring thorough testing of upgrades or modifications to its computer system(s) to detect software errors and/or related procedural problems, particularly on-line testing of these changes to limit adverse effects to the NFF system operations. The FBI shall demonstrate adherence to the procedures by documenting the test results in writing.

State NFF Qualification Requirements

In order to participate in the NFF, a state must first be capable of III participation. A state which joins the NFF subsequent to the enactment of the National Crime Prevention and Privacy Compact Act of 1998 must be a signatory to the Compact. The following NFF Qualification Requirements are written to include and augment the minimum standards for III participation.

I. Fingerprint Identification Matters

A. A NFF state shall maintain a central criminal history record repository with full technical fingerprint search capability. A NFF state shall perform technical searches¹ on both applicant and criminal fingerprint impressions prior to their submission to the FBI. When an individual is identified at the state level as having records previously indexed in the National Identification Index, the NFF state shall notify the contributor of the search results and provide the criminal history record information if requested on the fingerprint submission.

B. A NFF state shall collect and maintain any appropriate criminal history record information, including dispositions, sealing orders, and expungements, relevant to each offender and the records maintained by that state.

C. A NFF state's central criminal history record repository shall serve as the sole conduit for the transmission of non-federal applicant² and criminal fingerprint impressions³ for criterion

¹A technical search may consist of a name search with candidate verification by fingerprint comparison; short of that, a manual or AFIS search of the state master fingerprint file is required.

²A state may also at its discretion consent to process federal applicant fingerprint submissions through the repository in which such request originated. See Compact Article V(c).

³Criminal fingerprint impression may include a fingerprint submission that supports or is linked to an arrest event (*i.e.*, includes corrections fingerprints).

offenses⁴ within the state to the FBI (single source submission).

D. The total percentage of FBI Integrated Automated Fingerprint Identification System (IAFIS) rejects due to low image quality on criminal fingerprint submissions shall be less than 0.5% of the total criminal fingerprint submissions. The total percentage of service provider rejects due to insufficient, indiscernible, erroneous or incomplete criminal fingerprint image submissions shall be less than 5%.

E. A NFF state shall not forward criminal fingerprint impressions nor related information for individuals identified at the state level as having records previously indexed in the National Identification Index as NFF records with the State Identification Number (SID). Errors resulting from forwarding fingerprint submissions for previously indexed NFF records shall be less than 2% of the total criminal fingerprint submissions.

F. A NFF state participant shall continue submitting criminal fingerprint impressions for criterion offenses and related information for individuals for whom primary identification records were established by the FBI prior to the state's becoming a NFF participant and which are not identified by SIDs in the National Identification Index by the state or are FBI non-automated identification records (*i.e.*, the state has not taken responsibility for managing or controlling the III record).

G. Criminal fingerprint impressions shall be forwarded to the FBI within two (2) weeks of receipt at the state central criminal history record repository.

H. A NFF state's central criminal history record repository shall maintain the subject's fingerprint impressions, or copies thereof, to support each Indexed record and shall maintain fingerprint impressions, or copies thereof, supporting each arrest event in each such criminal history record.

I. The master fingerprint impressions maintained at the state central criminal history record repository shall include all ten fingers, noting amputation(s), scars, or missing fingers.

J. Additional/(subsequent) criminal fingerprint impressions maintained at the state central criminal history record repository to support individual arrest events may include less than all ten fingers.

K. A NFF state shall submit to the FBI criminal fingerprint impressions

⁴If 28 CFR is amended to permit the inclusion of all fingerprint-based arrests into the III System, these qualification requirements shall be amended accordingly.

containing a unique SID for each individual. The number of fingerprint submissions that contain non-unique SIDs shall be less than 0.25% of the total criminal fingerprint submissions.

L. Missed identifications by the state's central criminal history record repository resulting in the issuance of multiple SIDs for the same individual shall be less than 2% of total criminal fingerprint submissions.

M. The state shall ensure that a SID is on each criminal fingerprint impression not identified at the state level and submitted to the FBI for establishment of a NFF record.

N. In those instances when the applicant or criminal fingerprint submission includes a request for the rap sheet and/or the results of the search, a NFF state shall either receive and forward electronic messages concerning the results of FBI fingerprint impression processing to its fingerprint contributors or shall print and mail these results.⁵

II. Record Content and III Maintenance

A. For each NFF record maintained, the state's central criminal history record repository shall contain all known fingerprint-based arrests, final dispositions and custody/supervision actions occurring in that state which are reported to the state central criminal history record repository pursuant to applicable federal or state law.

B. A NFF state shall remove the SID from a III record when corresponding record data no longer exists at the state level.

C. A NFF state shall conduct an audit of III record synchronization with the FBI at least twice a year to identify, analyze, and correct record discrepancies within 90 calendar days of audit tape receipt from the FBI. A NFF state shall maintain the discrepancy reports resulting from the last two (2) synchronization tapes.

D. Record completeness, accuracy, and timeliness shall be considered by a NFF state to be of primary importance and shall be maintained at the highest level possible.

E. When a second and/or subsequent criminal fingerprint submission is identified with an Indexed record by a NFF state, the state shall send an electronic Criminal Print Ident (CPI)

⁵ There are three options presently available for receiving responses for applicant processes. The state may utilize: The electronic unsolicited III messages reporting the results of applicant fingerprint processing (S.A.CFN, S.A.CFR); the IAFIS Submission Results (SRE) response which provides the identification results as communicated over the CJIS Wide Area Network; or the IAFIS System Type of Transaction which generates a manual response to an electronic fingerprint submission (NFFC).

message to the FBI, no later than 24 hours after the arrest is posted within the state's central criminal history record system.

F. A NFF state shall add supplemental identifiers to Indexed records when a second and/or subsequent criminal fingerprint impression is identified by the state and contains identifiers not previously recorded.

G. Supplemental identifiers which shall be added to the National Identification Index include scars, marks, tattoos, dates of birth, Social Security numbers, miscellaneous numbers, and aliases, obtained after establishment of an offender's primary identification record by the FBI.

H. A NFF state shall submit criminal fingerprint impressions to the FBI for second and/or subsequent criterion offenses if these fingerprint impressions show new amputations or new permanent scars.

I. NFF states shall submit ten-finger fingerprint impressions to the FBI as they become available when second and/or subsequent offenses yield improved image quality fingerprint impressions.

J. Required record file maintenance shall be conducted by NFF state personnel based upon receipt of unsolicited file maintenance messages from the FBI via the III interface. Unsolicited file maintenance messages may include advisories of state/FBI missed identifications or expungements of the state SID. The state shall conduct consolidations within two (2) business days of notification; other file maintenance shall be conducted within seven (7) business days of notification.

III. Record Response

A. A NFF state's automated criminal history record system shall have sufficient capability to provide a normal on-line record response time of ten (10) minutes or less.

B. A NFF state shall respond within ten (10) minutes to III record requests via the National Law Enforcement Telecommunications Systems (NLETS) with the record or an acknowledgment and a notice of when the record will be provided.

C. When a NFF state's system cannot provide on-line record responses within ten (10) minutes, the state shall assign personnel as necessary to resolve record processing problems and to restore the system's capacity to provide timely on-line responses.

D. NFF state record responses shall include literal translations of all alphabetic and/or numeric codes in order that the record responses can be readily understood.

E. A NFF state shall not include in its III record response any out-of-state and/or federal criminal history record information maintained in its files.

F. A NFF state's central criminal history record repository shall provide its indexed criminal history records in response to all authorized requests made through the NFF and III for criminal justice purposes and, when based on positive identification⁶, for noncriminal justice purposes as authorized by the Compact.

G. In responding to a III record request for a noncriminal justice purpose, a NFF state shall provide the entire record it maintains on the record subject, except for information that is sealed in accordance with the definition of "Sealed Record Information" set out in Art. I (21) of the Compact.

IV. Accountability

A. In NFF states that have ratified the National Crime Prevention and Privacy Compact, the Compact Officer shall be responsible for ensuring compliance with these qualification requirements.⁷

B. In the event a state ceases to participate in the NFF for any reason, the state shall reasonably assist the FBI in reconstructing any fingerprint and arrest/disposition record deficiencies that otherwise would have been submitted to the FBI during the state's NFF participation.

C. A NFF state shall have written procedures requiring thorough testing of upgrades or modifications to its computer system(s) to detect software errors and/or related procedural problems, particularly on-line testing of these changes to limit adverse effects to the NFF system operations. A NFF state shall demonstrate adherence to the procedures by documenting the test results in writing.

Dated: May 12, 2005.

Donna M. Uzzell,

Compact Council Chairman.

[FR Doc. 05-12329 Filed 6-21-05; 8:45 am]

BILLING CODE 4410-02-P

⁶ Responses to III name-based searches are permitted for noncriminal justice purposes utilizing purpose code "X" under the Compact Council Fingerprint Submission Requirements Rule.

⁷ This requirement is inherent in the Compact itself as stated in Article III(b)(1)(B) that the state Compact Officer shall ensure that Compact provisions and rules, procedures, and standards established by the Council under Article VI are complied with.