

ANALYSIS

Oregon State Police

Record of Arrest and Prosecution Background Program

Analyst: John Borden

Request: Acknowledge receipt of a report on the Record of Arrest and Prosecution Background Program.

Analysis: The budget report for HB 4122 (2024), related to fingerprint retention, included the following budget note for the Oregon State Police (OSP) regarding the Record of Arrest and Prosecution Background Program (“Rap Back”):

***Rap Back Program Implementation:** HB 4122 requires an agency subscribing to the Rap Back program within the Department of State Police to submit an implementation plan to the Legislature regarding accessibility, timeline for enrollment, education, and projected costs to agencies or individuals. This report is due no later than December 31, 2024. The Department is directed to report to the Public Safety Subcommittee of the Joint Committee on Ways and Means by February 2025, on the agency implementation plans that have been submitted, a timeline for agency enrollment and associated workload estimates, and any additional resources that may be required for the Department to implement the Rap Back program.*

The Rap Back program is a federal program managed by the Federal Bureau of Investigation’s (FBI) Criminal Justice Information Services Division. HB 4122 (2024) authorized OSP to enroll in the FBI’s Next Generation Identification (NGI) Noncriminal Justice Rap Back Service, allowing an individual’s fingerprints to be submitted and retained through an NGI system following a background check if the individual consents to participation in the program. This allows the individual’s fingerprints to be stored and subject to future searches in the NGI system if a future crime is alleged anywhere in the United States. If a new crime is alleged, or previously unreported criminal activity is updated, then an electronic notice is sent to the agency who conducted the initial background check.

OSP has been working with the FBI since April 2024 and is currently awaiting approval for enrollment. Once approved, OSP can then begin the process for each interested entity who would like to enroll in this voluntary program. The FBI does not charge a fee for enrollment, but there would be an annual fee that OSP would charge based on the number of entities who wish to enroll.

Currently, OSP provides regulatory (non-criminal background checks) fingerprinting for 79 entities, 47 of which are state agencies. Under this program, OSP does not retain any of these fingerprint background checks. OSP has 15 regulatory staff able to process approximately 816 per day or 146,880 per year. On average, OSP conducts approximately 220,000 regulatory fingerprint checks a biennium, and charges \$33 per Law Enforcement Data System (LEDS) check and \$12 for the FBI check. This revenue is separate from the Rap Back program and is expected to continue for non-Rap Back participants. However, as entities enroll in the Rap Back program, this revenue would decrease as recurring background checks are no longer necessary. This decreased amount will be dependent on the number of entities who subscribe to the Rap Back program.

During the 2023-25 biennium, OSP was provided \$540,734 General Fund and six limited duration positions to establish the Rap Back program, which will allow the program to become operational on July 1, 2025. Under the Rap Back program, fingerprint background checks would need to be retained, and any individual previously fingerprinted would need to go through the process again as part of enrollment. Due to this requirement, OSP anticipates an initial large volume of fingerprint background check requests.

At present, only the Department of Human Services (DHS) has requested to participate in the Rap Back program. DHS estimates a total of 352,588 background checks to be submitted in the 2025-27 biennium. Of these, approximately 263,142 would be subscriptions to be maintained over time. Thereafter, OSP anticipates receiving 80,000 regulatory checks from DHS per biennium.

OSP estimates needing an additional eight staff (six of which would be continuing limited duration positions approved during the 2023-25 biennium) to process an estimated 68,544 checks per year. Staff positions include seven permanent full-time Fingerprint Technician positions (6.88 FTE in 2025-27 and 7.00 FTE in 2027-29) and one permanent full-time Business Operations Supervisor 1 (0.88 FTE in 2025-27 and 1.00 FTE in 2027-29) with an estimated cost, including standard position-related services and supplies costs, of \$1.7 million General Fund for the 2025-27 biennium.

Once actual participation in the program is determined, OSP anticipates moving from being funded with General Fund to an Other Funds fee-based model beginning no later than the 2027-29 biennium, but the amount of the fee will be dependent on participation levels and program costs.

Recommendation: The Legislative Fiscal Office recommends acknowledging receipt of the report.

Department of State Police Bennett

Request: Report on the Rap Back program implementation in response to a budget note to House Bill 4122 (2024) by the Department of State Police (OSP).

Recommendation: Acknowledge receipt of the report.

Discussion: OSP is reporting on the implementation of the Record of Arrest and Prosecution Background (Rap Back) program, including any agency implementation plans and associated workload estimates, and additional resource needs as directed by the following budget note in the budget report for House Bill 4122 (2024):

Budget Note:

House Bill 4122 requires an agency subscribing to the Rap Back program within the Department of State Police to submit an implementation plan to the Legislature regarding accessibility, timeline for enrollment, education, and projected costs to agencies or individuals. This report is due no later than December 31, 2024. The Department is directed to report to the Public Safety Subcommittee of the Joint Committee on Ways and Means by February 2025, on the agency implementation plans that have been submitted, a timeline for agency enrollment and associated workload estimates, and any additional resources that may be required for the Department to implement the Rap Back program.

House Bill 4122 (2024) amended ORS 181A.205 and directs OSP to participate in the FBI's Rap Back program for fingerprint criminal records checks. The Rap Back system allows authorized agencies to receive ongoing notification of any criminal history reported on individuals whose fingerprints are registered in the system. This new program requires OSP to retain fingerprint cards and facsimiles of fingerprints provided or received from the FBI for the purpose of employment or licensing until those individuals are no longer employed or licensed by an authorized agency. To be authorized to participate, state agencies were required to submit an implementation plan to the Legislature by December 31, 2024. OSP was provided with a one-time General Fund appropriation of \$540,734, as well as six limited duration positions to implement the program. The Oregon Department of Human Services (ODHS) is the only authorized agency that has submitted an implementation plan to subscribe to the Rap Back program.

OSP completed the application process to enroll in the federal Rap Back system soon after the passage of House Bill 4122 (2024) and the Department was informed by the FBI that its application had been routed for approval in late January 2025. Each authorized agency participating in the program must also be approved by the FBI based on its statutory authority to submit fingerprints for nationwide background checks and OSP can begin to submit authorized agencies for consideration once OSP completes this initial approval process.

ODHS's participation in Rap Back is estimated to result in the submission of 350,000 fingerprint cards over the two-year period after approval, a significant increase to its

normal workload of approximately 220,000 regulatory checks. OSP estimates this increased workload would require seven additional fingerprint technicians, as well as an additional supervisor, two positions more than provided as part of House Bill 4122 (2024). The Department estimates a total cost of \$1.6 million for the 2025-27 biennium for these positions and related service and supply costs.

OSP will have a better understanding of the additional resources needed for the Rap Back program, as well as an appropriate fee structure, by the end of the 2025-27 biennium.



Oregon

Tina Kotek, Governor

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March 5, 2025

Senator Kate Lieber, Co-Chair
Representative Tawna Sanchez, Co-Chair
Joint Committee on Ways and Means
900 Court St. NE
Salem, Oregon 97301

Dear Senator Lieber and Representative Sanchez:

Nature of the Request

The Oregon State Police (OSP) is providing a report on the Record of Arrest and Prosecution Background (Rap Back) program as requested from the HB 4122 (2024) budget note. OSP was directed to report to the Public Safety Subcommittee of the Joint Committee on Ways and Means on the agency implementation plans that have been submitted, a timeline for agency enrollment and associated workload estimates, and any additional resources that may be required by the department to implement the Rap Back program.

Agency Action

HB 4122 (2024) was designed to amend Oregon Revised Statute (ORS) 181A.205 which allows Oregon to retain fingerprints for non-criminal justice agencies also known as Rap Back. Rap Back is a system that allows Criminal Justice Information Services Divisions (CJIS), within authorized US states, to immediately inform enrolled Authorized State agencies within their state of any new criminal history record information that may arise after the employee's pre-employment background check is completed.

To participate in Rap Back at the federal level OSP, as the state of Oregon's CJIS systems agency (CSA), completed an application process to enroll in the federal Rap Back system. After legislation was passed, OSP was able to begin this process to enroll in the federal Rap Back system, the application was submitted April 9, 2024, to the FBI Criminal Justice Information Services Division. OSP has been working through a continuous iterative process with the FBI and on January 21, 2025, OSP received an email from the FBI Criminal Justice Information Services Division that the application, which is called the Appendix 2, will be routed for approvals.

Approval of the Appendix 2 application document does not mean every agency in Oregon who is authorized to fingerprint background check people are automatically approved and can begin the

submission process. Each agency must be approved by the FBI Criminal Justice Information Services Division based on the agencies statutory authority to submit fingerprints for a nationwide background check. After the initial approval OSP can then begin submitting interested authorized agencies to the FBI Criminal Justice Information Services Division for review and approval through the Appendix 2 addendum process.

With passage of HB 4122 (2024) for the current biennium 2023-25 the legislature funded \$540,734 in General Fund for administrative services, agency support and criminal justice information services, for the purpose of carrying out the amendments to ORS 181A.205 of the 2024 Act. This included six limited duration fingerprint technician positions to establish the program. The agency has been training the new limited duration staff on the process of conducting fingerprint background checks, typical training protocol is six months to as long as a year. OSP is proposing administrative rules for the program, estimating workload changes to current operation, and a future fee to assess agency participation to financially support the program. Lacking agency indication that they intend to enroll and when makes it challenging to predict cost and impact this new program has on current program operation and cash flow.

As of December 31, 2024, Oregon Department of Human Services (ODHS) submitted a plan for enrollment in the Rap Back program. ODHS estimates over a two-year period, they will be submitting over 350,000 fingerprint cards of those 263,142 would be included in the Rap Back program. This is a significant increase to the current average two-year submission of 220,000 regulatory checks within the regulatory program, OSP charges a \$33 OSP fee and \$12 FBI fee. This revenue is separate from the Rap Back program and will decrease regulatory revenue as entities subscribe to Rap Back.

OSP does not retain any of the fingerprint background check documents in current practice. The Rap Back program requires fingerprint background checks be retained, and any individual previously fingerprinted would need to go through the process again as part of the enrollment to the program. Because of these facts, OSP anticipates a large volume of fingerprint background check requests upon initial enrollment.

It is estimated the workload would require eight permanent positions (seven Fingerprint Technicians and one Supervisor) and related service and supply costs totaling \$1.6 million for the Rap Back program during the 2025-27 biennium.

These requested positions would support the increase in workload from DHS as well as possible interest from other authorized agencies. During the 2025-27 biennium OSP will have more information regarding the participation in the program and anticipates moving to a fee based model beginning in 2027-29 biennium.

Action Requested

OSP requests acknowledged receipt of the Rap Back program implementation report.

Legislation Affected

None

Sincerely,

A handwritten signature in blue ink, appearing to read "Casey Coddling". The signature is fluid and cursive, with a large loop at the end.

Casey Coddling
Superintendent
Oregon State Police

cc: Valeria Colas, Governor's Office
Johnathan Bennett, Dept. of Administrative Services - Chief Financial Office
John Borden, Legislative Fiscal Office
Josh Brooks, OSP Deputy Superintendent
Jenny Cribbs, OSP Financial & Business Services Administrator