



**National Crime Prevention and Privacy Compact
COMPACT COUNCIL MEETING
ATLANTA, GA
MAY 13-14, 2009**

FINAL MINUTES

Ms. Donna M. Uzzell, Chairman, National Crime Prevention and Privacy Compact Council (Council), called the Council meeting to order at 9:00 a.m. on May 13, 2009, in the Atlanta Ballroom of the Renaissance Atlanta Hotel Downtown, Atlanta, Georgia.

Mr. Gary S. Barron, FBI's Compact Officer, conducted roll call of the Council members. The following Council members, or their proxies, were in attendance.

State Compact Officers:

- Mr. Wyatt Pettengill, North Carolina State Bureau of Investigation
Proxy for Ms. Wendy L. Brinkley
- Ms. Terry Gibbons, Georgia Bureau of Investigation
Proxy for Mr. Paul C. Heppner
- Mr. Jeffrey R. Kellett, New Hampshire State Police
- Mrs. Julie A. LeTourneau Lackner, Minnesota Department of Public Safety
- Captain Timothy P. McGrail, Missouri State Highway Patrol
- Ms. Liane M. Moriyama, Hawaii Criminal Justice Data Center
- Ms. Dawn A. Peck, Idaho State Police
- Mr. David G. Sim, Kansas Bureau of Investigation
- Ms. Donna M. Uzzell, Florida Department of Law Enforcement

State/Local Noncriminal Justice Agency Representative:

- Mr. Robert M. Finlayson III, Georgia Department of Human Resources

State/Local Criminal Justice Agency Representative:

- Captain Thomas W. Turner, Virginia State Police

Federal Noncriminal Justice Agency Representative:

- Mr. William Marosy, Office of Personnel Management
Proxy for Ms. Kathy Dillaman

Federal Criminal Justice Agency Representative:

- Mr. Jonathan Frenkel, Department of Homeland Security

Advisory Policy Board Representative:

- Mr. William Casey, Boston Police Department

Federal Bureau of Investigation:

- Mr. Jerome M. Pender, FBI CJIS Division

Other meeting attendees introduced themselves and the agencies they represented.

Chairman Uzzell provided an update on Council accomplishments beginning with Michigan becoming the 28th Compact state. Ms. Uzzell congratulated Mr. Tim Bolles as Michigan's first appointed State Compact Officer. Ms. Uzzell welcomed two new State Compact Officers to the Council process: Mr. Joe Wodnik, Montana, and Ms. Terry Gibbons, Georgia. Ms. Uzzell stated that expanding the Compact ratification remains a priority. Updates were provided to the Council on presentations that were provided at the National Conference of State Legislators in December 2008 in Atlanta, Georgia where legislators and legislative staff were briefed on the Compact, the Council, and the benefits to ratifying the Compact. Also, a site visit to the state of New York was conducted in January 2009 to explain the benefits to ratifying the Compact. Ms. Uzzell recognized newly appointed Standards Committee members: Ms. Debbie McKinney, Oklahoma, Mr. Tim Bolles, Michigan, and Mr. Brad Truitt, Tennessee. Ms. Uzzell welcomed and expressed her appreciation to the Compact member states and all the state repository representatives of nonparty states that were in attendance.

Ms. Uzzell recognized Mr. James Princeton Gray and Ms. Barbara S. Wiles for the following Outsourcing Standard accomplishments: over 400 banks, housing authorities, and credit unions contracted with one of the fifteen approved channelers to electronically send and receive the results from applicant fingerprint processing at the FBI. Also, two states, Pennsylvania and Georgia, have outsourced. Ms. Uzzell recognized FBI Compact Officer Gary S. Barron for planning an outsourcing workshop this fall.

Chairman Uzzell stated that for future meetings, if anyone has a topic they want addressed by the Council, to submit a Topic Paper Request Form and return it to FBI Compact Officer Gary S. Barron. A copy of the form can be found on the Council's website.

Finally, Chairman Uzzell concluded by stating as of September 30th, there will be five vacant positions on the Council. The state Compact Officers whose terms are expiring are representatives from Florida, Georgia, Idaho, Missouri and New Hampshire.

At the close of the nomination period, the Council staff received five nominations for the five open positions. The nominees are Mr. Jeffrey R. Kellett, New Hampshire; Captain Timothy P. McGrail, Missouri; Ms. Debbie McKinney, Oklahoma; Ms. Dawn A. Peck, Idaho; and Ms. Donna M. Uzzell, Florida. An election is not warranted given the number of nominations versus the number of open positions.

Compact Council Action: Ms. Liane M. Moriyama moved to accept the five candidates (Mr. Jeffrey R. Kellett, Captain Timothy P. McGrail, Ms. Debbie McKinney, Ms. Dawn A. Peck, and Ms. Donna M. Uzzell) for the five vacant positions on the Compact Council and forward the names to the Attorney General for appointment to the Compact Council. Seconded by Mr. William Casey. The motion carried.

Next, the Council approved the minutes from the November 2008 meeting.

(Attachment 1)

Compact Council Action: Ms. Dawn A. Peck moved to approve the November 2008 minutes. Seconded by Captain Thomas W. Turner. The motion carried.

Agenda topics were discussed.

Topic #1 FBI's Criminal Justice Information Services Division Update

Mr. Jerome M. Pender, FBI CJIS Division, provided an update on the CJIS Division. Mr. Pender provided operational updates on CJIS services, updates on CJIS initiatives, and discussed the Division's strategic vision. More specifically, Mr. Pender provided updates on the Integrated Automated Fingerprint Identification System (IAFIS), the National Crime Information Center (NCIC), the National Instant Criminal Background Check System (NICS), Law Enforcement Online, the National Dental Image Repository, Uniform Crime Reporting, Next Generation Identification (NGI) and the Law Enforcement National Data Exchange programs. He also provided information on Biometric Center of Excellence (BCOE), which is a focal point to foster collaboration, improve information sharing, and advance the adoption of optimal biometric and identity management solutions across the law enforcement and national security communities. The BCOE's Secure Architecture for International File Exchange (SAIFE) initiative will enable fingerprint exchange with foreign law enforcement agencies. The CJIS Division is about to start a pilot project with the United Kingdom's Metropolitan Police Services to enable fingerprints to be sent to the IAFIS from this agency.

(Attachment 2)

Compact Council Action: This topic was accepted as information only.

Topic #2 **The National Consortium for Justice Information and Statistics' (SEARCH's) Survey of State Criminal History Information System, 2008**

Mr. Owen Greenspan, SEARCH, provided an update on the Survey of State Criminal History Information Systems, 2008. On February 24, 2009, survey questions were sent to criminal history repositories in 56 jurisdictions. Data used in the presentation was from 38 of 56 jurisdictions reporting. All jurisdictions in 2008 reported collecting a fee for noncriminal justice database searches and using fingerprints to support noncriminal justice database searches. Mr. Greenspan provided a jurisdiction number breakdown of how fees are allocated. The survey questioned if the state process calls for retrieving the Interstate Identification Index (III) record and forwarding it to the requestor when the state check reveals a III record rather than forwarding the fingerprints to the FBI and if so is the national record check fee retained by the state or is the fee returned to the requestor. Each state that responded said they kept the national fee. Lastly, in light of the FBI moving towards Rap Back, Mr. Greenspan provided statistics on which states retain noncriminal justice fingerprints.

(Attachment 3)

Compact Council Action: This topic was accepted as information only.

Topic #3 **Review of the Secure and Fair Enforcement for Mortgage Licensing (S.A.F.E.) Act of 2008/National Mortgage Licensing System (NMLS)**

Mr. Tim Doyle, Vice President of the Mortgage/Licensing Division for the Conference of State Bank Supervisors (CSBS), provided an overview of the NMLS that was created by state banking regulators, mortgage regulators, and the S.A.F.E. Act which was passed by Congress and signed into law July 30, 2008. In 2004, the CSBS, along with their sister organization called the American Association of Residential Mortgage Regulators, created the NMLS. States use this system to license mortgage professionals and mortgage companies. Under the S.A.F.E. Act, CSBS is mandated to begin processing criminal background checks for mortgage loan originators. The CSBS is overseeing the implementation of this national background check through the NMLS and Registry. This mandate requires all mortgage loan originators, in accordance with the S.A.F.E. Act, to register and participate in the Registry. The Registry is meant to do the following: improve the supervision of mortgage regulators, provide a uniform application and reporting process, improve the flow of information among regulators, provide increased accountability of mortgage loan originators, and streamline the

licensing process. Currently, twenty four states use the NMLS to manage their mortgage licenses. By the end of 2010, every state is required to track, manage, and license loan officers through the NMLS.

A S.A.F.E. Act Task Force was created following the Council's Committee meetings in March 2009. The Task Force is working to create a workflow/methodology that includes a state check and is agreeable to the states and CSBS. Mr. Mike Lesko, Chairman of the S.A.F.E. Act Task Force, provided an update on the recent efforts of the Task Force.

Mr. Lesko provided the Council a copy of Guiding Principals (**Attachment 4**) the Task Force created for Mr. Doyle's use in communicating the Council's position with the CSBS Board. Mr. Lesko presented the principals to the Council for endorsement. If the Compact Council endorses the Guiding Principals then they would be presented to the CSBS Board for acceptance. The next threshold would be the acceptance of the rules of engagement and finally the technical solution to carry out the Guiding Principles.

(Attachment 5)

***Compact Council Action:* Captain Thomas W. Turner moved to endorse the Guiding Principles and authorize the S.A.F.E. Act Task Force to take the lead in implementing the solution. Seconded by Mr. William Casey. The motion carried.**

Topic #4 National Fingerprint File (NFF) Implementation Status Report

Ms. Joyce R. Wilkerson, FBI CJIS staff, provided a status of the non-NFF Compact states' progressions toward NFF implementation. Ms. Wilkerson reported that a total of seventeen states are anticipating NFF participation by the end of calendar year 2009.

Ms. Wilkerson provided the Non-NFF Compact States Matrix Summary to the Council members and State Compact Officers, per the Council Committees' request, that the FBI survey the non-NFF Compact states twice a year for a status on NFF participation (**Attachment 6**). Ms. Wilkerson reported five states; Ohio, Maryland, Hawaii, Connecticut, and Minnesota are estimating NFF implementation by the end of 2009. Arkansas, Missouri, Iowa, and Maine are estimating 2010 participation. South Carolina, Nevada, New Hampshire, West Virginia, and Alaska are still to be determined and Arizona is estimating the year 2011. An on-site assessment of the Alaska Department of Public Safety is scheduled for July 2009. Lastly, the Fingerprint Image Submission Implementation Status (FIS) chart was provided for reference purposes only.

(Attachment 7)

Compact Council Action: This topic was accepted as information only.

Topic #5 **The Standards Committee Report on the Significance of the FIS Type of Transaction (TOT); IAFIS Transition to NGI**

Mr. James Gerst, FBI CJIS Staff, gave a presentation on the significance of the FIS TOT to the IAFIS matching accuracy as well as to that of the NGI's tenprint and latent operations. The presentation included statistics on the FBI's processing of the twelve current NFF states' FIS submissions and the resultant updates to AFIS feature vectors and images as well as the number of cascaded unsolved latent file searches. The results of National Institute of Standards and Technology Fingerprint Image Quality studies were provided to support the benefit of multiple fingerprint submissions to IAFIS.

Mr. Gerst explained the current IAFIS operational model cannot support submission of FIS transactions for all second and/or subsequent arrests from NFF participants and that CJIS is evaluating options to handle the additional processing requirements.

Mr. Gary S. Barron, FBI Compact Officer, commented that if the Council moves forward with this recommendation the State NFF Qualification Requirements will require changes. Also, opportunities or choices would need to be made available for the twelve current NFF states in order to send 100% FIS transactions. Mr. Barron suggested states that are near NFF implementation should program to send all FIS transactions but not turn the capability on until CJIS is operationally and technically prepared to handle to increased volume.

(Attachment 8)

Compact Council Action: Ms. Liane M. Moriyama moved to accept the motion made in the Standards Committee to endorse (1) the concept to modify the State NFF Qualification Requirements to require the submission of the FIS transactions on all second/subsequent arrest fingerprints; (2) in consideration of the five states (Ohio, Maryland, Hawaii, Connecticut, and Minnesota) moving towards NFF, for the 12 states that are currently NFF, and for the future NFF states that the FBI develop an action plan as it relates to the FIS transaction; and (3) asking the FBI for more data to include any necessary modifications to the State NFF Qualification Requirements. Seconded by Mr. David G. Sim. The motion carried.

Topic #6 **The Standards Committee Report on the Security and Management Control Outsourcing Standard (Outsourcing Standard): Certain Channeler-Related Provisions to be Performed by the FBI Rather**

Than Authorized Recipients and Other Recommended Changes

Ms. Barbara S. Wiles, FBI CJIS staff, presented nine recommended changes to the Outsourcing Standard. The recommended changes were based on the November 2008 Council meeting during which the Council requested CJIS staff to review the Outsourcing Standard and identify any additional Outsourcing Standard provisions the FBI could perform rather than multiple Authorized Recipients, when those Authorized Recipients are using a Contractor to perform only "Channeling" functions. The Council discussed the proposed changes and the language changes are documented in the nine recommendations below:

RECOMMENDED CHANGE #1

2.03 The Authorized Recipient shall, in those instances when the Contractor is to perform duties requiring access to CHRI, specify the terms and conditions of such access; limit the use of such information to the purposes for which it is provided; limit retention of the information to a period of time not to exceed that period of time the Authorized Recipient is permitted to retain such information; prohibit dissemination of the information except as specifically authorized by federal and state laws, regulations, and standards as well as with rules, procedures, and standards established by the Compact Council and the United States Attorney General; ensure the security and confidentiality of the information to include confirmation that the intended recipient is authorized to receive CHRI; provide for audits and sanctions; provide conditions for termination of the contract; ~~maintain updated records of Contractor personnel who have access to CHRI and update those records within 24 hours when changes to that access occur;~~ and ensure that Contractor personnel comply with this Outsourcing Standard. ***The FBI shall and the Authorized Recipient may conduct 90-day, one year, and triennial audits of Channelers.***

RECOMMENDED CHANGE #2

2.03a. The Authorized Recipient shall conduct criminal history record checks of Contractor personnel having access to CHRI if such checks are required or authorized of the Authorized Recipient's personnel having similar access. The Authorized Recipient shall ~~update~~ ~~maintain~~ ~~updated~~ records of Contractor personnel who have access to CHRI ~~and update those records~~ within 24 hours when changes to that access occur, and if a criminal history record check is required, the Authorized Recipient shall maintain a list of Contractor personnel who successfully completed the criminal history record check. ***The FBI shall conduct criminal history record checks of Channeler personnel having access to CHRI. The FBI shall maintain updated records of Channeler personnel who***

have access to CHRI, update those records within 24 hours when changes to that access occur, and maintain a list of Channeler personnel who have successfully completed criminal history record checks.

RECOMMENDED CHANGE #3

2.03b. The Authorized Recipient shall ensure that the Contractor maintains site security. The FBI shall and the Authorized Recipient may ensure that a Channeler maintains site security.

2.03d. ~~The Authorized Recipient shall ensure that the Contractor establishes and administers an Information Technology (IT) Security Program. The FBI, rather than the Authorized Recipient, shall ensure that a Channeler establishes and administers an IT Security Program. The FBI, rather than the Authorized Recipient, shall provide the written approval of a Channeler's IT Security Program.~~

RECOMMENDED CHANGE #4

2.04 ~~The Authorized Recipient shall understand the communications and record capabilities of the Contractor which has access to federal or state records through, or because of, its outsourcing relationship with the Authorized Recipient. The Authorized Recipient shall maintain an updated topological drawing which depicts the interconnectivity of the Contractor's network configuration.~~ The Authorized Recipient shall understand the communications and record capabilities of the Contractor which has access to federal or state records through, or because of, its outsourcing relationship with the Authorized Recipient. The Authorized Recipient shall maintain an updated topological drawing which depicts the interconnectivity of the Contractor's network configuration. The FBI shall and the Authorized Recipient may maintain an updated topological drawing which depicts the interconnectivity of a Channeler's network configuration.

RECOMMENDED CHANGE #5

2.05 The Authorized Recipient is responsible for the actions of the Contractor and shall monitor the Contractor's compliance to the terms and conditions of the Outsourcing Standard. The Authorized Recipient shall certify to the Compact Officer/Chief Administrator that an audit was conducted with the Contractor within 90 days of the date the Contractor first receives CHRI under the terms of the contract. **Such 90-day audit and certification are not applicable to an Authorized Recipient contracting with an FBI-approved Channeler solely for**

the purpose of electronically transmitting noncriminal justice fingerprints to the FBI and receiving the results of the fingerprint checks for prompt transmittal to the Authorized Recipient. Instead, the 90-day audits of FBI-approved Channelers shall be performed by the FBI.

RECOMMENDED CHANGE #6

- 3.02 The Contractor shall develop, administer, and maintain an IT sSecurity pProgram. The Contractor is therefore responsible to set, maintain, and enforce the following:
- a. Standards for the selection, supervision, and separation of personnel who have access to CHRI.
 - b. Policy governing the operation of computers, access devices, circuits, hubs, routers, firewalls, and other components that comprise and support a telecommunications network and related CJIS systems used to process, store, or transmit CHRI.

RECOMMENDED CHANGE #7

- 3.03 The Contractor shall develop and document a Security Program to comply with the current Outsourcing Standard and any revised or successor Outsourcing Standard. The Security Program shall describe the implementation of the security requirements described in this Outsourcing Standard, the associated Security Training Program, and the reporting guidelines for documenting and communicating security violations and corrective actions to the Authorized Recipient. The Security Program shall be subject to the written approval of the Authorized Recipient. ***The FBI, rather than the Authorized Recipient, shall provide the written approval of a Channeler's Security Program.***
- 3.05 Except when the training requirement is retained by the Authorized Recipient, the Contractor shall develop a Security Training Program for all Contractor personnel with access to CHRI prior to their appointment/assignment. The Authorized Recipient shall review and provide to the Contractor written approval of the Security Training Program. ***The FBI, rather than the Authorized Recipient, shall review and provide to a Channeler written approval of the Channeler's Security Training Program.*** Training shall be provided upon receipt of notice from the Compact Officer/Chief Administrator on any changes to federal and state laws, regulations, and standards as well as with rules, procedures, and standards established by the Compact Council and the United States Attorney General. Annual refresher training shall also be provided. The Contractor shall annually, not later than the anniversary date of the contract, certify in writing to the Authorized Recipient that annual refresher training was completed for those

Contractor personnel with access to CHRI. *A Channeler shall annually, not later than the anniversary date of the contract, certify in writing to the FBI, rather than the Authorized Recipient, that annual refresher training was completed for those Channeler personnel with access to CHRI.*

- 4.01 The Authorized Recipient shall ensure that the Contractor site(s) is a physically secure location at all times to protect against any unauthorized access to CHRI. *The FBI, rather than the Authorized Recipient, shall ensure that a Channeler's site is a physically secure location to protect against any unauthorized access to CHRI.*

RECOMMENDED CHANGE #8

- 5.02 The Contractor shall maintain appropriate and reasonable quality assurance procedures. The FBI shall review and provide to a Channeler written approval of the Channeler's quality assurance procedures.

RECOMMENDED CHANGE #9

- 6.01 If a local, state, or federal written standard requires or authorizes a criminal history record check of the Authorized Recipient's personnel with access to CHRI, then a criminal history record check shall be required of the Contractor's employees having access to CHRI. The criminal history record check of Contractor employees at a minimum will be no less stringent than the criminal history record check that is performed on the Authorized Recipient's personnel performing similar functions. *The FBI shall conduct criminal history record checks of Channeler personnel having access to CHRI.* Criminal history record checks must be completed prior to performing work under the contract.
- 6.02 If a local, state, or federal written standard requires a criminal history record check for non-Contractor personnel who work in a physically secure location, then a criminal history record check shall be required for these individuals, unless these individuals are escorted by authorized personnel at all times. The criminal history record check for these individuals at a minimum will be no less stringent than the criminal history record check that is performed on the Authorized Recipient's non-Contractor personnel performing similar functions. *The FBI shall conduct criminal history record checks of a Channeler's non-Contractor personnel who work in a physically secure location, unless these individuals are escorted by authorized personnel at all times.* Criminal history record checks must be completed prior to performing work under the contract.
- 6.04 The Contractor shall maintain updated records of personnel who have access to

CHRI, update those records within 24 hours when changes to that access occur, and if a criminal history record check is required, ~~the Contractor shall~~ maintain a list of personnel who have successfully completed ~~the~~ criminal history record checks. The Contractor shall notify Authorized Recipients within 24 hours when additions or deletions occur. *Channelers shall notify the FBI, rather than the Authorized Recipient, within 24 hours when additions or deletions occur.*

Compact Council Action: Ms. Liane M. Moriyama moved to accept the nine recommendations to the Outsourcing Standard as listed above. Seconded by Mr. William Casey. The motion carried.

Topic #7 **The Standards and Policy and Planning Committees Report on the Proposal To Establish a Process for Initiating Noncriminal Justice Record Checks During Emergencies and Disasters**

Ms. Paula Barron, FBI CJIS Staff, presented the Committees' recommendations to develop a process for conducting noncriminal justice background checks during declared emergencies and disasters that may arise in the future. During the fall 2008 Standards and Policy and Planning Committee meetings, the two Committees discussed how to manage background checks for future emergencies and disasters based on the example from Hurricane Katrina and recent hurricanes. The two Committees discussed a permanent process to assist states in taking steps to make noncriminal justice background checks available to reduce victimization of vulnerable populations as they are relocated during declared emergencies and disasters. In March 2009, the CJIS staff presented a draft proposal intended for Federal Register publication to the Committees and asked for their review and comment. Ms. Barron reviewed five comments from the spring committee meetings and the modified draft Federal Register Notice which included the Committees' suggested changes.

Chairman Uzzell stated since there is already a mechanism in place to authorize noncriminal justice checks during emergencies and disasters there is no impact if the Council requests additional information regarding this topic. The Council identified four tasks that need to be addressed. First, Mr. Jonathan Frenkel, US Immigration and Customs Enforcement (ICE), will ask Federal Emergency Management Agency (FEMA) to provide comments to the Federal Register Notice. Second, Mr. William Casey, Boston Police Department, will speak with Major City Chiefs and the International Association of Chiefs of Police (IACP) to see what their reactions are to the proposed Federal Register Notice. Third, the topic will go back to the Policy and Planning Committee to determine if the topic will be memorialized and how. Fourth, each state is to provide Ms.

Barron by June 15, 2009 an outline detailing the process each state would take during a time of emergency or disaster.

Compact Council Action: Captain Thomas W. Turner moved to (1) request Mr. Frenkel meet with FEMA to obtain input on the emergency and disaster proposal; (2) request Mr. Casey obtain input from the major city chiefs and the IACP on what processes they would like to implement; (3) send this topic back to the Policy and Planning Committee to determine if a process should be memorialized and in what format. Seconded by Mr. Jerome M. Pender. The motion carried.

Topic #8 CJIS Security Policy

Mr. George A. White, FBI CJIS Staff, provided an overview of the Security Policy Working Group's progress with the CJIS Security Policy re-write. Mr. White recognized four members of the working group that represent the Compact Council: Mr. David G. Sim, Ms. Carole Shelton, Mr. Robert M. Finlayson, and Mr. Brad Truitt. Mr. White stated that one of the reasons for the security policy re-write is the many changing business models. Both FBI staff and CJIS Systems users experienced implementation difficulties with the current Security Policy as it does not provide adequate instruction on securing information. The CJIS Security Policy will be easier for the user to understand. The changes to the business models will be seen by the Compact Council by the spring 2010.

(Attachment 9)

Compact Council Action: This topic was accepted for information only.

Topic #9 Reuse of Fingerprint Images for Subsequent Purposes

Ms. Penny L. Valentine, FBI CJIS Staff, presented the reuse of fingerprint images for subsequent purposes topic. The intention of the presentation was to solicit feedback from the user community regarding the concerns with reusing previously captured fingerprint impressions. The CJIS Division has noted law enforcement and civil agencies are utilizing the same set of fingerprint images to conduct multiple civil background checks or criminal transactions. The CJIS Division strongly encourages the capture of a new set of fingerprint images for each fingerprint submission to ensure high quality and accurate IAFIS results. The IAFIS fingerprint repository can also be degraded by the reuse of fingerprint images based on elapsed time between submissions. In the event the

initial fingerprint set is resubmitted for a subsequent check, a second update to the master may occur, which causes a loss of significant data from the master fingerprint repository by the elimination of the scarred image.

Ms. Valentine stated the CJIS Division would like to discourage all submitting agencies from reutilizing fingerprint images to protect the integrity of the IAFIS fingerprint repository by allowing the opportunity to update with features such as scars and amputations and ensure the best customer results on the biometric search results.

The Compact Council held a discussion on the reuse of fingerprint images for subsequent purposes and decided the topic needed broken down into two issues. First, the reuse of fingerprints for future use, such as a rechecks. Second, the reuse of fingerprints for the purpose of receiving a name check.

The reuse of fingerprint images for subsequent purposes was presented to the Standards Committee with the following action: Ms. Carole Shelton moved to support the CJIS Division's recommendation to discourage all submitting agencies from reutilizing fingerprint images to protect the integrity of the IAFIS fingerprint repository by allowing the opportunity to update with features such as scars and amputations and ensure the best customer results on the biometric search results. Seconded by Ms. Wendy Brinkley. The motion carried.

(Attachment 10)

***Compact Council Action:* Ms. Liane M. Moriyama moved to amend the Standards Committee motion to create a joint task force between the Compact Council and Identification Services Subcommittee to study the issue of the reuse and resubmission of fingerprints for issues other than receiving a name check and the reuse and resubmission of fingerprints in order to receive a name check. Seconded by Mr. William Casey. The motion carried.**

Topic #10 Policy and Planning Committee Report

Mr. David G. Sim provided the Council an update on the Policy and Planning Committee's initiatives that weren't addressed separately on the Council's agenda. During the March 2009 Committee meeting, the Office of Personnel Management proposed the addition of two new strategies for the Strategic Plan.

The first Strategy, 1.4.5, stated: "Support the Federal agencies entitled to criminal

history record information (CHRI) under the provisions of Title 5, U.S.C., Section 9101, the Security Clearance Information Act of 1985 (SCIA), to obtain timely, complete, and cost-effective name and fingerprint-based CHRI."

Mr. Sim noted that Strategy 1.4.5 will add to the overall objective of 1.4 which is to support interested parties and efforts to improve data quality and to provide for a timely, accurate and cost efficient means to access criminal history record information.

The second proposed Strategy, 4.1.4, stated: "Collaborate with Federal background investigative agencies to identify their needs for timely and complete criminal history record information and improve access."

(Attachment 11)

Mr. Sim then presented the Council with the Action Plan that was created as a result of the November 2008 Council meeting where the Council Chairman expressed the need to have a document that provides the Council's accomplishments for use at the state or the national level. The action plan is a spreadsheet that provides a summary of both the current and completed actions relative to the Council's Strategic Plan. Mr. Sim stated the Action Plan serves as a intuitive visual representation of the work that the Council has completed and still needs to complete.

(Attachment 12)

***Compact Council Action:* Ms. Dawn A. Peck moved that the Council accept the two additional strategies for the Strategic Plan. Seconded by Captain Thomas W. Turner. The motion carried.**

Topic #11 Report from the 2009 Critical Infrastructure Partnership Advisory Council (CIPAC)

Mr. Juan Figueroa, Department Homeland Security (DHS), presented information on the Critical Infrastructure and Key Resources (CIKR) Sector Partnership. Mr. Figueroa spoke of the National Infrastructure Protection Plan (NIPP) which is considered the unifying structure for national CIKR efforts. The NIPP identifies CIKR partners roles and responsibilities, outlines leadership, coordination, and partnering mechanisms, and details a partnership framework for the self-organization of the CIKR sectors into Sector Coordinating Councils and Government Coordinating Councils. The DHS coordinates the overall national effort to enhance CIKR protection and resiliency through

the implementation of the NIPP. There are eighteen critical sectors in NIPP with DHS as the lead on eleven of the sectors.

Mr. Figueroa reported that CIKR are those infrastructures whose disruption or destruction could cause catastrophic losses in terms of human casualties, property destruction, and economic effects, as well as profound damage to public morale and confidence. The critical infrastructure protection is a shared responsibility of the federal, state, local, tribal, and territorial governments, and the owners and operators of the nations CIKR. Eighty-five percent of CIKR is owned and operated by the private sector. CIKR partnerships are used to do the following: gain a consensus on national CIKR protection priorities; coordinate CIKR protection efforts within and across sectors; share threat information, best practices, and lessons learned; collaborate planning requirements and program identification and development; and leverage capabilities and resources for program implementation and promulgation. The DHS established the CIPAC to formally unify the federal infrastructure protection activities of the private sector and of state, local, territorial, and tribal governments.

Mr. Figueroa reviewed the state and local implementation plan. A high level guide titled *A Guide to Critical Infrastructure and Key Resources Protection at the State, Regional, Local, Tribal, and Territorial Level*, was created to detail how to improve resource protection at the state and local level. The DHS is working to expand partnership efforts to the next level with the state and local jurisdictions, regional coalitions, and State and local fusion centers and to provide capabilities and tools for partners to develop their own CIKR protection capabilities and ensure NIPP implementation. Fusion centers are designed to function as central clearinghouses for government agencies and owners/operators of critical infrastructure to share information and intelligence about terrorist threats, criminal activity, and other hazards.

Mr. Figueroa reviewed the Insider Threat report which was presented to President Bush and provided policy recommendations to help improve the security posture of the U.S. critical infrastructures against threats. Chairman Uzzell stated the Compact Council is specifically interested in the Insider Threat report which deals with employee screening. Many of the private sector facilities reside in Compact states. The Council would want the screening of the potential employees to be done at the state level, particularly the state where the employee will be working, instead of only the federal level to ensure the best and most effective criminal history background check was completed. Ms. Uzzell requested from Mr. Figueroa that the Council be kept informed of upcoming congressional legislation and additional updates be provided at future Compact Council meetings.

Mr. Figueroa agreed to provide a copy of his PowerPoint presentation upon his management approval for distribution to the Council.

(Attachment 13)

Compact Council Action: This topic was accepted as information only.

Topic #12 Advisory Policy Board (APB) Update

Mr. William Casey presented the APB update. He reported that CJIS will monitor incoming record sizes and take necessary action to notify appropriate contacts if the fingerprint image compression presents a hindrance to the IAFIS processing. CJIS will provide guidance and assistance to those agencies to perform any necessary system modifications. Mr. Casey updated the Joint APB/Compact Council Site Security Task Force accepted the Task Force recommendations regarding contractor personnel and visitor access. He informed the Council that CJIS will implement APB recommended changes to discontinue the generation of hard copy rap sheets to the arresting agency when a consolidation occurs. The APB approved eliminating the requirement that III states submit documentation as a prerequisite to expunging state maintained criminal history records (CHR) from the III and to use the DRS message to expunge the CHR. The APB authorized the IAFIS Interface Evaluation Task Force to serve as the primary reviewer responsible for approving revisions to the Electronic Biometric Transmission Specification (EBTS). Mr. Casey reported the IAFIS Interface Evaluation Task Force recommended the following actions: designate EBTS extensible mark-up language as part II of the EBTS; establish 8.1 as the NGI operational baseline; establish placeholders in EBTS for all future NGI functionality; develop a strategy for identifying all Personally Identifiable Information data fields in mandatory data in the EBTS.

Chairman Uzzell asked Council and State Compact Officers interested in participating on the joint APB/Compact Council Task Force to contact the FBI Compact Officer.

(Attachment 14)

Compact Council Action: This topic was accepted as information only.

Topic # 13 Sanctions Committee Report

Ms. Julie A. LeTourneau Lackner, Sanctions Committee Chairman, addressed the

Council with the Committee's report. Ms. Lackner reported that the Sanctions Committee met on Tuesday, May 12, 2009, to discuss six topics.

The Committee considered a proposal on the modification of the correspondence resulting from the review of audit results. Modifications included the refining of recommendation letters and the addition of a formal closure letter to the sanctions process, not requiring agency response. The Committee accepted the proposal as presented and further approved the immediate use of the modified correspondence.

The Committee reviewed the responses to the sanctions letters that were disseminated based on the review of audit findings based on the Fall 2007, Spring 2008, and Fall 2008 meetings. The Committee approved the responses to the sanctions letters, determined that no follow up was required, and concluded that letters of closure be sent. The Committee approved a follow up letter for one territory.

The Committee reviewed audit findings from six NFF states for appropriate action. Recommendations were based on the following criteria: NFF State Qualification Requirements violations, violations of Articles of the Compact to include III misuse and Compact rules. Based on the criteria, the Sanctions Committee made the following recommendations: two states will receive a letter of recommendation; three states will receive a letter of concern and closure; and one state will receive a letter of commendation and closure.

The Committee reviewed audit findings for three Compact Signatory states for appropriate action. Recommendations were based on the following criteria: reviewed for violations of Articles of the Compact, including III misuse and the Compact rules, and compliance with NFF Qualification Requirements. These findings are provided only for informational purposes. Based on the criteria, the Sanctions Committee recommended that three states receive letters of recommendation.

The Committee reviewed audit findings from three Non-Compact Non-Memorandum of Understanding states for appropriate action. Recommendations were based on compliance with applicable provisions of the Compact and Rules promulgated by the Council. The Committee made the following recommendations: one state will receive a letter of commendation and closure; two states will receive letters of recommendation.

Finally, the Committee reviewed a summary of recently conducted Outsourcing of Noncriminal Justice Administrative Functions Audits. The Committee reviewed audit

findings from three authorized recipients that were approved by the FBI Compact Officer to outsource noncriminal justice administrative functions to a third party for appropriate action. The Committee also reviewed the corrective action plans implemented by those authorized recipients. Recommendations were based upon the requirements outlined in the Outsourcing Rule and the Security and Management Control Outsourcing Standard. Based on the criteria, the Sanctions Committee made the following recommendations: two agencies will receive a letters of recommendation and one agency will receive a letter of concern and closure.

Ms. Lackner brought a question to the Council's attention that was posed by the CJIS Audit team as to whether or not the audit staff should be noting or auditing for compliance with the Compact requirements, specifically responding to all purpose codes and becoming an NFF state, and should there be a specific time frame in which a state should come into compliance. Mr. Todd Commodore, FBI CJIS Staff, commented that the FBI audit staff would like to be added to the fall Compact Council meeting agenda. The audit staff is seeking additional guidance from the Committees and the Council as to how the Council would like the audit staff to look at certain requirements, rules and regulations in order to be consistent in carrying out the Council's expectations.

***Compact Council Action:* Ms. Julie A. LeTourneau Lackner moved that the Council accept the Sanctions Committee report. Seconded by Captain Thomas W. Turner. The motion carried.**

Topic #14 Special Interest Records Contained in IAFIS

Ms. Karen Gayle Seyler, FBI CJIS Division Intelligence Group (CDIG), presented an overview regarding the collection of Special Interest Records contained in IAFIS; how those records are processed and categorized in IAFIS; and how the CDIG derives intelligence information from these records. The CJIS Division intelligence program is an initiative to obtain, train, assist, track, and provide intelligence data to the FBI and other agencies. The CDIG was formed in January 2006 with the main goal of providing tactical intelligence to law enforcement agencies and to the intelligence community. The CDIG accomplishes this goal by compiling raw data located within the CJIS Division databases and providing the data to support any international terrorism case or local investigative matter. The CDIG utilizes the following databases to develop intelligence data: IAFIS, NCIC, III, and the Bioterrorism Risk Assessment Group.

Ms. Seyler, reported that after September 11, 2001, the intelligence community began to focus attention on sharing information on known or suspected terrorists and

special interest subjects. On April 11, 2002, the United States Attorney General (AG) issued a formal directive regarding the "Coordination of Information Relating to Terrorism." The FBI was given the directive to establish procedures to obtain on a regular basis the fingerprints, other identifying information, and available biographical data of all known or suspected foreign terrorists who have been identified and processed by foreign law enforcement agencies. Such information shall be placed into the IAFIS and other appropriate law enforcement databases to assist in detecting and locating foreign terrorists.

Ms. Seyler reviewed different possible Arrest Offense Literals that may appear on a rap sheet. Ms. Seyler requested if a rap sheet contains arrest information that states "Known or Suspected Terrorists" or "AG Directive..." not to advise the applicant of the information and to contact the CDIG. Research will be completed by analysts to determine whether or not the subject is on the national watch list. The CDIG will advise the agency what steps to take.

Compact Council Action: Ms. Dawn A. Peck moved to urge the FBI to strip the special interest information from a Purpose Code I record response. Ms. Dawn A. Peck amended the motion and moved that the FBI look at a method in which the special interest information could be provided to the state repository for distribution to state domestic security entities and not to unauthorized recipients. Seconded by Mr. Jeffrey R. Kellett. Ms. Dawn A. Peck amended the motion and moved that the FBI report back to the Compact Council with information on the Council's concerns with intelligence information on the rap sheets and develop a method on how this information could be provided to the state repository or the state repositories designee. Seconded by Mr. Jeffrey R. Kellett. The motion carried.

Topic # 15: Legislative Update

Mr. Danny R. Moye, FBI CJIS staff, provided an overview of pending legislation under the 111th Congress that may significantly affect the noncriminal justice use of III information and the noncriminal justice user community.

Mr. Moye specifically noted the following bills:

- *Patient Safety & Abuse Prevention Act of 2007* - This bill requires the long-term care facility or provider to obtain state and FBI fingerprint criminal history background checks on applicants and employees who have direct access to

patients. It also requires the state to describe and test methods for the development of "rap back" capability.

- *International Megan's Law of 2009* - Individuals required to register under the Sex Offender Registration and Notification Act must report international travel to DHS twenty-one days prior to departure or arrival in the U.S. The U.S. diplomat or consular mission in each foreign country would be required to establish and maintain a countrywide sex offender registry for sex offenders temporarily or permanently living in the country.
- *Local Law Enforcement Hate Crimes Prevention Act of 2007* - This bill would amend the Hate Crimes Statistics Act by requiring the AG to acquire data on gender and juvenile related crimes.

Mr. Moyer reported on legislation passed in the 111th Congress. The America Recover and Reinvestment Act of 2009 was passed into law on February 17, 2009. This bill authorized the Small Business Administration to conduct criminal background checks of applicant for loan guarantees through the best available means, including, if possible, the use of the NCIC computer system. The Generations Invigorating Volunteerism and Education Act was amended in March 31, 2009, to Serve America Act. This bill requires a check of the National Sex Offender Registry and a check of the state criminal history database or an FBI fingerprint background check on individuals who receive grants from the Corporation for National Community and Service.

Mr. Moyer reported on the Child Protection Improvement Act of 2009. Currently, there are two similar bills pending legislation. There is the House bill, sponsored by Adam Schiff, and the Senate bill, sponsored by John Ensign. Both bills required a criminal history review program to conduct national criminal history background checks for child-serving organizations. The Prosecutorial Remedies and Other Tools to End the Exploitation of Children Today (PROTECT) Act of 2003 pilot will be terminated when a program for national criminal history background checks for child-serving organizations is operating. Mr. Moyer reported that according to the language in the current bills, if a state already has a qualifying program in place to conduct criminal history background checks for child-serving organizations, then the state will not be affected. The passed bill will not override state programs. Chairman Uzzell discussed with the Council concerns that the PROTECT Act pilot will expire and legislation will quickly pass without the Council providing necessary input. The Council discussed sending a letter to the AG stating the Compact Council's concerns with the PROTECT Act ending and suggest using programs already in place such as the Council's Outsourcing Rule, to complete

criminal history background checks. Chairman Uzzell suggested attaching a copy of the SEARCH resolution related to NCPA/VCA background checks, to the letter. Mr. Jeffery R. Kellett proposed surveying each state to determine how they provide criminal history information for child-serving organizations. The survey should include the following: (1) what the state is currently doing with volunteers; (2) the cost to perform a volunteer state check; (3) the turnaround time for processing state checks; (4) and when the state implemented providing criminal history information directly to the qualified entity or when it plans to implement this practice. All states in attendance at the meeting were asked to e-mail the survey results to Ms. Joyce R. Wilkerson within two weeks so the results can be incorporated into the letter.

Compact Council Action: Ms. Dawn A. Peck moved that the Compact Council send a letter to the Assistant AG for Legislative Affairs stating the Compact Council's (1) support of the background check report; (2) concerns with the Schiff and the Ensign bills; (3) propose utilizing infrastructure that already exists, such as the Outsourcing Rule to complete criminal history background checks; (4) request the Department of Justice (DOJ) develop a proposed methodology for when the PROTECT Act legislation expires. Seconded by Ms. Julie A. LeTourneau Lackner. The motion carried.

Topic #16 Update on the Adam Walsh Child Protection and Safety Act of 2006 Implementation

Mr. James Princeton Gray, FBI CJIS staff, provided an update on states' implementation of Sections 151 and 153 of the Adam Walsh Child Protection and Safety Act of 2006 and the FBI's effort to provide guidance to states implementing the access made available under this new authority.

Mr. Gray reported that the approved participants under Section 153 are Arkansas, Hawaii, Kansas, Maine, Michigan, Minnesota, South Dakota, Vermont, and Washington, DC. Approved participants under both Section 151 and 153 are Connecticut, Georgia, Illinois, Massachusetts, Missouri, Pennsylvania, and Wisconsin. Additionally, fourteen states and one tribal nation have made informal inquiries regarding the Act.

Mr. Gray also reported that CJIS sent a letter dated February 20, 2009, to all CSO, SIB representatives, and State Compact Officers that provided additional guidance on implementing Section 153. The letter addressed that volunteer submissions will receive the reduced user fee rate when submitted properly with the reason fingerprinted of "Adam Walsh Act Volunteer". The letter also informed recipients that the CJIS Division will assign upon request "Z" Origination Agency Identifiers for nongovernmental entities

to facilitate access.

The Council recommended Chairman Uzzell send a letter to the states detailing the benefits of the Adam Walsh Act, example scenarios of states that are using the Act and contact information.

(Attachment 15)

***Compact Council Action:* This topic was accepted as information only.**

**Topic #17 Update on CJIS Division Departmental Order (DO) 556-73
Fingerprint Processing**

Mr. Danny R. Moye, FBI CJIS staff, provided an update on recent efforts to modify the DO regulation. The DO 556-73 was imposed by the AG so an individual could request his or her record for review and/or correction. Mr. Moye commented that within the last ten years there has been a trend that the DO 556-73 access has been abused. Based on input from the Compact Council a clarification to the United States Code was drafted. The clarification provides the subject can obtain a copy of his own record or he can have an attorney or a personal representative obtain a copy of his record. The request must be submitted on attorney letterhead or a power of attorney must accompany the request. This proposed language has been routed through the DOJ Office of Legal Policy with no objections. The clarification is waiting on comments from the Office of Management and Budget (OMB).

Discussion was held by the Council concerning the differences between a DO and a Freedom of Information Act (FOIA). Mr. Moye clarified his intentions are to best meet the concerns of the NFF states and the Compact Council in not making criminal history records available for licensing and employment through the DO process.

Once the proposed language passes through the OMB, Chairman Uzzell suggested the Council send a letter to the states advising that it will no longer be permissible to bypass the state with an approved statute by encouraging the use of the DO process.

***Compact Council Action:* This topic was accepted as information only.**

**Topic # 18 Access to Department of Homeland Security (DHS) Information by
Federal, State, and Local Criminal Justice, Intelligence, and
Noncriminal Justice Agencies: Update on the Progress to**

Interoperability

Ms. Cynthia D. Estep, FBI CJIS staff, provided an update on the Interoperability project between IAFIS and Automated Biometric Identification System (IDENT). Ms. Estep stated the interim Data Sharing Model (iDSM) was the prototype that provided the initial step for bi-directional information sharing. The iDSM was deployed on September 03, 2006. The iDSM has provided increased data-sharing capabilities until additional Interoperability enhancements were implemented. Ms. Estep reported that the FBI/DOJ and DHS have transitioned from the iDSM to Shared Services. With the transition to Shared Services, the agencies that participated in iDSM are now able to access the full IDENT Repository with a single query. The Shared Services enables a participating agency, either an authorized the IAFIS or IDENT user, to access certain biometric and biographic information retained in the other system. The Shared Services model provides local law enforcement agencies access to 97 million records. All of the iDSM participating agencies, with the exception of DOD, were successfully transitioned to Shared Services by 11/17/2008.

In conjunction with the Interoperability effort, additional state and local law enforcement agencies are gaining biometric-based access to the full IDENT repository through the DHS/ICE Secure Communities Program. Since October 2008, the Shared Services model has processed over 700,000 submissions, which includes the number of initial arrests and Criminal Print Identified messages.

Ms. Estep stated in addition to the IAFIS response, Interoperability participants will now receive a second response via the CJIS Wide Area Network. The second response will be either the match IDR/IAR or the no match IDR. Not all states are currently programmed to receive a second response. Additionally, routing issues to the local law enforcement agencies have also been encountered with the second response. Furthermore, a match IDR/IAR could include up to five photographs which may pose another impact to the state. However, a state is still able to participate in the ICE Secure Communities Program while routing issues are being resolved. Even though routing issues may exist, fingerprint submissions from Interoperability participants will be forwarded to IDENT and queries sent to the LESC with the IAR being forwarded to the ICE Detention Removal Office.

Finally, Ms. Estep summarized the next steps for Interoperability as the following: (1) coordinate with ICE on a deployment plan for future phases of Secure Communities initiative; (2) evaluate IDR through interaction with end users; (3) continue to pursue additional noncriminal justice users access to IDENT; (4) continue to vet Interoperability

issues through the APB and Compact Council as necessary; and (5) work closely with NGI to establish milestones and incorporate remaining functionalities and/or capabilities.

Mr. James Buckley, DHS/ICE, provided an update on Secure Communities. The DHS/ICE Secure Communities Program is improving community safety by transforming the way the federal government cooperates with state and local law enforcement agencies to identify, detain, and remove all criminal aliens held in custody. This Program is changing immigration enforcement by using technology to share information between law enforcement agencies and by applying risk-based methodologies to focus resources on assisting all local communities remove high-risk criminal aliens. The goal of this program is to make communities safer by identifying and removing those criminal aliens who pose the greatest threat to local communities.

As of April 2009, automatic biometric data is available at 48 sites in 6 states, serving 2,100 booking locations. This will annually produce approximately 1.1 million fingerprint submissions. During the first quarter of Fiscal Year (FY) 2009, 5707 biometric identification submissions resulted in an IDENT match. Of these, 124, were violent or narcotic offenders. A total of 995 ICE detainers were issued on identified criminal aliens. In FY 2008, ICE removed 112,000 criminal aliens. Mr. Buckley concluded by stating additional sites are currently being identified for the second phase of this initiative. ICE is working with the FBI/CJIS Division to gather the information and data needed to compile the next list of agencies and deployment dates.

(Attachment 16)

Compact Council Action: This topic was accepted as information only.

Topic # 19 Next Generation Identification (NGI) Program Update

Ms. Rachel E. Tucker, FBI CJIS staff, provided an update on the completed NGI Quick Wins, which are pieces of NGI functionality that are able to be deployed outside of the developmental contract, and a high level summary of the planned incremental implementation of the NGI capabilities. In June 2008, the Disposition Reporting Improvements (DRI) III message key was implemented. The DRI offers III participating states the option to employ a new message to support the submission and maintenance of disposition data on existing dates of arrest. In September 2007, the Additional Receipt and Store capability was implemented. This offers the ability to store palmprints, photos with civil submissions, and iris images. Currently, there are 18 agencies participating with over 490,000 palmprints received. In June 2008, Phase I of the Expanded Unsolved

Latent File (ULF) Cascade Search was implemented. Phase II Expanded ULF Cascaded Search has been delayed until NGI Increment 4 due to the expected impact on system resources. In January 2009, Phase III Expanded ULF Cascaded Search was implemented. There will now be a caveat included with the new Unsolved Latent Match (ULM) notifications directing the ULM owner to contact the SIB or channeling agency for further information regarding a ULF hit to a non-retain tenprint submission. In September 2007, the Repository for Individual of Special Concern (RISC) was implemented. This pilot provides a search of a limited population using a minimum of two or a maximum of ten fingerprint images.

Ms. Tucker reviewed the NGI Incremental Development Plan. She identified seven increments: Increment 0 - Advanced Technology Workstations; Increment 1 - Identification/Fingerprint; Increment 2 - RISC/Initial NGI Infrastructure; Increment 3 - Latents/Palms/Full NGI Infrastructure; Increment 4 - Rap Back/Facial & SMT Search; Increment 5 - Full NGI Functionality; and Increment 6 - Full Operational Capability.

Discussion arose regarding the Rap Back functionality and when the Council would get additional details on how Rap Back will work, what fees will be involved, how billing will occur, etc. Ms. Tucker advised that a Privacy Impact Assessment must be finalized. Additional documents to be finalized include a best practices registration to notify users what the services are and a memorandum of understanding to be executed between the CJIS Division and state and federal agencies who want to enroll in this NGI service. Chairman Uzzell mentioned that discussions need to take place regarding the NFF Program structure.

Chairman Uzzell suggested the Compact Council establish a Rap Back Task Force to work under the Policy and Planning Committee and to include any state that has a Rap Back program, Mr. Robert M. Finalyson, large volume users such as Office of Personnel Management, APB, and IAFIS Interface Evaluation Task Force representatives to work on Rap Back program issues. The Council endorsed this recommendation. Chairman Uzzell asked the FBI Council staff to solicit interest from all states for participation in the Rap Back Task Force.

(Attachment 17)

Compact Council Action: This topic was accepted as information only.

Topic #20 Processing Fingerprints for the 2010 Census

Mr. James Princeton Gray, FBI CJIS Staff, presented information pertaining to the CJIS Division working with the U.S. Census Bureau in developing procedures to conduct name-based searches and to process fingerprint submissions for the 2010 Census. The focus of the CJIS Division's plan is the processing of 484,000 noncriminal justice fingerprint submissions from the U.S. Census Bureau over a three-day period in April 2010. During the week of April 26, 2010, the U.S. Census Bureau will culminate the hiring process for nearly one-half million field workers for the 2010 Census. The new six-week employees will report for training that week. They will be fingerprinted as part of the training process and will subsequently be in the field, and in citizens' homes, the following week. The training week is the first opportunity the U.S. Census Bureau has for personal contact with the temporary workers, and therefore, the first opportunity to fingerprint the individuals.

Mr. Gray stated in order for the CJIS Division to meet the deadline in processing of the U.S. Census Bureau fingerprints, IAFIS capacity issues have been addressed and personnel resources will need to be adjusted. Therefore, noncriminal justice fingerprints submitted during the period of April 28-30, and May 1-2, 2010, will be held in a queue until completion of processing U.S. Census Bureau fingerprints. At this time, the CJIS Division anticipates that fingerprints submitted for criminal justice purposes will not be affected. However, after a final review of system capacity, available personnel resources, and U.S. Census Bureau final volume estimates, response time for criminal justice fingerprint submissions may be affected during this three-day period, particularly for the Criminal Print Non-Urgent Type of Transaction.

In preparation for the submission of the extremely high volume of fingerprints from the U.S. Census Bureau, IAFIS contributors are being notified that noncriminal justice fingerprints submitted during April 28-30, and May 1-2, 2010, will be processed after May 3, 2010, and the CJIS Division anticipates that it will take approximately one week to complete the back log of fingerprints for all contributors.

Mr. Gray concluded by stating in early 2010, a letter will be disseminated to CJIS System Agencies reminding the users about the suspension of processing noncriminal justice fingerprint submissions during April 29-30, and May 1-2, 2010.

Compact Council Action: This topic was accepted as information only.

Topic #21 Transportation Security Administration Update

Ms. Hao-y Froemling, Transportation Security Administration (TSA), provided an update on the Hazardous Materials Endorsement (HME) Threat Assessment Program and the Transportation Worker Identification Credential (TWIC). The HME was started in January 2005 with 68 TSA Agent Collection Sites. As of May 11, 2009 there are 214 TSA Agent Collection Sites. When the program began in 2005 TSA was processing approximately 10,000 applications per month. Currently, the average monthly applications are approximately 25,000. As of May 5, 2009, TSA has completed 1,173,898 applications and 10,336 (< 1% of all applicants) have been disqualified from holding a hazardous material endorsement. TSA has planned program enhancements which will reduce the initial disqualifications and assist with the adjudication process. Ms. Froemling reported that since the last Compact Council meeting the TSA agent is now a direct channeler for fingerprint submissions to the FBI. TSA is also reviewing options for states to become a direct channeler in order to provide state criminal history results directly to TSA.

Ms. Froemling provided an update on the TSA participation on State Rap Sheet Working Group. In May 2009, a conference call was held with participants from TSA, FBI, Florida, Hawaii, Kansas, Maryland, New Jersey, Tennessee, Texas and Virginia. The working group discussed the option of the state acting as a direct channeler to the FBI and appending state records to TSA. Currently, TSA is working with Texas in order to achieve this goal. The next step is discuss and analyze feasibility and interest with the states and determine a solution in line with the DHS/TSA and the FBI criminal history record check technology objectives.

Ms. Froemling discussed the TSA background check comparability between the TWIC program and the HME programs since they are similar and have a population overlap. Comparability will provide applicants who have a TWIC background assessment with the same expiration date as the TWIC. Currently, a reduced fee of \$27 is offered to applicants who already have one of the two checks. TSA is committed to TWIC and HME background check integration as soon as possible. Ms. Froemling stated there are currently 151 TWIC enrollment centers in the United States including the territories and over 300 mobile enrollments at local businesses/organizations. There are over 1.18 million enrollments and over 970,000 TWIC Card activations.

The Compact Council held a discussion concerning whether TSA is able to share the background checks between TWIC and HME. Currently, states do not have the option to share background check results with other agencies. There are strict audit guidelines that prohibits states from sharing background check results. According to Mr. Danny R. Moye and Mr. James Prinston Gray there is specific Compact language that

specifically prohibits sharing background check results. Ms. Froemling will confer with TSA Chief Council to obtain the federal law that requires TSA to share the TWIC and HME background check results and forward the information to FBI Compact Officer Gary Barron.

TSA plans to develop a white paper within the next couple of weeks to send to all the states for comments. The white paper will include a set of circumstances or requirements that the state would have to meet in order to provide state rap sheets to TSA. The white paper will not commit the state to meet any requirements. TSA is looking for a volume in order to determine what programming changes will need to occur. Chairman Uzzell stated that TSA has requested from the Council a general idea of what states would be interested in providing state rap sheet information directly to TSA.

(Attachment 18)

Compact Council Action: This topic was accepted as information only.