

National
Crime Prevention
And
Privacy Compact Council



Bylaws

November 4, 2009

NATIONAL CRIME PREVENTION AND PRIVACY COMPACT

COMPACT COUNCIL

BYLAWS

NOVEMBER 4, 2009

TABLE OF CONTENTS

	<u>PAGE</u>
1.0 <u>ESTABLISHMENT OF THE NATIONAL CRIME PREVENTION AND PRIVACY COMPACT COUNCIL</u>	1
2.0 <u>FBI COMPACT OFFICER</u>	1
3.0 <u>MEMBERSHIP OF THE COMPACT COUNCIL</u>	1-2
4.0 <u>TERM OF MEMBERS</u>	2
5.0 <u>END-OF-TERM APPOINTMENT PROCESS</u>	2-4
5.1 MEMBERS RECOMMENDED BY COMPACT OFFICERS OF ALL PARTY STATES	2-3
5.2 MEMBERS NOMINATED BY THE DIRECTOR OF THE FBI	3
5.3 MEMBERS NOMINATED BY THE CHAIRMAN OF THE COMPACT COUNCIL	3
5.4 FBI'S APB MEMBER NOMINATED BY THE APB	4
6.0 <u>VACANCIES</u>	4-5
7.0 <u>OFFICERS</u>	5-6
7.1 DUTIES OF OFFICERS	5
7.2 QUALIFICATIONS OF CHAIRMAN AND VICE CHAIRMAN	5-6
7.3 TERM OF OFFICERS	6
7.4 ELECTIONS OF OFFICERS	6
7.5 VACANCIES	6

TABLE OF CONTENTS (Continued)

	<u>PAGE</u>
8.0 <u>MEETINGS</u>	7-9
8.1 FREQUENCY AND LOCATION OF MEETINGS	7
8.2 PRESENCE OF OFFICERS	7
8.3 NOTICE OF MEETINGS	7
8.4 CONDUCT OF MEETINGS	7
8.5 PROXIES	7
8.6 ATTENDANCE AT MEETINGS	7
8.7 OPEN SESSIONS	8
8.8 QUORUM	8
8.9 VOTING	8
8.10 AGENDA	8
8.11 MINUTES AND RECORDS OF THE COMPACT COUNCIL	8-9
8.12 ADJOURNMENT OF MEETINGS	9
9.0 <u>PROMULGATION OF RULES, PROCEDURES AND STANDARDS</u>	9-10
9.1 COORDINATION WITH AFFECTED PERSONS, AGENCIES AND ORGANIZATIONS	9
9.2 EFFECTIVE DATE	9-10
10.0 <u>COMPENSATION</u>	10
11.0 <u>ASSISTANCE FROM THE FBI</u>	10
12.0 <u>COMMITTEES</u>	10-11
13.0 <u>DISCRIMINATION PROHIBITED</u>	11
14.0 <u>AMENDMENTS TO BYLAWS</u>	11

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 1

NATIONAL CRIME PREVENTION AND PRIVACY COMPACT ACT OF 1998

TABLE OF CONTENTS

<u>SECTION</u>	<u>PAGE</u>
§14611 FINDINGS	1
§14612 DEFINITIONS	1
§14613 ENACTMENT AND CONSENT OF THE UNITED STATES	2
§14614 EFFECT ON OTHER LAWS	2
§14615 ENFORCEMENT AND IMPLEMENTATION	3
§14616 NATIONAL CRIME PREVENTION AND PRIVACY COMPACT	4
OVERVIEW	4
ARTICLE I - DEFINITIONS	4
ARTICLE II - PURPOSES	8
ARTICLE III - RESPONSIBILITIES OF COMPACT PARTIES	9
ARTICLE IV - AUTHORIZED RECORD DISCLOSURES	
11	
ARTICLE V - RECORD REQUEST PROCEDURES	12
ARTICLE VI - ESTABLISHMENT OF COMPACT COUNCIL	13
ARTICLE VII - RATIFICATION OF COMPACT	15
ARTICLE VIII - MISCELLANEOUS PROVISIONS	15
ARTICLE IX - RENUNCIATION	16
ARTICLE X - SEVERABILITY	16
ARTICLE XI - ADJUDICATION OF DISPUTES	16

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.