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H.R. 2649, SCHOOLS SAFELY ACQUIRING FACULTY EXCELLENCE ACT

HEARING

BEFORE THE

SUBCOMMITTEE ON 21ST CENTURY COMPETITIVENESS

OF THE

COMMITTEE ON EDUCATION AND THE WORKFORCE
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTH CONGRESS

SECOND SESSION

September 28, 2004

Serial No. 108-73

Printed for the use of the Committee on Education and the Workforce

Available via the World Wide Web: http://www.access.gpo.gov/congress/house
or
Committee address: http://edworkforce.house.gov

U.S. GOVERNMENT PRINTING OFFICE

96-150 PDF WASHINGTON : 2004

For sale by the Superintendent of Documents, U.S. Government Printing Office
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H.R. 2649, SCHOOLS SAFELY ACQUIRING FACULTY EXCELLENCE ACT

Tuesday, September 28, 2004
U.S. House of Representatives
Subcommittee on 21st Century Competitiveness
Committee on Education and the Workforce
Washington, DC

The Subcommittee met, pursuant to call, at 10:05 a.m., in room 2175, Rayburn House Office Building, Hon. Howard P. "Buck" McKeon [Chairman of the Subcommittee] presiding.

Present: Representatives McKeon, Porter, and Holt.

Staff Present: Kevin Frank, Professional Staff Member; Catharine Meyer, Legislative Assistant; Whitney Rhoades, Professional Staff Member; Krisann Pearce, Deputy Director of Education and Human Resources Policy; Rich Stombres, Assistant Director of Education and Human Resources Policy; Brad Thomas, Legislative Assistant; Deborah L. Samantar, Committee Clerk/Intern Coordinator; Denise Forte, Legislative Associate/Education; Ricardo Martinez, Legislative Associate/Education; Alex Nock, Legislative Associate/Education; and Joe Novotny, Legislative Associate/Education.

Chairman MCKEON. A quorum being present, the Subcommittee on 21st Century Competitiveness of the Committee on Education and the Workforce will come to order.

We are holding this hearing today to hear testimony on H.R. 2649, the Schools Safely Acquiring Faculty Excellence Act of 2003.

Under Committee Rule 12(b), opening statements are limited to the Chairman and the Ranking Minority Member of the Committee. Therefore, if other Members have statements, they will be included in the record.

With that, I ask unanimous consent for the hearing record to remain open 14 days to allow Members' statements and other extraneous material referenced during the hearing to be submitted in the official hearing record. Without objection, so ordered.

I think it was several months ago we were out in Nevada and held a hearing on this bill at the request of Mr. Porter. And it was the first I learned of the problem that they were having out there, where they had to hire 2,000, 2,500 teachers a year, and how difficult it was to really verify the character of some of the teachers. And so I thought it was an outstanding thing that Mr. Porter was doing in putting forward this bill.

And when he asked if we would hold a hearing here in Washington, I thought it was very important that we do so. With that, I would like to turn to Mr. Porter and have him give the opening statement, if he would, to begin this hearing.

STATEMENT OF HON. JON C. PORTER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEVADA

Mr. PORTER. Good morning. Thank you, Mr. Chairman. I appreciate you holding this really important hearing in our Committee on 21st Century Competitiveness. I would like to thank you all for joining us today so we can discuss this important topic and find ways to find a safe place for all of our children across the country.

I would also like to thank our distinguished panel of witnesses who we will be introducing shortly. Students, parents, teachers and taxpayers have made great strides in the past 4 years in bringing better educational services to our elementary and secondary school children. While we continue to see the product of these efforts, there are still several aspects that remain problematic. Chief among these is the safety of children in our schools. The dangers that threaten our children are widespread, from the threat of terrorism, to the presence of sexual predators in the classroom, and in the hallways of our campuses.

We are here today to explore ways to prevent this last type of abuse. In May, with the help of the Chairman, this Subcommittee held a field hearing in my home district, Clark County, Nevada, where we heard about the issues that currently face the fast-growing school districts as they attempt to hire large numbers of highly qualified, reliable individuals to fill the important positions that allow our children to succeed.

Many school districts around the Nation rely on out-of-State recruitment of teachers in order to meet the standards and the needs of those growing communities. In order to ensure students' safety, many school districts require potential hires to be fingerprinted for background checks through the FBI.

However, current practice often results in incomplete data for noncriminal purposes. The Clark County School District, the school district that I represent, is constantly faced with these issues. As the district grows an average of 15,000 new students a year, we need to hire over 2,000 new teachers. We have one of the fastest growing school districts where we also need to build 18 new schools in a given year. Imagine the challenges.

The majority of teachers that we have hired come from outside of the state, because we are a small state. But, there are other States that have similar challenges with their growth. We depend upon other States to share with us any information that will help remove the threat of sexual predators in our classrooms. As recently as this summer, charges of sexual abuse by individuals employed by the school district became public.

There must be zero tolerance for this type of behavior, and I believe that Congress has the ability to make significant strides in reducing the occurrence of sexual assault in our schools.

As I mentioned earlier, it is just not Clark County, Nevada, it is a problem across the country. And while I see no reason to oppose the intent of the legislation, I am also aware that we need to

make some adjustments to the mechanisms that have been suggested.

I look forward to working on this legislation with all of the stakeholders so that we can effectively make strides in improving this situation.

Mr. Chairman, the National Crime Prevention and Privacy Compact signed into law on October 10th of 1998, established an infrastructure by which States can exchange criminal records for noncriminal justice purposes. The Compact organizes an electronic information sharing system among the Federal Government and the States to exchange criminal history records for noncriminal justice purposes, such as background checks for governmental licensing and employment.

Under the Compact, the FBI and the member States agree to maintain detailed data bases of their respective criminal history records and to make them available to the Federal Government and to member States for authorized purposes.

The Compact requires the FBI to permit use of the national identification index and the national fingerprint file by each member State and to provide, in a timely fashion, Federal and State criminal history records to requesting member States.

It also requires member 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 through criminal history repositories of other member States and the Federal Government for noncriminal justice purposes.

As a result, when the Compact member States apply for a criminal history background check, they receive information from all participating States with a single application. The legislation we are examining today would require States to partake in this nationwide information sharing system that would provide human resources directors and administrators with the background information that they need to hire qualified individuals without records of sexual abuse to serve in our schools and to teach our children.

Unfortunately only 21 States have currently ratified this Compact. 21 States. While the remaining 29 States still have the opportunity to ratify this Compact, I believe that we must encourage this action with thoughtful and effective legislation. By providing a more compelling reason to join the Compact, H.R. 2649 would close one of the cracks through which potentially harmful individuals might slip.

As we examine H.R. 2649, the Schools Safely Acquiring Faculty Excellence Act of 2003, I urge the Subcommittee to consider the importance of a safe learning environment. But I would also like to gain greater insight in how this Committee can craft legislation that best addresses this very important issue.

The immediate and long-term harm that these few unscrupulous individuals can cause is immense. Certainly the immediate physical affects of sexual abuse can be devastating. That said, the long-term psychological affects have proven to be incredibly harmful throughout the life of the victim of the crime.

I believe we can all agree that these atrocities and atrocious acts must be removed from our schools, and our children should be able

to attend school without the fear of this deprived behavior. It is my hope that we can learn from our witnesses today about the scope of the problem, as well as some of the best practices currently being used to deal with this issue.

I would also like to point out to my colleagues that—the fact that is a very small number of individuals that are endangering the security of our children. We have many, many outstanding teachers across this country, the best of the best are in our school districts, but there are a few.

With the vast majority of teachers and staff, our children are safe and of course in good hands. But we must, however, ensure that these few corrupt individuals are unable to enter our schools and abuse our children.

Mr. Chairman, I again say thank you for convening this panel of witnesses who can help this Committee further understand the need to protect our children from any individuals who might wish to harm them, but also from the experts that are with us today. I look forward to working with the Committee on this important legislation in the future, and am anxious to hear our testimony today. Again, thank you, Mr. Chairman.

Chairman MCKEON. Mr. Kildee is not able to be with us here today, but we will let him insert his statement in the record.

[The information referred to follows:]

Statement of Hon. Dale E. Kildee, Ranking Member, Subcommittee on 21st Century Competitiveness, Committee on Education and the Workforce

Good morning, today marks the second time this subcommittee has held a hearing on H.R. 2649. While this legislation deserves the Subcommittee's consideration just as much as any other bill, I am not sure what the Subcommittee might learn that it didn't learn in May of this year. Regardless, I look forward to joining my Chairman and friend as we renew our discussion of this bill.

H.R. 2649 has been introduced by our colleague Representative Porter from Nevada. I am aware that the educational system in Las Vegas is facing an especially difficult situation. With the rapid population growth in and around Las Vegas, I am sure that hiring a sufficient number of teachers is a real challenge. I am equally convinced that Nevada's school administrators want to ensure that children do not have teachers who have a criminal history.

While background checks on teachers and other personnel that deal with children is growing in use, several questions remain about this bill.

This bill denies education funds to a State which doesn't comply with its requirements. Is this a realistic requirement for States to meet in one year? Do States need to pass legislation to meet this requirement? Is it fair to the State Education Department to put their funds at risk when they have little or no control over whether a State will participate?

The bill also requires information on individuals suspected of a felony, as far back as 15 years. I have been told that reporting this information may be impossible for some States.

While I am aware that the Subcommittee does not intend to markup this legislation before the end of this Congress. I believe these concerns do need to be heard and addressed.

In addition, I think it is important that we explore other ways of helping schools maintain safe and healthy environments for their children. This includes the hiring of additional counselors and increasing efforts to reduce bullying. Leading school safety experts believe that any program focused on the safety of students must include anti-bullying programs and techniques. These experts have found that the root cause of some of the worst school safety disasters were that the perpetrators were bullied or did not receive appropriate counseling or intervention when they needed it. I hope Members keep this in mind in our discussion today.

In conclusion Mr. Chairman, I look forward to hearing from today's witnesses and yield back the balance of my time.

Chairman MCKEON. I now yield to Mr. Porter for the purpose of introducing our witnesses.

Mr. PORTER. Thank you, Mr. Chairman. We do have experts with us today that can share with us firsthand the challenges that our schools are facing and our families are facing.

With us today is a special guest from Clark County, Nevada, Ms. Barbara Belak, who is the assistant to the associate superintendent for human resources in the Clark County School District in Las Vegas, Nevada.

Prior to assuming this position, in July of 2003, she served the Clark County School District in numerous other capacities. She began her career teaching elementary school and special education students. As a teacher she developed an interest in teacher-management issues. As a result, she worked for 2 years on employee bargaining issues while in special assignment to the assistant superintendent, and served as director of employee-management relations.

She also served as past president of the Las Vegas Teachers Association for 2 years, as a professional advocate for the organization for over 5 years. Welcome, Barbara. Appreciate you being here.

We also have Ms. Donna Uzzell. For the past 8 years she has been the director of Criminal Justice Information Services in the Florida Department of Law Enforcement. In this position, she oversees the missing children information clearinghouse in the Crimes Against Children Program, and leads the Department's efforts to provide telecommunications capabilities, training and documentation analysis of criminal activity for law enforcement throughout the State.

She has been recognized for her expertise in child safety, and juvenile justice issues. She is a member of Search a consortium of criminal justice agencies, and is currently chairperson of the National Crime Prevention and Privacy Compact Council, and an appointee to the FBI's criminal justice information service policy advisory board.

And immediately to her left is Dr. William Dean. Dr. Dean has been the superintendent of the Frederick County Public Schools, in Frederick County, Virginia, since July 1998. Prior to his service with Frederick County, Dr. Dean served 8 years as superintendent of the Grand Haven Public Schools in Grand Haven, Michigan, 4 years as superintendent of the Rapid City School District in Rapid City, South Dakota, and for 4 years as assistant superintendent for instruction in Ft. Collins, Colorado.

Dr. Dean has also served as the assistant State superintendent with the Colorado Department of Education. He began his career teaching elementary school in Michigan. Additionally, Dr. Dean is an active member of the American Association of School Administrators.

And to Dr. Dean's left is Mr. Butch Asselin. He is currently the chief of police for Skowhegan Police Department in Skowhegan, Maine. He was promoted to the position in 1997 after serving 22 years with the Department as a patrol officer, detective and patrol sergeant.

He has been an active member of the Maine Chiefs of Police Association, serving as the organization's president from September

2003 to September of 2004, also an active member of the Fight Crime: Invest in Kids, an organization of law enforcement officials dedicated to preventing crime and violence.

Before the witnesses begin their testimony, I would like to remind the Members that we will be asking questions of the full panel after we have heard their presentations. Thank you.

[The prepared statement of Mr. Porter follows:]

Statement of Hon. Jon C. Porter, A Representative in Congress from the State of Nevada

Good Morning. Thank you, Chairman McKeon, for holding this important 21st Century Competitiveness Subcommittee hearing, and thank you all for joining us as we discuss this important topic. I would also like to thank our distinguished panel of witnesses, who will be introduced shortly.

Students, parents, teachers and taxpayers have made great strides in the past four years in bringing better educational services to our elementary and secondary school children. While we continue to see the product of these efforts, there are still several aspects that remain problematic. Chief among these is the safety of children in our schools. The dangers that threaten our children are widespread, from the threat of terrorism to the presence of sexual predators in the classrooms and hallways of our campuses. We are here today to explore ways to prevent this last type of abuse.

In May, this Subcommittee held a field hearing in my home district of Clark County, Nevada, where we heard about the issues that currently face fast-growing school districts as they attempt to hire large numbers of highly-qualified, reliable individuals to fill the important positions that allow our children to succeed. Many school districts around the nation rely on out-of-State recruitment of teachers in order to meet the needs of their growing communities. In order to ensure students' safety, many school districts require potential hires to be fingerprinted for background checks through the FBI. However, current practice often results in incomplete data for non-criminal purposes.

The Clark County School District, the school district that I represent, is constantly faced with these issues. As the district grows by an average of 15,000 students per year, we need to hire an average of 2,000 new teachers. The majority of these teachers come from outside of the state. We depend upon other states to share with us any information that will help remove the threat of sexual predators in our classrooms. As recently as this summer, charges of sexual abuse by individuals employed by the school district became public. There must be zero tolerance for this type of behavior. I believe that Congress has the ability to make significant strides in reducing the occurrence of sexual assault in our schools. While I see no reason to oppose the intent of my legislation, I am aware of some of the flaws in the mechanism that it uses. I look forward to working on this legislation with all stake holders so that we can effectively make strides in improving this situation.

The National Crime Prevention and Privacy Compact, signed into law October 10, 1998, established an infrastructure by which States can exchange criminal records for non-criminal justice purposes. The Compact organizes an electronic information sharing system among the federal government and the States to exchange criminal history records for non-criminal justice purposes, such as background checks for governmental licensing and employment. Under the Compact, the FBI and the member States agree to maintain detailed databases of their respective criminal history records and to make them available to the federal government and to member States for authorized purposes.

The Compact requires the FBI to permit use of the national identification index and the national fingerprint file by each member State and to provide, in a timely fashion, federal and State criminal history records to requesting member States. It also requires member 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 member States and the federal government for non-criminal justice purposes. As a result, when Compact member States apply for a criminal history background check they receive information from all participating States with a single application.

The legislation we are examining today would require States to partake in this nation-wide information sharing system that would provide human resources directors and administrators with the background information that they need to hire highly qualified individuals without records of sexual abuse to serve in our schools.

Unfortunately, only 21 States have currently ratified this Compact. While the remaining 29 States still have the opportunity to ratify this Compact, I believe that we must encourage this action with thoughtful and effective legislation. By providing a more compelling reason to join the Compact, H.R. 2649 would close one of the cracks through which potentially harmful individuals might slip.

As we examine H.R. 2649, the Schools Safely Acquiring Faculty Excellence Act of 2003, I urge the Subcommittee to consider the importance of a safe learning environment. I would also like to gain greater insight into how this Committee can craft legislation that best addresses this important issue.

The immediate and long-term harm that these few unscrupulous individuals can cause is immense. Certainly, the immediate, physical effects of sexual abuse can be devastating. That said, the long term psychological effects have proven to be incredibly harmful through out the life of the victim. I believe we can all agree that these atrocious acts must be removed from our schools, and that our children should be able to attend school without the fear of this depraved behavior.

It is my hope that we can learn from our witnesses today about the scope of the problem, as well as some of the best practices currently being used to deal with this issue. I would also like to point out to my colleagues the fact that a very small number of individuals can endanger the security of all our students. With the vast majority of teachers and staff, our children are safe and in good hands. We must, however, ensure that these few, corrupt individuals are unable to enter our school and abuse our children.

Mr. Chairman, I thank you again for convening this panel of witnesses who can help this Committee further understand the need to protect our children from any individual who might wish them harm. I look forward to working with the Committee on this important legislation in the future and am anxious to hear the testimony of our four witnesses today.

Chairman MCKEON. Thank you very much. We have a little light there in front of you that goes on green, and when you have a minute left, yellow, and red. But as you can see, we don't have too many questioners here today.

So feel free, don't worry too much about the time. We will be fine. Let's hear first from Ms. Belak.

STATEMENT OF BARBARA BELAK, ASSISTANT TO THE ASSOCIATE SUPERINTENDENT FOR HUMAN RESOURCES, CLARK COUNTY SCHOOLS, LAS VEGAS, NEVADA

Ms. BELAK. Thank you. Good morning, Mr. Chairman, Members of the Committee. On behalf of the Clark County School District, which is the Nation's sixth largest school district, I thank you sincerely for this opportunity to present this information to your Committee.

I do so out of a strong belief in an ideal that I hope we all share, that all students in our Nation's schools have the right to be educated by dedicated professionals, who will teach them, inspire them and nurture them, not target, victimize or abuse them.

With regard to the language in H.R. 2649, the Clark County School District does have some serious reservations about the prohibition consequences in Provision A of Section 3. We fully support, however, the provisions described in Section 3(b), and we commend the Committee for considering this important issue.

I am deeply saddened to have to admit that CCSD has found itself in the news media too often, as another employee is arrested for sexual misconduct with a student. Besides the obvious embarrassment to the school district and the effect that has on the public trust in our schools, the real tragedy, as always, is the harm done to the victim, a child, one who has been entrusted to our care.

Even if the sharing of the criminal information as covered in H.R. 2649 would result in only one less child predator in our schools, I would still be glad to be here today to testify on behalf of it.

For background purposes, I would like to share some contextual data with you. Geographically, the Clark County School District in Las Vegas is roughly the size of the States of Connecticut and Delaware combined. With the 14 new schools that we just opened last month, we now have over 300 school sites, including everything from a one-teacher schoolhouse in Good Springs, to urban high schools that have over 3,000 students. In less than 20 years, we have built nearly 160 new schools.

We in human resources have the daunting task of staffing those 300 schools. We generally hire between 1,500 and 2,000 new teachers each year, not to mention support staff and administrators. However, Nevada's higher education system only graduates approximately 600 new teachers each year.

So, like many other districts, we have to turn to other States to find the teachers to bring to our classrooms and to our students. In recruiting for the current school year, we sent approximately 170 recruiters to 39 States, and we maintain a dynamic Web site so that anyone who has Internet access can learn about our growing district, and consider Las Vegas for their teaching career.

As a result, we have already hired over 1,000 teachers for the 2004–2005 school year alone from outside the State of Nevada, and we are still hiring.

Other data, unfortunately, are more unsettling to consider. Every school year, CCSD initiates dismissal proceedings against employees for incidents involving controlled substances. Every year we dismiss employees for incidents involving violence against students. And each year, employee dismissal proceedings are initiated for incidents involving sexual misconduct with students.

The harsh realty is this: CCSD has over 16,000 teachers spread throughout its classrooms. If only 1 percent of the teachers' commit misconduct egregious enough that it brings harm to a child, that is 160 teachers.

If only 1/10 of 1 percent commit such misconduct, that is still 16 teachers. And if only 1/100 of 1 percent of our 16,000 is a sexual predator, that is still 1 or 2 teachers who may sexually molest in the coming year, and that is one or two too many.

Having been both a union advocate who assisted teachers accused of such misconduct, and an administrator involved in the disciplinary action taken against those teachers, I could provide you with some specific scenarios, but I am hoping today that that is not necessary, because I hope I am preaching to the choir.

The question is not whether or not we must accept a certain percentage of bad apples as the inevitable reality of this imperfect world, the question is, what can we do to better identify those bad apples and keep them away from our schools?

It has often been said knowledge is power. In this technological age, that has been translated into information is power; cliches perhaps overused, but true nonetheless.

School districts need complete information on the applicants who are looking to work in our schools. We need to know about the do-

mestic battery arrests. We need to know about the drug arrests. And we need to know about the arrests for lewdness with a minor. Please note that I deliberately used the word "arrests," not "convictions." We certainly recognize that innocent people can be accused falsely.

But, if Mr. Jones was arrested for lewdness with a minor in New Jersey in 1988, and again in Florida in 1992, and again in Mississippi in 1997, and again in Oregon in 2002, would you want your son or daughter in Mr. Jones's classroom?

CCSD routinely asks approximately 20 background questions related to misconduct on its teacher application forms, and we fingerprint everyone we hire. We even fingerprint the volunteer coaches. But we need to do so with the confidence that the report that comes back is complete, that it includes arrest and conviction information from all States, not just some of them, especially with the State-to-State mobility that we enjoy in this great Nation.

School districts everywhere are hiring employees who will spend hours each day working with, supervising and guiding children, oftentimes alone. It is imperative that those districts be made aware of any and all arrests for and convictions of felonies and crimes involving violence or controlled substance, child abuse, or sexual misconduct.

In closing, I would like to express my gratitude for the opportunity to present this testimony, and I would like to refer the Committee to my written testimony, which included additional information. Thank you very much for your time and for considering this important issue.

Chairman MCKEON. Your complete written testimony will be in the record. Thank you very much.

[The prepared statement of Ms. Belak follows:]

Statement of Barbara Belak, Assistant to the Associate Superintendent for Human Resources, Clark County Schools, Las Vegas, Nevada

Good morning, Mr. Chairman, and distinguished members of the Committee.

As the representative today of the nation's 6th-largest school district, I would like to thank you sincerely for the opportunity to present this information to you today. I do so out of a strong belief in an ideal that I hope we all share: the ideal that all students in our nation's schools have the right to be educated by dedicated professionals who will teach them, inspire them, and care for them—not target, victimize or abuse them.

On the bright side, not long ago, we had some discussions with a private security company regarding employee background checks. As a result of those discussions, the president of the company concluded, in essence, that the Human Resources Division of the Clark County School District (CCSD) already does everything in its power to protect its students and screen out undesirable job applicants. That's good news coming from an outside company that would have loved to sell its services to us. The bad news is: it isn't enough.

I am deeply saddened to admit that the Clark County School District has found itself in the news media far too often as the public is informed that another school district employee has been arrested for sexually molesting a student. Besides the obvious embarrassment to the district and the deleterious effect on the public trust in our schools, the real tragedy, as always, is the harm done to the victim—a child—one entrusted to our care. In addition to the trauma of the actual incident—or incidents, as is often the case—the child is subsequently subjected to re-living it over and over again, in everything from repeated police interviews and school administrative interviews, to employee dismissal arbitrations and criminal court trials. Even if the sharing of criminal information as covered in HR 2649 would only keep one single child predator away from the schools, I would still want to be here today to support this bill.

To provide you with a background context for our position, I would like to note the following data.

First, statistics you may find interesting:

The Clark County School District is a somewhat complex school system. We are a central-city school system, a suburban school system, and a rural school system all in one. Geographically, our district covers nearly 8,000 square miles, roughly the size of Connecticut and Delaware combined. A few months ago, I would have reported that we have 289 schools, but now that a new school year has started, 14 new ones have opened, so we now have over 300 school sites. More than 200 of them are in Las Vegas, over 70 of them are in the surrounding suburban areas, and about 25 are outside the greater metropolitan area in rural Clark County. We have everything from the good, old-fashioned one-teacher school-house in Goodsprings, Nevada, to urban elementary schools with 1,200–1,300 students, to senior high schools with over 3,000 students, and in less than 20 years, we have built nearly 160 new schools. We are just now calculating our student count for this year; last year we approached 270,00 students!

The Human Resources Division is charged with the daunting responsibility of staffing all 300 schools. Each year, CCSD generally hires between 1,500 and 2,000 new teachers, and that's without saying a word about support staff and administrators; nor does it include our 100+ vacancies, particularly in the high needs areas of special education, school psychology and speech pathology.

Meanwhile, however, Nevada's state institutions of higher learning only graduate about 600 new teachers per year. CCSD alone needs far more than what Nevada's colleges can produce, even if every single graduating teacher in the state came to Clark County, leaving our sister counties with none. So, like many other districts nationwide, we turn to other states to find teachers to bring to our classrooms and our students. In recruiting for the current school year alone, we made approximately 170 trips to 39 states, and we maintain a dynamic web-site so that anyone with Internet access to the World Wide Web can learn about our growing district and consider teaching and living in Las Vegas. As a result, we have already hired over 1,000 teachers for the 2004–05 school year from outside Nevada, and we're still hiring.

Please consider now some facts more startling in nature:

Every school year, the Clark County School District initiates dismissal proceedings against teachers and support staff for incidents involving controlled substances, including safety-sensitive employees testing positive for illegal drugs.

Every year, we initiate dismissal proceedings against teachers and support staff for incidents involving violence against students.

And every year, dismissal proceedings are initiated against teachers and support staff for incidents involving sexual misconduct with students.

On the one hand, even if there were as many as 70 such dismissal actions over the last three years, an employer might be proud to proclaim that record. After all, out of more than 25,000 employees, 70 dismissal actions over a three-year period equate to an approximate average of 23 dismissals per year—less than one-tenth of one percent of a 25,000-employee workforce. That's really very good!

On the other hand, this employer feels that if CCSD dismisses on average 23 employees each year for incidents involving controlled substances, violence against children, and sexual misconduct, then we need to do even more than we now do to protect our students better.

I have already mentioned our appearances in the media when employees are arrested for crimes stemming from misconduct with children in our schools. Every time it happens, the press re-caps the former list of arrests, using such comments as, "This is the third time in the last six months . . .," or "This is the ninth time in just three years . . ." Often they summarize former details as well, reminding the public of a particular arrest or two. Each time, we are all reminded that the world can be very unfair for an innocent child. And each time, a former victim gets to re-live their own tragedy yet again.

Here is the harshest reality:

The data above included teachers and support staff, but if we leave out total support staff figures (since many of them are in central offices or service centers), CCSD has over 16,000 teachers spread throughout its schools. If only one percent of the teachers—and one percent is a pretty slim margin by most standards—commit misconduct egregious enough that it can harm a child, that is still 160 teachers, with potentially many more victims. If only 1/10 of one percent commits such misconduct, that is still 16 teachers. Even if only 1/100th of one percent of our 16,000 teachers is a sexual predator, that is still one or two teachers who will molest one

or more children in the coming year—just in our one district—and that is one or two too many.

Having been both a union advocate who assisted teachers accused of harmful misconduct, and an administrator involved in the disciplinary actions taken against such teachers, I could provide you with some specific scenarios. But I hope that is unnecessary, because I would like to believe I would be preaching to the choir. The question is not whether or not we should accept a certain percentage of bad apples as an inevitable reality in an imperfect world. The question is what we can do to identify those bad apples better and keep them away from schools.

It has often been said, particularly in business and political circles, that "knowledge is power." In this technological age, that has been translated into "information is power." The cliches, perhaps, are overused, but true nonetheless—and just as true for school districts as they are for business owners and elected leaders. School districts need complete information on the applicants who are looking to work in our schools. We need to know about the domestic battery arrests. We need to know about the drug arrests. We need to know about the assault and battery arrests. And we need to know about the arrests for lewdness with a minor. Please note that I deliberately use the word "arrests," not just "convictions." We certainly recognize that innocent people can be accused falsely. But if Mr. or Mrs. Jones was arrested for lewdness with a minor in New Jersey in 1988, then again in Florida in 1992, then again in Mississippi in 1997, and again in Oregon in 2002—with or without a conviction—would you want your son or daughter in Mr. or Mrs. Jones' classroom getting some personal attention after school? CCSD may or may not be getting complete arrest and conviction information at present, since we currently process our new-hire fingerprints through our CCSD police. But due to factors not pertinent to this discussion, we might not always have our own police force, and many, many school districts throughout the nation never will.

We know first-hand how powerful information can be. We know it because we have seen first-hand occasions when we should have been given information that we weren't. Sometimes it is a school district in a non-criminal matter that "cuts a deal" to "clean a file" in return for a resignation. Sometimes it is another state that sugarcoats, for some inexplicable reason, a confidential reference knowing full well and good that a teacher has engaged in misconduct with a student. HR 2649 won't help those cases; we have to look for state relief for them. But, HR 2649 can give school districts access to relevant information on applicants' criminal backgrounds that may be being withheld at present. The Clark County School District routinely asks about 20 different background questions related to misconduct on its teacher application forms, and CCSD fingerprints everyone it hires, from the classroom teacher to the office clerk to the volunteer coach (who, technically, isn't even "hired"). But we need to do so with the confidence that the report that comes back is complete—that it includes arrest and conviction information from all states as defined in the bill, not just some of them, especially in light of the state-to-state mobility we all enjoy in this country. As the demand for quality teachers continues to exceed the supply, we must stretch our recruiting efforts far across this vast country as we intensify our efforts to find the best teachers. Other districts may not need as many new hires as CCSD does, but school districts everywhere are hiring teachers, administrators, and support staff who will spend hours each day working with, supervising, and guiding children, oftentimes alone. It is imperative that school districts be made aware of any and all contacts that applicants have had with law enforcement agencies for any arrest for or conviction of a felony or a crime involving violence, a controlled substance, child abuse, and sexual misconduct or abuse.

In closing, I would like to express my gratitude to the committee for the opportunity to present this testimony. Thank you very much for your time and for your consideration of this important legislation.

Chairman MCKEON. Ms. Uzzell.

STATEMENT OF DONNA UZZELL, DIRECTOR, CRIMINAL JUSTICE INFORMATION SERVICES, FLORIDA DEPARTMENT OF LAW ENFORCEMENT

Ms. UZZELL. Thank you. I am appearing here today as the Chairman of the Crime Prevention and Privacy Compact Council, as well as director of the Florida Department of Law Enforcement's Criminal Justice Information Services.

But I think it is relevant for you to know that I am also a former school board member for 8 years, and the mother of two daughters. I, like you, share a strong interest in making sure that when criminal background checks are done on people working with our children, we are able to screen out those who present a danger.

What we have today is a decentralized partnership between the States and the FBI for the collecting, exchanging, and sharing of criminal history information. That decentralized national system is known as the Interstate Identification Index or III. All 50 States, the U.S. territories and Federal law enforcement agencies participate. The criminal history records for more than 48 million people are referenced in the Interstate Identification Index. A complex set of rules govern the dissemination of criminal history information in response to more than 156 million inquires annually for both criminal justice and civil purposes.

In every instance, a complete response comes from either the State holding criminal history information, or the FBI, which provides criminal history information on behalf of the States, as well as other Federal law enforcement agencies.

The passage of the Compact in 1998 by Congress was a way for States to improve this process. 21 States have ratified the Compact which requires the State to directly respond with all of their information when a record request is made for noncriminal justice purposes.

Additionally, the FBI is a Compact participant, which means the FBI provides the records for States who have not yet met the Compact requirements.

What is the bottom line? When a fingerprint card on a teacher applicant is sent to the FBI, the response is based on the search of information from all 50 States. Some States, and today the number is seven, will provide the records directly from their files. And for the others, the FBI will provide what is housed in files.

All 50 States do submit records to the FBI and records from all 50 States are queried and included in the response to an applicant fingerprint card. So why the Compact? The best information is held closest to the source of the record. That is why when you enact Federal laws mandating background checks, you should encourage both State and national level checks.

When States respond to requests for information, they can provide the most complete information available for the identified subject. For example, States may have disposition information in their files that is not duplicated in the FBI file, or additional arrest fingerprints that were rejected for quality when submitted to the FBI.

When the Compact is fully implemented, the vision of a truly cooperative criminal justice enterprise will be realized. Efficiencies will be attained by eliminating unnecessary redundancy, quality will be easier to ensure, and States on the receiving end of criminal history information will have better information to pass on to their customers. And that information will be disseminated in accordance with their own State laws.

I was also asked to mention some innovative processes in my State. In addition to school personnel being checked, the legislature in Florida has expanded that mandate to include contractors employed by schools. In today's world, school administrators should

know about the vendors who are providing food to the school, contractors who have access to the ventilation and security systems. And actually, as we have learned from the Russian school tragedy, you can make the same argument for people who do school renovations. In many States, more and more of these services are privatized, which is why we chose to include them in the background requirements.

In addition, we now retain fingerprints and check them against incoming arrests so that the school district is immediately made aware if a current employee is arrested in Florida. This procedure, which is followed by several States, and it is growing, is ineffective, a perpetual background check.

Our school districts receive both State and the national information within 48 hours of submitting the fingerprints. We use secure telecommunications via the Internet to submit the prints electronically after State processing to the FBI, and we respond back using the same technology. This enables the schools to continue conducting their business of providing services and assuring bus drivers, cafeteria workers and schoolteachers are hired and in place while not compromising the safety of the school community. And this is the direction most States are going.

Technology, the ease that these checks can be processed, and the continued improvement in the time it takes to receive a response has created a new awareness and interest from States. In fact, 45 States and the District of Columbia require national background checks for education personnel or teacher certification.

The safety of our children is of paramount importance to all of us, and I appreciate the interest you have shown in the State's perspective on the criminal history records screening process and in the Compact itself. And I thank you for this opportunity.

Chairman MCKEON. Thank you.

[The prepared statement of Ms. Uzzell follows:]

Statement of Donna Uzzell, Director, Criminal Justice Information Services, Florida Department of Law Enforcement, Tallahassee, Florida

Thank you...

I am appearing here today as the Chairman of the National Crime Prevention and Privacy Compact Council, as well as the Director of the Florida Department of Law Enforcement's Criminal Justice Information Services. But I think it is relevant for you to know that I am also a former School Board member in Leon County Florida and the mother of two daughters. I, like you, have a strong interest in making sure that when criminal background checks are done on people working with our children and other vulnerable populations, we are able to screen out those applicants who present a danger.

For over 80 years, the FBI has been the central point of collection of information about criminal offenders in the U.S. The information was originally collected in a single central database at the FBI, and the primary use of the information was to support criminal justice decisions. Over time, two changes have occurred: 1) the value of this information has been recognized for non-criminal justice screening for sensitive employment and licensing, and more recently, for firearm purchase approvals; and 2) it has become clear that a decentralized system for collecting and sharing this information is more effective in providing complete and accurate records.

The FBI remains a key part of this system, and all 50 states, the U.S. territories and federal agencies participate. The decentralization of the criminal history files is a process that is not yet fully realized. Some states, only 3 actually, continue to rely on the FBI to maintain their records. For others, the FBI acts as a central index for identifying states that hold criminal records on offenders. This system is known as the Interstate Identification Index (triple I) and contains more than 48

million subjects. A complex set of rules govern the dissemination of criminal history information in response to more than 156 million inquiries annually for both criminal justice and civil purposes. Through this index, or pointer system, states make their records available directly for criminal justice purposes, but some continue to rely on the FBI to respond on their behalf when civil background checks are done.

The passage of the Compact in 1998 by Congress was a way for states to improve this process. Because some states have statutes or policies that restrict the dissemination of records for non-criminal justice purposes, the Compact provides the states the means to release their records provided the check is fingerprint based and authorized by state or federal law.

Since 1998, 21 states have ratified the Compact; seven states are already providing their records directly for all non-criminal justice requests, and 15[1] are moving toward this final step of decentralization. Additionally, the FBI is a Compact participant, which means the FBI provides records for these background checks on behalf of non–Compact states as well as those Compact states that have not yet fully implemented this capability.

What's the bottom line? When a fingerprint card on a teacher applicant is sent to the FBI, the response is based on a search of information from all 50 states. Some states, today the number is seven, will provide the records directly from their files, and for the others, the FBI will provide what is housed in its files. All 50 states do submit records to the FBI, and records from all 50 states are queried and included in the response when an applicant fingerprint card is submitted.

The states obviously have the most complete information available to them. This is one of the reasons why it is important that federal laws mandating background checks you should encourage both a state and national level check. The concept behind the Compact and the decentralization of records is that the best information is held closest to the source of the record. When states can respond to requests for information by using the FBI's pointer system, they can provide the most complete information available for the identified subject. For example, states may have disposition information in their files that is not duplicated in the FBI file. Some will have additional arrests that did not meet FBI criteria or which were rejected for some reason when submitted to the FBI.

We believe that the appropriate role for the FBI in the long term is to maintain the III—the index of criminal subjects—and for each state to respond directly with the records in its files. When III and the Compact are fully implemented, the vision of a truly cooperative criminal justice enterprise will be realized. Efficiencies will be attained by eliminating unnecessary redundancy in data capture and processing. Quality will be easier to ensure when records are maintained closer to their source.

I was asked to respond to a few specific questions:

How does a state benefit from belonging to the Compact?

The Compact Council provides an opportunity for a joint management structure and states can participate in the policy issues such as privacy concerns, standards, and record processing.

Additionally, states will see an efficiency that is realized by not having to support their system and records housed at the FBI. The duplication of effort is eliminated.

Finally, the major benefit for a state comes when other states ratify the Compact as the information received as a result of non-criminal justice requests contains the best information available from that state.

Has belonging to the Compact assisted the State in getting information for teacher background checks?

By participating in the Compact and by encouraging other states to become participants the overall information available to each state on any authorized background check becomes more complete.

Does belonging to the Compact make the background check process more effective?

The Compact process eliminates redundant handling of records, reduces opportunities for error, and provides for the most complete records to be supplied. In particular, hiring decisions generally must be based on convictions, so making court disposition data available is truly value added. Again, the effectiveness will be fully realized through the expansion of the Compact, through the full participation of all states in this cooperative venture.

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[1] Oregon provides their records directly but has not yet ratified the Compact

What sort of hurdles did the State have to overcome in order to join the Compact? Was it worth the effort?

Florida was one of the pilot states for decentralization therefore, passage of the Compact was made easy because all of the processes were already in place. What we hear from other states is that the major concerns or obstacles deal with personal privacy and the costs associated with making necessary programming changes. In several instances, these concerns were easily nullified when the legislature learned the records were already being distributed by the FBI and that that overall efficiencies from the system would outweigh any upfront programming costs.

The system is not perfect and there is still work to be done. The changes in technology afford options to our users today that were not even contemplated when these systems were built. With the help of Congress, grants such as the Crime Identification Technology Act, or CITA, and the National Criminal History Improvement Program, or NCHIP, have had a tremendous impact on local and states agency efforts to improve the quality and accessibility of the nation's criminal history records as well as upgrade criminal justice information systems and identification technologies. States continue to strive to improve the record screening process, amid the increasing demand to use this information for a variety of screening purposes. The states rely on this funding to meet these new challenges. Additionally, state leaders need to be educated on the Compact so that they can make informed decisions on whether to participate.

Knowing how important complete, timely and accurate criminal records are for teacher screening, I would urge this committee not to focus fully on whether the state or the FBI provides the response. Rather, I would urge continued support for the improvement of these criminal records, for improved automation of both arrest and court disposition reporting and for the continuing decentralization of these records by expansion of the Compact.

I was also asked to provide for the committee a brief example of some innovative processes occurring at the state level in the area of school employee background checks. In Florida, we have had a statute in place for a number of years requiring all instructional and non instructional personnel to be screened. Effective this year, however, in addition to those personnel, the Florida Legislature has mandated checks for student teachers, interns, substitute teachers and contractors. I wanted to particularly highlight the contractors. In reviewing best practices for emergency preparedness plans for schools, it is highly recommended that school administrators know about the vendors who are providing food to the school and contractors who have access to the heating, cooling, ventilation and security systems. And actually, as we have learned from the Russian school tragedy, you can make the same argument for people who do renovations in our schools. According to press accounts of the incident, Russian security officials indicated that the gunmen and women had pre-planned extra weapons and explosives, smuggled into the school during rebuilding work over the summer holidays, and hidden them beneath floorboards. In Florida and I believe in many other states, more and more of these services are privatized which is why our state chose to include them in the background requirements.

In addition to conducting state and national fingerprint based checks, the Florida Legislature has now required that we retain these prints and check them against incoming arrests so that the school district is immediately made aware if a current employee is arrested in Florida, as opposed to waiting for their 5 year recheck.

Thanks to the funding support of Congress through NCHIP and the support of our state, Florida has advanced technology in this arena and our school districts who are conducting these checks receive the state and the federal information within 48 hours of submitting the fingerprint. In Florida, we use secure applications via the Internet to submit the prints electronically and respond back using the same technology. This enables the schools to continue conducting their business of providing services and assuring bus drivers, cafeteria workers and school teachers, are hired and in place, while not compromising the safety of the school community. This is the direction most states are going.

There are approximately 39 other states that take advantage, in some form or another, of this technology and are seeing similar advances in facilitating the ease and timeliness of these checks. According to the FBI, 79% of the FBI's total non-criminal justice fingerprint submissions are submitted using digital technology that enhances the response time and eliminates the need for the paper fingerprint card.

I mentioned that the use of criminal history information for the non-criminal justice community has seen a tremendous increase over the past few years. In fact, nationally at the FBI, the incoming fingerprints for background checks are now exceeding the incoming fingerprints processed for arrests. In Florida, over the past few years we went from 300,000 requests to now 600,000 requests. States see the benefit

of requiring these checks for persons employed in sensitive positions and with vulnerable populations. The availability of technology, the ease in which these checks can be processed and the continued improvement in the time it takes to receive a response has created a new awareness and interest from states. In fact 45 states and the District of Columbia have now enacted statutes requiring federal background checks for education personnel or teacher certification.

The safety of our children is of paramount importance to all of us. Today that is the issue we address. Of course, we all realize that these records have a much greater use and importance. I appreciate the interest you have shown in the state's perspective on the criminal history record screening process and in the Compact itself and I thank you for this opportunity...

[Attachments to Ms. Uzzell's statement are located at the end of the hearing.]

Chairman MCKEON. Dr. Dean.

STATEMENT OF WILLIAM DEAN, SUPERINTENDENT, FREDERICK COUNTY PUBLIC SCHOOLS, WINCHESTER, VIRGINIA

Dr. DEAN. Thank you, Mr. Chairman. Mr. Porter, good morning. I appreciate the opportunity to speak to H.R. 2649. As you indicated, my name is William Dean. I am superintendent of schools in the Frederick County, Virginia, School District. This is my 7th year as superintendent in Frederick County, my 18th year as superintendent, and my 42nd year in the profession.

But, as I recall back a few years, in 1968, as a brand new high school principal in Michigan, I had to hire a number of teachers. And in particular, I hired a journalism teacher with impeccable credentials. Unfortunately, 6 weeks after school started, that teacher's photo appeared in the local newspaper. And I was called by one of our local ministers who said that the teacher that I had hired, let's call him Mr. Jones, had actually been married by this minister in Oregon using the name Mr. Smith.

Mr. Jones, it turns out, was a bigamist and wanted in two States by local authorities. Now, the possibility of that happening 36 years later is slim, but not impossible. But it is significantly less possible because of safeguards that many States, including Virginia have enacted.

In our local school district of nearly 12,000 students and 2,200 employees, we follow the Virginia Code on background checks emphatically. All employees are fingerprinted, and using an electronic State system that has been merged with the FBI data base, we know within 30 minutes to 24 hours whether a potential employee has an arrest record in Virginia, or in most places in the United States.

If the system finds a match, we are informed by e-mail that the record is being processed. That is code for essentially saying that somebody has an arrest record. We process more than 500 a year at $37 per request. And perhaps 3 percent of those come back as record being processed.

Generally the only error in the process is a candidate, who may embarrassingly confide that they did not complete the application honestly. We have two employees in our human resource office operating that system, the full-time equivalency of this task is approximately a quarter of an FTE.

The Virginia State Police and our local FBI office in Winchester verify that not all States contribute to an interstate criminal net-

work. That not all States do not participate creates a dilemma for school districts in all States.

For example, most of us in Northern Virginia travel to a dozen or more States to recruit staff for our growing student enrollment. It would be reassuring to know that the States where our candidates come from participate in a national criminal record network so that our background checks are completely, not partially, reliable.

While I agree with the intent and purpose of H.R. 2649, I question whether penalizing State Departments of Education by denying Federal education dollars is the most appropriate way to accomplish this worthwhile legislation. As influential as State Departments and State Boards of Education may be, their influence does not extend to directing State law enforcement to participate in a statewide Compact of information sharing.

And while I think my colleagues in the superintendency and the boards of education who employ us would all feel better if H.R. 2649 were enacted, as school employees and elected officials, we also recognize our inability to compel law enforcement to accede to the bills requirements.

So, on closer examination, perhaps the U.S. Department of Education may be the wrong Federal agency to endorse compliance with a well-intended piece of legislation. H.R. 2649 is important to educators who are asked to ensure that children in the public schools are protected from criminals whatever their crime.

Let's just be sure we use the right mechanisms to see this legislation to fruition. Thank you very much.

[The prepared statement of Dr. Dean follows:]

Statement of Dr. William Dean, Superintendent, Frederick County Public Schools, Winchester, VA

Good Morning Mr. Chairman and Members of the Committee:

Thank you for the opportunity to speak to HR 2649. My name is Dr. William C. Dean and I am Superintendent of Schools in Frederick County, Virginia. This is my 7th year as superintendent in Frederick County, my 18th year as a superintendent and my 42nd year in this profession.

In 1968, as a brand new high school principal in Michigan, I hired a Journalism teacher with impeccable credentials. Six weeks after school started the teacher's photo appeared in the local paper. I was called by a local minister who said the teacher I hired—let's call him Mr. Jones—had actually been married by this minister in Oregon using the name Mr. Smith. Mr. Jones, it turns out, was a bigamist and wanted in two states by local authorities.

The possibility of that happening 36 years later is slim—not impossible—but significantly less possible because of safeguards many states, including Virginia, have enacted.

In our local school district of nearly 12,000 students and 2,200 employees, we follow the Virginia code on background checks emphatically.

All employees are finger printed and using an electronic state system that has been merged with the FBI data base, we know within 30 minutes to 24 hours whether a potential employee has an arrest record in Virginia or most places in the United States. If the system finds a match, we are informed by e-mail that the "Record is being processed." This usually means that someone has an arrest record.

We process more than 500 a year, and perhaps 3% come back as "Record is being processed." The only error in the process is usually a candidate who embarrassingly confides they did not complete the application honestly. Two employees in our human resource office operate our system. The full-time equivalency of this task is approximately .25.

The Virginia State Police verify that not all states contribute to an interstate criminal record network. That not all states do not participate creates a dilemma for school districts in all states.

For example, most of us in northern Virginia travel to a dozen states to recruit staff for our growing student enrollment. It would be reassuring to know that the states where our candidates come from participate in a national criminal record network so that our background checks are completely, not partially, reliable.

While I agree with the intent and purpose of HR 2649, I question whether penalizing state departments of education by denying federal education dollars is the most appropriate way to accomplish this worthwhile legislation. As influential as state departments and state boards of education may be, their influence does not extend to directing state law enforcement to participate in a statewide Compact of information sharing.

And while I think my colleagues in the superintendency and the boards of education who employ us would all feel better if HR 2649 were enacted, as school employees and elected officials, we also recognize our inability to compel law enforcement to accede to HR 2649's requirements.

So, on closer examination, perhaps the U.S. Department of Education may be the wrong federal agency to enforce compliance with a well-intended piece of legislation.

HR 2649 is important to educators who are asked to ensure that children in the public schools are protected from criminals, whatever their crime. Let's just be sure we use the right mechanisms to see this legislation to fruition.

Mr. PORTER. [presiding.] Thank you very much, Doctor, appreciate it. Chief.

STATEMENT OF CHIEF BUTCH ASSELIN, FIGHT CRIME: INVEST IN KIDS, WASHINGTON, D.C.

Chief ASSELIN. Good morning, Mr. Chairman and Members of the Subcommittee. Thank you for the opportunity to testify today on school safety. My name is Butch Asselin. I have been in law enforcement for nearly 30 years. I spent the past 7 years as police chief of the Skowhegan Police Department in Maine.

During the past year I have served as president of the Maine Chiefs of Police Association. I am also a member of the anti crime group, Fight Crime: Invest in Kids. More than 2,000 police chiefs, sheriffs, prosecutors and victims of violence from across the country, we have come together to take a hard-nosed look at what really works to prevent school and youth violence and keep kids from becoming criminals.

To help ensure that kids are safe at school, I strongly support criminal history background checks on individuals seeking employment in schools. However, today, I would like to focus on a widespread critical safety issue in our Nation's schools that demands the urgent attention of Congress.

Bullying affects 1 out of 3 children in the 6th through the 10th grades, and can lead to violent crime and death. A national survey found that nearly 1 in 6 American children in 6th through 10th grade, more than 3.2 million children, are victims of bullying each year, while 3.7 million bully other children.

When bullies are allowed to progress through school without their intimidating and violent behavior being addressed they often become a danger not only to the school but also to the whole community. A survey found out that most bullies were seven times more likely to carry weapons to school.

Furthermore, the more serious bullies were also 3–1/2 times more likely to have been in a fight where they sustained injury serious enough to require treatment by a nurse or doctor. Bullying is an early warning that bullies may be headed toward more serious antisocial behavior, including violent crime.

A study found that 40 percent of boys who were bullies in grades 6 through 9 had three or more criminal convictions by the age of 24. Moreover, victims of repeated bullying can explode in ways that threaten not just the bullies, but many others as well.

Experts from the Secret Service were called in to help develop profiles of the Columbine and other school shooters. They found that most of the shooters had been bullied before choosing to attack their perceived tormentors. The Secret Service experts reported almost three-quarters of the attackers felt persecuted, bullied, threatened, or attacked or injured by others prior to the incident.

In addition, one study found that boys who were frequently bullied were four times more likely to be suicidal, while frequently bullied girls were 8 times more likely to be suicidal.

Fortunately there are programs that are proven to reduce bullying in schools. The Olweus Bullying Prevention Program has been implemented in several hundred schools in the United States and around the world. This program includes a school survey to determine the prevalence of bulling, training for all school personnel, a bullying prevention coordinating committee to implement the program, school rules prohibiting bullying and appropriate consequences, adequate adult supervisions in specific areas where bullying is likely to take place, including hallways, lunchrooms and playgrounds, class meetings to discuss the problem of bullying, and meetings with bullies, their parents and school staff and meetings with victims, their parents and school staff.

The Olweus Bullying Prevention Program produced a 50 percent reduction of bullying in Norway, and a 20 percent reduction when it was replicated in South Carolina. There were also lower rates of school misbehavior and vandalism, and general delinquency for students enrolled in a bullying prevention program, compared to students who do not receive the program.

The Office of Juvenile Justice and Delinquent Prevention in the Substance Abuse and Mental Health Services Administration have recognized the Olweus Bullying Prevention Program as a model program.

Five years ago, the Nation watched in horror as two students killed 12 classmates and a teacher before taking their own lives at Columbine High School. The Columbine shootings were a shock to our collective conscience. Never before had parents, especially in quiet suburbs, so questioned their kid's safety in school.

Now, 5 years later, school violence continues to occur. In the aftermath of Columbine, and other school shootings, America can no longer view bullying as simply one of the rights of passage kids must endure. Bullying is a ticking time bomb in our schools and our society. Before more children are harmed, killed or take their own lives, Congress should facilitate the implementation of research proven bullying prevention programs throughout our Nation's schools.

I am pleased that Representative John Shimkus, along with Representative Danny Davis, has introduced a bipartisan bullying prevention bill, H.R. 4776, which would amend the Safe and Drug Free Schools Act to add several bullying related provisions. This bill would encourage schools receiving funding to implement key

components of the Olweus Bullying Prevention Program. I urge Congress to move Representative Shimkus's bill to enactment.

This Committee can further help us make us all safer by strengthening early childhood education, child abuse, and neglect prevention and after school programs.

Research confirms that law enforcement leaders know from our firsthand experience such programs dramatically reduce crime and violence. I request that the School and Youth Violence Prevention Plan, as well as the Bullying Prevention is Crime Prevention report of Fight Crime: Invest in Kids be entered in the hearing's record.

Thank you for this opportunity to present our views on how your Committee can enhance school safety. I would be happy to answer any questions that you might have.

Mr. PORTER. Thank you very much, Chief, and the full panel.

[The prepared statement of Chief Asselin follows:]

Statement of Chief Butch Asselin, Chief of Police, Skowhegan Police Department, Skowhegan, Maine, on behalf of Fight Crime: Invest in Kids, Washington, DC

Mr. Chairman and Members of the Subcommittee:

Thank you for the opportunity to testify today on school safety. My name is Butch Asselin. I've been in law enforcement for nearly thirty years, and I've spent the past 7 years as police chief of the Skowhegan Police Department in Maine. During the past year, I served as President of the Maine Chiefs of Police Association. I am also a member of the anti-crime group Fight Crime: Invest in Kids—more than 2,000 police chiefs, sheriffs, prosecutors, and victims of violence from across the country who have come together to take a hard-nosed look at what really works to prevent school and youth violence and keep kids from becoming criminals.

To help ensure that kids are safe at school, I strongly support criminal history background checks on individuals seeking employment in schools. However, today, I would like to focus on a widespread, critical safety issue in our nation's schools that demands the urgent attention of Congress. Bullying affects one out of three children in sixth through tenth grades and can lead to violent crime and death. A national survey found that nearly one in six American children in sixth through tenth grade—more than 3.2 million children—are victims of bullying each year, while 3.7 million bully other children.

When bullies are allowed to progress through school without their intimidating and violent behavior being addressed, they often become a danger not only to the school, but also to the whole community. A survey found that the most serious bullies were seven times more likely to carry a weapon to school. Furthermore, the more serious bullies were also three-and-a-half times more likely to have been in a fight where they sustained an injury serious enough to require treatment by a nurse or doctor. Bullying is an early warning that bullies may be headed toward more serious antisocial behavior including violent crime. A study found that 40 percent of boys who were bullies in grades six through nine had three or more criminal convictions by the age of 24.

Moreover, victims of repeated bullying can explode in ways that threaten not just the bullies but many others as well. Experts from the Secret Service were called in to help develop profiles of the Columbine and other school shooters. They found that most of the shooters had been bullied before choosing to attack their perceived tormentors. The Secret Service experts reported: "Almost three-quarters of the attackers felt persecuted, bullied, threatened, attacked or injured by others prior to the incident." In addition, one study found that boys who were frequently bullied were four times more likely to be suicidal, while frequently bullied girls were eight times more likely to be suicidal.

Fortunately, there are programs that are proven to reduce bullying in schools. The Olweus Bullying Prevention Program has been implemented in several hundred schools in the United Sates and around the world. This program includes: a school survey to determine the prevalence of bullying; training for all school personnel; a bullying prevention coordinating committee to implement the program; school rules prohibiting bullying and appropriate consequences; adequate adult supervision of specific areas where bullying is likely to take place including hallways, lunchrooms, and playgrounds; class meetings to discuss the problem of bullying; and meetings

with bullies, their parents and school staff, and meetings with victims, their parents, and school staff.

The Olweus Bullying Prevention Program produced a 50 percent reduction of bullying in Norway and a 20 percent reduction when it was replicated in South Carolina. There were also lower rates of school misbehavior, vandalism, and general delinquency for the students enrolled in the bullying prevention program compared to students who did not receive the program. The Office of Juvenile Justice and Delinquency Prevention and the Substance Abuse and Mental Health Services Administration have recognized the Olweus Bullying Prevention approach as a model program.

Five years ago, the nation watched in horror as two students killed 12 classmates and a teacher before taking their own lives at Columbine High School. The Columbine shootings were a shock to our collective conscience. Never before had parents, especially in quiet suburbs, so questioned their kids' safety in school. Now, five years later, school violence continues to occur. In the aftermath of Columbine and other school shootings, America can no longer view bullying as simply one of the rites of passage kids must endure. Bullying is a ticking time bomb in our schools and our society. Before more children are harmed, killed, or take their own lives, Congress should facilitate the implementation of research-proven bullying prevention programs throughout our nation's schools.

I am pleased that Representative John Shimkus, along with Representative Danny Davis, has introduced a bipartisan bullying prevention bill, H.R. 4776, which would amend the Safe and Drug Free Schools Act to add several bullying prevention-related provisions. This bill would encourage schools receiving funding to implement key components of the Olweus Bullying Prevention program. I urge Congress to move Representative Shimkus's bill to enactment.

This Committee can further help make us all safer by strengthening early childhood education, child abuse and neglect prevention, and after-school programs. Research confirms what law enforcement leaders know from our firsthand experience: such programs dramatically reduce crime and violence. I request that the School and Youth Violence Prevention Plan, as well as the "Bullying Prevention Is Crime Prevention" report of Fight Crime: Invest in Kids be entered into this hearing's record.

Thank you for this opportunity to present our views on how your Committee can enhance school safety. I would be happy to answer any questions you may have.

Mr. PORTER. I have numerous questions. And I will submit some from other members after today's hearing.

First of all, I guess, Barbara, let me comment again that we appreciate you being here. I want to make it clear that because of the Clark County School District, we are having this hearing today. And we appreciate the district bringing this problem to the U.S. Congress.

And yes, there are areas that need to be adjusted, but it is a great start. And thank you very much for being here.

Specific to Las Vegas, it was mentioned, of course, the challenges that we have at home. What challenges does it present to the district as you ask recruits information? Do you find that many recruits then don't come back for a second interview, or what happens after you ask these specific questions?

Ms. BELAK. Well, it varies, since we are talking about hiring approximately 1,500 to 2,000 teachers. We probably look closer in the neighborhood of 5,000 applicants. So we have just about every end of the spectrum that one can imagine.

Certainly we have some that have been known to call human resources to ask for clarification on some questions, and sometimes it is hard to imagine how one can need clarification when the question is: Have you ever been convicted of a crime involving sexual misconduct, or words to that effect?

But, there will sometimes be conversations on the phone, and lo and behold, we never hear from that person again. However, there

are unfortunately many other times when the person chooses to answer no to the key questions, only to find out later through fingerprint results, luckily, that the answer no was not necessarily an honest answer, and that usually begins a very lengthy process then of investigation. Sometimes it is nothing, and sometimes it ends up in a dismissal proceeding.

Mr. PORTER. What has been the reaction to possibly more senior teachers that are moving—wish to move there from other States? When do you put them through this questioning? Has there been a problem with the profession itself or do they encourage this information?

Ms. BELAK. No. The typical teacher out there is supportive of these kinds of efforts, because as I mentioned in my records, any time there is a headline about another teacher or support staff person arrested for sexual misconduct, that is something that embarrasses everybody and appalls everybody.

The good teachers don't go into the profession to victimize children and to ruin their lives, they go into the profession to help them and nurture them, and they don't want the sexual predators in there any more than anyone else does.

Mr. PORTER. Realizing that being with the home team, I have an opportunity to also brag about the district. As an innovative school district in the country, again, sixth largest and one of the fastest growing, I think Clark County has done a phenomenal job.

Even from the private sector perspective, if you were recruiting 2,500 new employees, I don't care if you are IBM or the Clark County School District, there is a major challenge.

But, the reason we are here today is to elevate the importance of this challenge in the classroom, to make sure when we drop our kids off we know they are safe.

And, Barbara, we have heard some pretty diverse opinions this morning as to how different States are handling the problem, which is really why we are here. But, from some of the testimony, it appears that other districts aren't having the problem that we are having in Nevada.

What do you think is the real crux of the problem? Is there something we are missing here? If Clark County is not getting information, but possibly Florida is, what is happening different in Nevada that isn't happening in Florida?

Ms. BELAK. Well, if I knew that, we would correct it in Clark County. As best we can tell, we are doing everything that we can do. In fact, I had included in my written testimony the fact that we had met recently with a security firm that does do background checks. And as a result of that recent meeting, the president of the company concluded in fact in a letter to Dr. Rice, who is our associate superintendent, that we are already doing everything that is within our power to try to identify bad apples, if you would, and to screen them out at the application process.

So that is good news for us, particularly coming from a private company that would love to sell us its services. But, even though we are doing what we can do, like I said, we not only fingerprint everyone we hire, we fingerprint people we don't hire, like the volunteers that work in our classrooms. But it is not enough, because people are still getting through.

We don't know for certain if some of those people are getting through because they happen to have come from a State that is not a member of Compact, or if there is some other breakdown in the process. What we do believe, of course, is that most offenders offend again and again and again and again.

I don't believe that they are usually caught the first time. I believe that when they are caught it is beyond the first time. So we are trying to take advantage of as many means as possible to get as much complete information as possible before we put the offender in a school setting.

Mr. PORTER. Thank you, Barbara.

Ms. Uzzell, can you explain, in your comments you mentioned that sometimes States have better and more information than the FBI. Explain that, could you, please? What information do they have and how better can we share that information with other States?

Ms. UZZELL. Well, like I said the information is always better closest to the source. So States have maybe more complete disposition information, and that information was not submitted back up to the FBI, because that may be a duplicative effort on the State level.

Additionally, the FBI may have rejected a fingerprint card that was sent to the repository up there because of a quality issue. And the State may have accepted that record so, there may be fingerprint rejections that may not be included, although I have to say that they are probably small in comparison to numbers, a very low percentage.

And then additional, there is what we call noncriterion offenses. Those would be minor offenses, for instance, city ordinances or county ordinances, loitering may be one, unfortunately prostitution may be one too where a State or an agency arrests under the ordinance rather than a State statute.

And the FBI is moving now toward accepting those noncriterion offenses, but those hadn't been accepted in the past.

Mr. PORTER. So are you having similar problems in Florida that we are having in Nevada?

Ms. UZZELL. No. I would have to say I don't believe that we are. Now, I will say that the beauty of the Compact is that the State can disseminate on its own State laws.

So with that, I must say that Florida is an open records State. So we disseminate everything. We disseminate juvenile arrests, we disseminate arrests alone without conviction information. So every information that comes to us either from our own repository or from other States, because of our State law, is able to be passed on to the school district.

Mr. PORTER. What can we do through this legislation to help the States that don't have that type of information available?

Ms. UZZELL. Well, I think the first thing that you hit upon was the expansion of the Compact. And from talking to other Compact States and non-Compact States, what has traditionally been helpful is the NCHIP money, because in order to become a Compact State, there are certain programming issues and regulations and requirements that they have to do in order to be able to make their repositories respond in the fashion that I had mentioned.

So I think the continued support of NCHIP and CITA and other grant monies is a very good way to help States get to that point.

Education is the key. And as chairman of a Compact council, and even my former colleague, who was chairman, we have continued to put non-Compact States on different committees, letting them see the benefits of being involved in a participatory process where you can make these regulations on behalf of the States. It is truly a decentralized process.

Five States have enacted the Compact since 2003. That is a good start. And I think we just need to keep encouraging more States to become Compact States.

Mr. PORTER. So do you think that the umbrella of the Compact is good? We need to make sure that the other States have, either the funding or incentive to use the system as it has been proposed?

Ms. UZZELL. Yes. I definitely agree with that. I also would suggest, and I would be very willing to help Ms. Belak on this issue, but if there were crimes that she was missing in a fingerprint check, I would be willing to help analyze what the problem was.

Because, as I said, I don't understand why we are not seeing that in many other States. Maybe if we took a look and saw where the gaps were, we might be able to figure out if there were other problems that we are missing here at this meeting that we could identify to assist her.

Mr. PORTER. I appreciate your involvement in many statewide agencies for children. But what I have discovered in preparing this legislation, there is not a lot of information available on the subject of students and abuse in the classroom or on the school properties.

There was one recently done by No Child Left Behind, which I think is a start. But it seems to me there is not a whole lot of information being compiled. And I guess as this legislation hopefully moves forward in some shape or form, that we get the proper information to help us make these decisions also.

But I know that you are active in a fast growing State also. So you have similar challenges that we have in Nevada. And any help would be appreciated.

Ms. UZZELL. If I may. I would say that the issues that are important to schools from my experience in the school board as well as in Florida Department of Law Enforcement is quick information back. As I mentioned to you, the technology that we have today allows that information to be available back to the school district within 48 hours.

And I know in Florida, and I am sure in many other school districts, you know when a bus driver needs to be there on that side of the road, they can't be waiting for that background check to come back to get that bus driver hired.

So anything we can do to continue that technology to ease and facilitate those background checks is a great stride.

Mr. PORTER. Thank you. And, Dr. Dean, you mentioned you didn't feel that this type of legislation really is the right mechanism. How would you suggest States that are having challenges better find the information they need to make the right choice in their teachers?

Dr. DEAN. I am not sure that I said exactly that it was not the right mechanism. I think the legislation is good legislation. My

only concern is punishing education for something that we can't oversee. We have no control over law enforcement or whether other agencies which to contribute that information to the Compact.

I think from our State superintendent down, we all encourage and engage in a system now that works for Virginia. But, when we go outside Virginia, as I said in my testimony, we may go to as many as a dozen or more States to find teachers for our school districts.

It is the unreliability of that information about someone from another State that troubles us. So the law—sorry, the bill, is a wonderful mechanism. The difficulty I have is only the punishment of withholding Federal dollars from departments of education in the event a State doesn't join the Compact.

Mr. PORTER. And I think that is well said, Doctor, because I would concur, that in the initial writing of the language, that was one alternative.

What I would like to ask is what can we do to help to provided incentives to get the districts and actually the States and the districts get involved in the Compact? What would you suggest?

Dr. DEAN. I think Ms. Uzzell's comments in terms of engaging more and more non-Compact States in the activities of the Compact to begin to see the advantages of it, have them involved in some of the strengths of this, have them involved in some of the problemsolving of the Compact.

I think, certainly, a key issue would be the bringing together of a variety of law enforcement groups and school people, to see how they can work together to make this work.

Because, unless they come together to work together on solving this, there will be suspicion about why is it you want my information, how will you use my information, and I am not interested in sharing it if I don't feel as though it is going to be used in a profitable, helpful way.

Mr. PORTER. So you feel comfortable you are able to get the information you need right now? You are not having a problem?

Dr. DEAN. I wouldn't suggest we are not having problems. I mean, the scale that we work on is nothing compared to Clark County or Loudoun County, for instance, in Virginia. But for our school division, which is large but not as large as certainly these mega districts, I would suggest that our difficulty only comes when we find that—if, for instance, we recruit a teacher out of Indiana, and Indiana does not contribute information to the FBI, or Indiana doesn't provide, Ohio doesn't, Michigan doesn't, provide information to a source that we can readily access to determine background, hiring Virginia teachers in Virginia works well, because of the State law that we follow.

Mr. PORTER. Yes. And historically hiring from within the community you have a better understanding. Again, with a fast-growing State, our university system has a hard time keeping up with the demand. You know, we are growing 6, 7,000 people a month. Add to that the number of students and—you have heard that discussion.

And, Dr. Dean, I will comment also. And the school districts and the school professionals get blamed for most every social problem there is. And I appreciate your comments that we also need to look

at law enforcement to make sure that they are compiling the right information.

And on that, Chief, I appreciate your comments on the bullying and what is happening in the classroom. Have you seen any problem with any of the other discussions we have had today with any folks that you know in your communities?

Chief ASSELIN. Well, with regards to the background checks, I was talking to Dr. Dean. The information that we receive, I think as between police departments, or between the repository in Maine, which is the State Bureau of Identification, I think is far more concise or accurate than what the school districts would receive.

I think they would receive conviction data only, and not arrests as it may be. I don't know a remedy for that. In fact, it may have changed. I know that Jeff Harman, who was a former member—who was the lieutenant colonel of the State police worked hard on this system, and inroads are still being made to make it work better. I think that we have some time to go before it is perfect, but we are working on it continuously.

On a local level, I am seeing—I was seeing resistance. My own daughter is a teacher. And she resisted. But she—obviously she wanted a job, she did comply. We had one teacher to sort of circumvent the system came to me and wanted me to take her fingerprints rather than the State police who was doing it at the time.

But by now we have gone over the hump, it has been a couple of years now. And, you know, I think it is working well. The processing custodians, volunteers, aides. And, yes there are a few that have failed to divulge their criminal history and have been terminated. We try to work very well with the schools in my area.

But, when school superintendents call me and say, Butch, what can you tell me about Mr. Jones, we are very reluctant to provide that information at a local level, only because we are not sure that the information is always accurate. There could be some mistakes made on the person who inputs the data into the system.

You know, they might put an incorrect disposition. So we don't rely on that. We always refer them to the State Bureau of Identification, which does work. But we don't—but again, people that are arrested are not necessarily guilty of anything.

But, at the same token, those people that are arrested, just say for a sexual-related offense, may have the indictment dismissed or the charges dismissed because of the age of the victim, they are not willing to testify. So I can see a balancing act being done here to get the information out, but make sure that we are not unjustly labeling someone as a predator or someone who has—may have been at one time made a mistake.

But, anyway, I think we are making headway in Maine.

Mr. PORTER. Thank you.

Well, what I have heard so far, if I can summarize some suggestions. We should look at possibly expanding the Compact, in individual districts, to include maybe contractors, those that do renovation, or other services. We should look at that. Make sure that that is consistent.

Encourage, not penalize, as far as the Act itself, would help these other 29 States find a way to—financially if they are having a challenge, to take care of it, or at least have the incentive in place,

whether it be in the form of grant dollars or something else to encourage.

And I sense that there is a consensus that the Compact is still a good direction to go. As long as it is—the other 29 States have the ability to be involved. Also, I am going to encourage that we do additional study to get some additional information as we move forward with the legislation.

So I appreciate everyone's testimony today. Is there anything else that you would like to add?

Ms. UZZELL. At the risk of doing this, but I feel like I do need to correct an issue, because I think I have heard several times people say that some States don't contribute their fingerprints to the FBI. And all 50 States do contribute. There are probably three States, it is a very complex process. I actually thought how I was going to do this in 5 minutes or less.

But, the—the III is a pointer index system. III is a fingerprint based system that the FBI has. FBI went to III, because then they could point to an individual's record and reach out to the States and grab all of the arrests that State had for that individual that was indexed—their fingerprints have been submitted.

There are only three States that I am aware of that are not III participants, but those States still take their fingerprint cards of arrested individuals and submit it up to the FBI. So when you do a query, you do get information from all 50 States. You probably are missing some records that are either, as I said rejected or noncriterion offenses, or if some local agency never sent that card up there.

But, I think that it would be a mistake to walk away, not thinking that all 50 States are submitting their criminal history information. The Compact allows that dissemination to be more complete. But the system we have in place now is a very effective system. And for the most part, it captures what we are looking for.

The Compact is a way to enhance and further that decentralization that was started back in 1978 when III went into effect. So I just feel the need to clarify that. And then again, I would like to offer, as chairman of the Compact council, any services I can to do some good analysis on these records that are brought up, and help you, Congressman Porter, be able to bring that information with real factual analysis of what we are missing.

If there is something that we are not aware of, we need to fix it. And finally, the other thing I will just say is that as the chairman of the Compact, a member of that council, we are so appreciative that you have taken the time to think about the Compact as a mechanism. We thought we were really our own little venture out there pushing this issue. So I really commend you for recognizing the value of this and having this hearing.

Mr. PORTER. Thank you very much. Anyone else like to add?

Ms. BELAK. Thank you. You had asked me earlier about where some things possibly go wrong. And do I want the Committee to be aware that we do not believe that passage of H.R. 2649 will solve all of the problems of the Nation.

Certainly we have had some problems where we found out that the employee had encountered similar misconduct in other districts, but that misconduct might not have risen to the level of a

crime. So it is something that we would hope and expect other school districts to share with us, particularly through confidential references, but for some reason they do not.

We can't turn to Congress to solve that problem, we have to turn to the States and the boards of education to work on that. But where we do turn to Congress for assistance is to help us make sure that the information that we have that is relevant to criminal background is made available to every school district that asks for employment purposes for the people in our schools.

Mr. PORTER. Thank you.

Chief ASSELIN. I would just make a quick comment. When police departments share information between each other, it is intelligence information. And it may involve actions of a person where he hasn't been charged, but it is questionable behavior.

I think the law prevents us, I think, from disseminating that information to schools. I think we need to look at opening up the portal, so to speak, to be allowed to share that information with school administrators. For instance, if a juvenile was to commit a crime of violence outside of the school district area, we can't share the information with the school district. But if he commits, the same juvenile was to commit a crime on school property, we can talk about it freely with the school administrator.

But to expand that further to adults, I think the police departments have a great deal of information in our files, in our computer systems, database about the particular activity, and being able to have the freedom to share that, my—because I think we shouldn't rely totally on criminal history checks. I think pick up the phone and, you know, doing background checks, a thorough background check will bring up a lot of this information, and probably the first people that should be contacting is the police department where this person once resided in.

Mr. PORTER. I know we spent a lot of time today talking about criminal activity, sexual predators. I do appreciate also that whole other area of concern, especially after the catastrophe and the crises in Russia and what is happening around the world.

And I know that this Committee is going to spend additional time looking at safety in the classroom. But, as we look at the world since September 11th, it has changed a lot of things that we do. But, as parents we also trust in our local governments and our school districts to make sure that they take every step available.

And with that, I again want to applaud the districts and certainly Clark County, but those folks that are here today for your concerns and your insights, because I can't imagine the pain of a parent that would have a son or daughter that was hurt while at school. And what pain that can cause for a child in his whole lifetime, in that area where they trust their teacher and trust their community.

So, again, I want thank you all for being here for your testimony. I appreciate your insights and your written testimony, and note that there will be opportunity to submit additional testimony. So thank you all for being here. And thank you again for your input. The meeting is adjourned.

[Whereupon, at 11:03 a.m., the Subcommittee was adjourned.]

[Additional material submitted for the record follows:]

Additional Statement of Donna Uzzell, Submitted for the Record

National Crime Prevention and Privacy Compact
42 U.S.C. 14611-16

On October 9, 1998, President Clinton signed into law the National Crime Prevention and Privacy Compact Act (Compact), allowing party states to disseminate their criminal history record information (CHRI) to other states for noncriminal justice purposes in accordance with the laws of the receiving state. The Compact legislation continues the dynamic movement toward decentralization of criminal history records that began in 1978 with the Interstate Identification Index (III) Project. The Compact provides for increased record completeness because state repositories maintain records for both criterion and non-criterion offenses (the FBI only establishes records based on criterion offenses). Because states have varying statutes or policies that restrict the dissemination of records for noncriminal justice purposes, the states and the FBI determined a federal law or a Compact was necessary to provide interstate CHRI dissemination authority. Ratifying the Compact allows the states to share their criminal history records for authorized noncriminal justice purposes.

The III System has almost been fully implemented following numerous tests and operational phases that officially started in 1981. Essentially, the III System is utilized for criminal justice purposes. Law enforcement accesses the III System to conduct investigative leads and record requests for criminal justice purposes. The III System is provided to criminal justice agencies nationwide by means of the National Crime Information Center (NCIC) network. The National Law Enforcement Telecommunications System (NLETS) network is used by states for transmitting state record responses.

As of September 1, 2004, 47 states[1] participate in the III System as direct record providers, meaning they respond to criminal justice requests for their III System records from local, state, and federal criminal justice agencies nationwide. The FBI provides records for the non-III System states and provides older state records that III System states have not yet automated or assumed responsibility for the dissemination of those criminal history records.

By way of background, in the late 1970's, the states and the FBI determined that state criminal history records contained more complete arrest records and dispositions, as the states had additional arrest (including non-criterion offenses) and disposition information from state files, such as District Attorney records and court records. The III System is an index pointer criminal history record system that ties computerized files of the FBI and a state's centralized files into a national system used by agencies authorized to obtain CHRI. The III System contains criminal records based on fingerprint submissions from law enforcement agencies. The III System is used by law enforcement for various authorized purposes. The III System also serves as the vehicle for sharing and integrating criminal history record systems across the country. Eventually, when all states participate fully in the III System, all users of criminal history records for both criminal justice and legally authorized noncriminal justice purposes will obtain criminal history records directly from the states' central computerized files and not the FBI's files.

Prior to the Compact, the FBI responded with the CHRI to inquiries for noncriminal justice purposes, both fingerprint and authorized III System inquiries. One purpose of the Compact is for the states to respond to all interstate requests for authorized criminal and noncriminal justice purposes, whether or not that state's existing state law(s) allow for dissemination to agencies within its own borders for those same noncriminal justice purposes. Prior to the Compact, most states would have had to make changes in their laws and policies governing the dissemination of criminal history records in order to participate fully in the III System. While all states permit virtually unrestricted access to all types of criminal history records for criminal justice purposes, state laws and policies governing access and use for noncriminal justice purposes are extremely diverse, ranging from essentially open record access in a few states to very restrictive access rules in other states. Some states have complex statutory and regulatory approaches that differ greatly as to the types of noncriminal justice agencies that may have access to certain types of records for particular purposes.

The diversity and complexity of state laws were viewed as serious obstacles to development and implementation of an effective interstate system, especially an "index-pointer" type of system. Design of a national index that could take into account the frequently amended dissemination laws and policies of the fifty states was seen as a difficult, if not impossible, technical problem. Even if technical difficulties could be overcome, a national system designed merely to provide noncriminal justice requesters with whatever limited information the various states could have made available under existing laws and policies could not have provided the same level of service (the full record) that the many federal and state agencies obtained from the FBI.

Federal and state officials recognized the need to meet the above requirements for a decentralized system as well as to commit to long-term participation in such a system. For decentralization to be realized, participating state repositories had to become the single source of complete and up-to-date information on state offenders (sole source)[2]. In addition, the state had to continue to make appropriate information available to authorized noncriminal justice users in other states and to authorized federal agencies. The federal and state officials recognized the need for the establishment of a policy making council to provide policy direction for the use of the III System for noncriminal justice purposes. Federal and state officials favored the use of an interstate/federal-state compact to implement the program to achieve these goals. The Compact must be ratified in identical form by all parties and, following ratification, no party can

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[1] The 3 states not participating in the III System are Louisiana, Maine, and Vermont, as well as the District of Columbia.

[2] Prior to the start of the III System, many agencies within the state submitted criminal fingerprint cards directly to the FBI, bypassing the state repository. Therefore, the FBI was the sole holder of the record and responsible for its dissemination. The III System mandated that all fingerprint submissions be routed through the state repository prior to submitting them to the FBI (sole source).

unilaterally amend it. A method for ratifying parties to withdraw from the Compact was included, but only through the same formal action used for ratification, a feature that provides some assurance of long-term participation by the ratifying parties. Finally, the Compact takes precedence over conflicting state or federal laws and since the Compact authorizes state repositories to provide record responses for all authorized purposes, ratification of the Compact authorizes participating state repositories the legal authority needed for interstate dissemination of its criminal records where such authority had been lacking under the existing state laws.

The Compact language was developed by the then NCIC Advisory Policy Board (APB) to the FBI[3] in the late 1980's. Then, on June 4, 1992, the FBI Director approved a draft of the Compact recommended by the NCIC APB and endorsed by SEARCH, the National Consortium for Justice Information and Statistics. On October 29, 1992, the United States Attorney General (AG) approved the Compact proposal and recommended its use as the base document for ratification by the states and the federal government. Some of the innovations proposed by the Compact on the exchange of criminal history records for noncriminal justice purposes included the following:

- The Compact binds the FBI and ratifying states to participate in the noncriminal justice access program of the III System.

- Authorized users are the same as those currently authorized to obtain records from the FBI's files and from other states.

- Participating state repositories are authorized and required to make all unsealed criminal history records available in response to authorized noncriminal justice requests.

- All noncriminal justice access to the system is through the FBI and the state repositories. All access for noncriminal justice purposes must be based upon fingerprint identification of record subjects.

- Release and use of information obtained through the system for noncriminal justice purposes is governed by the laws of the receiving states, and the receiving repositories would be required to screen record responses and delete any information that cannot legally be released within the state.

- The Compact established a Compact Council (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. All noncriminal justice requests must be based on positive identification as defined in the Compact and further defined by the Council.

The passage of the Compact facilitates record sharing as it supersedes any conflicting laws in states where it is adopted and provides a uniform dissemination policy for noncriminal justice purposes among states. Enacting the Compact leads to the goal of complete decentralization of criminal history records. This ensures that federal agencies continue to receive the state records needed to screen persons for employment in sensitive positions and for other authorized purposes. In addition, authorized state agencies continue to receive the out-of-state records needed to screen state employees and licensees. Each state applies its own dissemination laws to in-state use of its own records and will screen out-of-state records received through the III System pursuant to its own laws. Therefore, each state will continue as an integral part of the national community, establishing technology standards, supporting consistency and uniformity, ultimately increasing the utility of data sharing and integration.

The National Fingerprint File (NFF) is the Compact's goal of full implementation of the III System, which results in total decentralization of criminal history record sharing. The NFF Program eliminates the need for duplicate maintenance of criminal history records by the states and the FBI and the attendant costs for maintaining duplicate records The state is relieved of the burden and cost of submitting arrest fingerprints and charge/disposition data to the FBI for all arrests for felonies and serious misdemeanors. Instead, the states submit only fingerprints and textual identification data for each person's first arrest. All subsequent arrest and disposition information is maintained by the NFF state. As more states ratify the Compact, their use of criminal history records from state record systems will increase, with less reliance on FBI-maintained records. The goal is to make available the most complete and up-to-date records possible for noncriminal justice purposes.

Currently, 21 states have enacted the Compact. They are as follows in the order that they signed the Compact: Montana, Georgia, Nevada, Florida, Colorado, Iowa, Connecticut, South Carolina, Arkansas, Kansas, Oklahoma, Maine, Alaska, New Jersey, Minnesota, Arizona, Tennessee, North Carolina, New Hampshire, Missouri, and Ohio. Additionally 12 states and territories have signed a Memorandum of Understanding (MOU) with the Council voluntarily binding them to the Council's rules, procedures, and standards. The MOU serves as a precursor to Compact ratification and has been signed by the following: Hawaii, New Mexico, North Dakota, Nebraska, Illinois, Mississippi, Kentucky, Vermont, Rhode Island, Guam, and American Samoa.

The FBI's Criminal Justice Information Services (CJIS) Division provides administrative support to the Compact Council, a 15-member group appointed by the United States AG. The FBI's CJIS Division employs the FBI's Compact

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[3] The NCIC Advisory Process is now call the CJIS Advisory Policy Board, which provides advisory guidance to joint CJIS Division and state criminal justice information sharing programs.

Officer. One responsibility of the FBI's Compact Officer is to ensure that Compact provisions, rules, procedures, and standards prescribed by the Council are complied with by the Department of Justice and the federal agencies. The Compact Council make-up, as mandated in the Compact, is as follows:

* Nine members selected from Compact Officers of Party States based on an election by the Compact Officers of all Party States. These members serve a two-year term.

* Two at-large members nominated by the FBI Director: one to represent the criminal justice agencies of the federal government (not an FBI employee) and one to represent the noncriminal justice agencies of the federal government. These members serve a three-year term.

* One member nominated by the FBI Director who is an employee of the FBI. This member serves a three-year term.

* Two at-large members nominated by the Chairman of the Council: one representative of a state or local criminal justice agency and one representative of a state or local noncriminal justice agency. These members serve a three-year term.

* One member who serves on the FBI's CJIS Advisory Policy Board (APB), which serves as an advisory group for criminal justice information services. This member is nominated by the CJIS APB and serves a three-year term.

The Chairman and Vice Chairman are elected by the Council. Both Chairman and Vice Chairman are Compact Officers 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. The Vice Chairman may be any member of the Council. The Chairman and Vice Chairman serve two-year terms and may be reelected to only one additional two-year term in that office.

Compact Council meetings are open to the public and notices for the meetings are published in the Federal Register 30 days prior to each meeting and include a list of topics scheduled for meeting discussions.

21 Compact States

Montana, Georgia, Nevada, Florida, Colorado, Iowa, Connecticut, South Carolina, Arkansas, Kansas, Oklahoma, Maine, Alaska, New Jersey, Minnesota, Arizona, Tennessee, North Carolina, New Hampshire, Missouri, and Ohio.

NFF States

Florida
North Carolina
Oregon
New Jersey
Montana
Oklahoma

States Interested in NFF Participation

Georgia
Tennessee
Arizona
Kansas
South Carolina
Nevada
Connecticut
Missouri
Iowa
Alaska
Maine

States Interested in Compact Participation and/or NFF Participation

Hawaii
Idaho
Maryland
Pennsylvania
Oregon

PUBLIC LAW 105-251 [S. 2022]
OCT. 09, 1998
CRIME IDENTIFICATION TECHNOLOGY ACT OF 1998;
NATIONAL CRIMINAL HISTORY ACCESS AND CHILD PROTECTION ACT

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TITLE II--NATIONAL CRIMINAL HISTORY ACCESS AND CHILD PROTECTION ACT

Sec. 201. SHORT TITLE.

This title may be cited as the "National Criminal History Access and Child Protection Act".

Subtitle A--Exchange of Criminal History Records for Noncriminal Justice Purposes

Sec. 211. SHORT TITLE.

This subtitle may be cited as the "National Crime Prevention and Privacy Compact Act of 1998".

Sec. 212. 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.

Sec. 213. DEFINITIONS.

In this subtitle:

(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 217.

(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.

Sec. 214. ENACTMENT AND CONSENT OF THE UNITED STATES.

The National Crime Prevention and Privacy Compact, as set forth in section 217, is enacted into law and entered into by the Federal Government. The consent of Congress is given to States to enter into the Compact.

Sec. 215. 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, United States Code (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;

(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, United States Code); 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.

Sec. 216. 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 subtitle.

Sec. 217. 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.-- 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, United States Code (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, United States Code (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, United States Code, or other statutory authority.

National Crime Prevention and Privacy Compact Signatories

Montana
Georgia
Nevada
Florida
Colorado
Iowa
Connecticut
South Carolina
Arkansas
Kansas
Oklahoma
Maine
Alaska
New Jersey
Minnesota
Arizona
Tennessee
North Carolina
New Hampshire
Missouri
Ohio

PUBLIC LAW 92-544 STATE STATUTES PERTAINING TO EDUCATIONAL PERSONNEL

Alabama	Educational personnel or teacher certification	Act 99-361
Alaska	Employment in a school district	AS 12.62.160
Arizona	Public school applicants employment/licensing	AzRS 15-512
	Charter schools	AzRS 15-183
Arkansas	Bd. of Education applicants & 1st renewal	ArCA 6-17-410
	Bd. of Education certified personnel	ArCA 6-17-411
	NonCertified staff	ArCA 6-17-414
	Public school volunteers	ArCA 6-22-105
	Private career school applicants	ArCA 6-51-605(m)
California	School district employees	CEC 13588
	Teacher certification	CEC 13173, 13174(1) & CEC 44340
	Private schools/volunteers	CEC 44237
Colorado	School district employees & teacher cert.	CoRS 22-60-105.2 CoRS 22-32-109.8 &9 CoRS 22-60.5-103
	Private school employment	CoRS 22-1-121
Connecticut	Public and private school applicants & employment	CtGSA 10-221d
Delaware	Public school employment & volunteers	11 DeCA 8571
District of Columbia	Public school employment/promotees	DCMR 5-1001.8
Florida	School system employment/certification contractors/student teachers	FS 1012.32, 1012.56, & 1012.35
Georgia	School teachers, principals, and certified prof.	OGCA 20-2-211
Hawaii	Public school employees/teacher trainees	HiRS 846-43
Idaho	School district employees/contractors including private and parochial schools	IdC 33-130 & 130A
	Charter schools	IdC 33-5210 & 33-130
Illinois	School district employees/contractors	IL Chap. 105, 5/10-21.9 & IL Chap. 105, 5/34-18.5
Indiana	Teachers license	InC 10-13-3-38.5
Kentucky	Newly certified hires of school district	KyRS 160.380
	New hires of private, parochial or church schools approved by BOE	KRS 160.151
Louisiana	Public or private teachers, substitutes, janitors, or school employees around children	LARS 17:15 & LARS 15:1587.1(A)(2)
Maine	Educational personnel	20-A MeRSA 6103
Maryland	Employees and employers of public, private or non-public schools	Md Family Law Art. 5-560 - 5-568
Michigan	School teachers, administrators, psychologist, nurses, and social workers	MiCL 380.1230a
Minnesota	School teachers	MnSA 122.18, subd. 8
Mississippi	School licensed/non-licensed applicants	MsCA 37-9-17
Missouri	School employees	RSMo 168.283
Nebraska	Certificate or permit to teach, counsel, supervise or administer in elem or sec. school	NeRS 79-8 & 79-809
Nevada	School teachers	NvRS 645.355
	Aids, non-professional personnel, & school district employees assisting cert. instructors	NvRS 391.100
New Hampshire	School administrative unit district or charter school employment	NHRSA 189:13-a
New Jersey	Public school employment	NJSA 18A:6-7.2
New Mexico	Initial teacher cert. & employees/contractors in public and charter schools	NMSA 22-10-3.3
New York	Employees of NYC School System	Ed. Law Ch 2590-h[20]
	Prosp. employees school districts, charter schools, Bd. of Cooperative Educational Services, teachers/administrators	NYEduc. Law 305[30][a] and 3004-b
North Carolina	Public school employment/contractors	NCGS 115C-332
	Charter school employment	NCGS 115C-238.29k
North Dakota	Teacher certification	NDCC 15-38-18.2

Ohio	Child care in public schools & chartered nonpublic schools & teachers	OHRC 3319.39
Oklahoma	School district employment	70 OkSA 5-142
	Teacher licensing	70 OkSA 6-190 & 74 OkSA 150.9
	State Dept. of Education	70 OkSA 6-170 & 74-150.9
Oregon	School district employees/contractors	OrRS 181.539
Pennsylvania	Nonresident applicants school employees	24 PaCSA 1-111
	Charter school employees/volunteers	24 PaCSA 17-1724(A)
Rhode Island	Private or public school employees	RIGL 16-2-18.1
	Educational services to young children	RIGL 16-48.1-4 & 16-48.1-5
South Carolina	Educational personnel certification	SCCA 59-25-115
South Dakota	School district employment	SDCL 13-10-12
Tennessee	Child care prov. including teachers	TCA 49-5-413
Texas	Teaching certificate	TxGC 411-090 & 411.087
	Public school employment/volunteers	TxGC 411-097 & 411.087
Utah	Teacher certification	UtCA 53A-6-103
	School employees/volunteers	UtCA 53A-3-410
Vermont	School employees	VtSA T 16, 254-255
Virginia	Public school employment	VaC 22-1-296.2
	Accredited private or parochial schools	VaC 22.1-296.3
Washington	School district employees/contractors	RCW 28A.400
	Private school applicants/employees	WaRC 28A.195.080
West Virginia	Initial license certificate issued by DOE	WVA 18A-3-10
Wisconsin	Teachers license	WiSA 118.19[10][c]
Wyoming	School district employment w/access to minors	WyS 21-7-401
	Applicants for certification by professional teaching standards board, and employees of school district	WyS 7-9-201

Note: List does not include statutes for school bus drivers or institutions of higher learning. Additionally, states may submit under the VCA if there is not an approved Pub. L. 92-544 state statute.

Updated 09/23/04

List of States and Territories Submitting Civil User Fee Fingerprints Electronically

Alabama
Alaska (Compact State)
Arizona (Compact State)
California
Delaware
District of Columbia
Florida (Compact State)
Hawaii
Idaho
Illinois
Indiana
Kansas (Compact State)
Louisiana
Maine (Compact State)
Maryland
Massachusetts
Michigan
Minnesota (Compact State)
Mississippi
Missouri (Compact State)
Montana (Compact State)
Nebraska
New Jersey (Compact State)
New Mexico
New York
North Carolina (Compact State)
North Dakota
Ohio (Compact State)
Oklahoma (Compact State)
Oregon
Pennsylvania
Rhode Island
South Dakota

Tennessee (Compact State)
Texas
Utah
US Virgin Islands
Virginia
Washington
West Virginia
Wyoming

Compact States That Do Not Submit Civil User Fee Fingerprints Electronically

Arkansas
Colorado
Connecticut
Georgia
Iowa
Nevada
New Hampshire
South Carolina