



**National Crime Prevention and Privacy Compact
COMPACT COUNCIL MEETING
Long Beach, California
November 4-5, 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 November 4, 2009, in Long Beach, California.

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:

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

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. Matthew Jack, Department of Homeland Security
Proxy for Mr. Jonathan Frenkel

Advisory Policy Board Representative:

- William Casey not present
Captain Thomas W. Turner proxy during the election.

Federal Bureau of Investigation:

- Mr. Daniel D. Roberts, FBI CJIS Division

Other meeting attendees introduced themselves and the agencies they represented.
(Attachment 1)

Chairman Uzzell recognized that the month of November marked the 10th anniversary of the Compact Council. Noting that the inaugural meeting of the Compact was called to order at 9:00 a.m. on November 17, 1999, in Washington, D.C., by former FBI CJIS Division Assistant Director David Loesch. To commemorate the 10th anniversary, Chairman Uzzell went on to quote Mr. Loesch's opening remarks from the inaugural meeting stating, "This meeting marks an historic moment which has been at least 20 years in the making. This is the result of a tremendous joint effort of a number of organizations: the U.S. Attorney General, the Department of Justice staff, the Bureau of Justice Statistics, SEARCH, and the CJIS Advisory Policy Board. This has been a long time coming and really goes to what started a long time ago, the decentralization of the records which has allowed agencies to start doing business the same way."

Chairman Uzzell recognized and congratulated Hawaii for becoming the 13th National Fingerprint File (NFF) state on October 4, 2009 and stated that over 25 percent of the records currently in the national system are from NFF states. Chairman Uzzell recognized Debbie McKinney, Oklahoma State Bureau of Investigation, as a newly appointed Council member and FBI CJIS Division Assistant Director Daniel D. Roberts, who was appointed to serve the remainder of former FBI CJIS Division Assistant Director Thomas Bush's term.

Chairman Uzzell welcomed and expressed her appreciation to all the guest speakers, the Compact member states, and all the state repository representatives of nonparty states that were in attendance, and concluded by stating that she has enjoyed her last six years as the Chairman.

Next, the Council approved the minutes from the May 2009 meeting.

Compact Council Action: Ms. Dawn A. Peck moved to approve the May 2009 minutes with the clarification on page 2 in the following sentence : "Also, two states, Pennsylvania and Georgia, have outsourced with the FBI." Seconded by Ms. Liane M. Moriyama. Motion carried.

The next order of business was the election of a new Council Chairman and Vice Chairman, due to the expiration of terms for both positions. Mr. Daniel D. Roberts, FBI CJIS Division, reviewed the applicable portions of the Council's bylaws in order to conduct the election for the position of Chairman and then opened the floor for nominations. Captain Thomas W. Turner nominated Ms. Liane M. Moriyama and the nomination was seconded by Mr. Robert M. Finlayson, III. No other nominations were made for Chairman.

Compact Council Action: Ms. Dawn A. Peck moved to close the nominations for Chairman. The motion was seconded by Captain Thomas W. Turner. Ms. Moriyama won the Chairman election by acclamation.

Chairman Moriyama then reviewed the portions of the bylaws applicable to conduct the election for the position of Vice Chairman and then opened the floor for nominations. Ms. Dawn A. Peck nominated Mr. Jeffrey R. Kellet and the nomination was seconded by Captain Thomas W. Turner. No other nominations were made for this position.

Compact Council Action: Ms. Donna M. Uzzell moved to close the nominations for Vice Chairman. The motion was seconded by Captain Thomas W. Turner. Mr. Jeffrey R. Kellet won the Vice Chairman election by acclamation.

Agenda topics were discussed.

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

Mr. Daniel D. Roberts, FBI CJIS Staff, provided an update on the CJIS Division. Mr. Roberts provided operational updates on CJIS services, updates on CJIS initiatives, and discussed the Division's core mission and vision. More specifically, Mr. Roberts provided updates on the National Criminal Information Center (NCIC), National Instant Criminal Background Check System (NICS), Law Enforcement National Data Exchange program (N-DEX), Law Enforcement Online (LEO), Uniform Crime Reporting (UCR), and Law Enforcement Officers Killed and Assaulted (LEOKA) programs. Mr. Roberts

also provided information on the efforts and enhancements of, such programs as, the Integrated Automated Fingerprint Identification System (IAFIS) and its preparation for the U.S. Census Bureau coming online spring 2010, Next Generation Identification (NGI) and its future capabilities to search the palm print repositories, Biometric Interoperability and its continuing efforts to collaborate with other federal agencies, and the Biometric Center of Excellence (BCOE) and its continuing efforts in the research of various biometric avenues to assist law enforcement officers on the street.

(Attachment 2)

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

Topic #2 Proposed Amendments to the National Crime Prevention and Privacy Compact Council (Compact Council) Bylaws_

Ms. Diane M. Shaffer, FBI CJIS Staff, presented four proposed amendments to the Council's Bylaws. Pursuant to Section 14 of the Compact Council Bylaws, Amendment to Bylaws:

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

The proposed changes to the Bylaws are shown in bold text and strikeout.

5.1 **MEMBERS RECOMMENDED BY COMPACT OFFICERS OF ALL PARTY STATES**

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

5.3 **MEMBERS NOMINATED BY THE CHAIRMAN OF THE COMPACT COUNCIL**

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

6.0 VACANCIES

If a member vacates his/her position on the Compact Council ~~with less than six months remaining in his/her term, a new name shall be submitted to the Attorney General to appoint a new Compact Council member effective October 1st of that year, as if the member had completed his/her term. If a member vacates his/her position on the Compact Council with six or more months remaining in his/her term, the Attorney General shall be asked to appoint a new Compact Council member to fill the remainder of the term (i.e., a partial term), as described later in this Section of the Bylaws.~~ **follow procedures as described below.** All members appointed due to vacancies shall have been duly nominated as specified in Section 3.0.

6.1 VACANCY WITH LESS THAN SIX MONTHS REMAINING IN TERM

~~The end-of-term process as described in Section 5.0 of these Bylaws shall be followed.~~

6.2 VACANCY WITH SIX MONTHS OR MORE REMAINING IN TERM

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

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

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

COMPACT COUNCIL

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

Compact Council Action: Ms. Dawn A. Peck moved to adopt the proposed changes to the Bylaws. Seconded by Mr. David G. Sim. Motion carried. Mr. David G. Sim moved to make the bylaws changes effective immediately. Seconded by Ms. Dawn A. Peck. The motioned carried.

Topic #3 **The Policy and Planning Committee Report on the Proposal to Establish a Process for Initiating Noncriminal Justice Record Checks During Emergencies and Disasters**

Mr. Scott S. Phillips, FBI CJIS Staff, presented the draft proposal as approved by the Policy and Planning (P & P) Committee at its September 2009 meeting. The P & P Committee recommended that the Council publish the notice in the Federal Register to memorialize the approved procedures.

During the Council's discussion, a recommendation was made to make a few language changes (as shown below) prior to publishing the notice in the Federal Register.

Compact Council Action: Ms. Donna M. Uzzell moved to publish the notice in the Federal Register with the following changes (in ~~strikeout~~ and highlight). Seconded by Mr. David G. Sim. The motion carried.

As a prerequisite to receiving approval to initiate noncriminal justice criminal history record checks under the exigent circumstances described above, the ~~appropriate federal~~ President or authorized state executive officer(s) must have ~~declared a state of emergency or major disaster in the affected area of the state(s) or the appropriate~~ **requesting official's jurisdiction and where** individuals are being displaced from, or are being relocated to, ~~federal or state official making the request must have determined that such state of emergency or disaster is imminent those~~ areas. States eligible to make such requests include the state or states in which the disaster has been declared and states in which persons affected by the disaster are evacuated or relocated.

Topic #4 **The Standards Committee Report on the Proposed Separation of the Combined Security and Management Control Outsourcing Standard (Standard)**

Ms. Barbara S. Wiles, FBI CJIS Staff, presented this topic, summarizing the Standards Committee's discussion on the advantages and disadvantages of separating the combined standard into a channeler standard and a non-channeler standard. Ms. Wiles reported that the committee recommended separating the standard into two documents and that due to the language in the original Federal Register notice, republication was not necessary.

(Attachment 3)

***Compact Council Action:* Mr. David G. Sim moved to split the Standard into two documents and not publish (the two documents) in the *Federal Register*. Seconded by Ms. Dawn A. Peck. The motion carried.**

Topic #5 **The CJIS Security Policy Update**

Mr. George A. White, FBI CJIS Staff, provided an overview of the Security Policy Working Group's (SPWG's) progress and discussed the noncriminal justice supplemental guidance as included in the draft revised CJIS Security Policy.

Mr. White reported that three topics were being put forth to the upcoming Advisory Policy Board (APB) meetings in December 2009, that will impact the noncriminal justice communities. Those topics are:

(1) The designation of the local agency security officer (LASO), which is the point of contact for the local agencies. Mr. White explained that the Outsourcing Standard has a different nomenclature for that person, therefore, if you are following the Outsourcing Guide, you should designate a point of contact at the local area based on that guideline. He further explained that what is being put forth to the APB regarding the LASO designation doesn't necessarily apply to noncriminal justice agencies.

(2) Security awareness training. Mr. White noted, that previously the noncriminal justice agencies had to be trained every three years. It has been put forth to the APB to change the security awareness training to every two years to coincide with the NCIC certification training.

(3) Put forth to the APB about the new network diagrams. Mr. White explained,

the new diagrams should provide guidance on how the diagrams should look to ensure the topology is put forth correctly.

Mr. White reported that the new draft form of the CJIS Security Policy was sent via email to the Compact Council for review and comments for a 30 day period. He explained that the comments should be filtered through the compact officers. Mr. White also asked specifically that the Council representatives on the SPWG (Carole Shelton, Dave Sim, Brad Truitt and Robert Finlayson), provide one collective set of council comments. He went on to state that July 2010, is the projected date for the final version to be published. He noted, the new version takes into consideration noncriminal justice agencies' specific needs and now works in a partnership with the outsourcing standard versus working separately with different requirements. He also noted, that the new version will have language that points out deviations between criminal justice agencies and noncriminal justice agencies. One example being, the triennial audits which are required for criminal justice agencies are recommended for noncriminal justice agencies. Furthermore, the criminal justice communities have to conduct fingerprint based background checks on everyone who has access to CHRI and noncriminal justice agencies do not unless the state has statutory authority to conduct the checks.

Ms. Donna M. Uzzell requested an analysis be conducted to explain the impact of the new CJIS Security Policy to noncriminal justice customers from a perspective of fiscal cost and policy cost. Mr. David G. Sim, requested a copy of the new CJIS Security Policy also be provided to all of the State Compact Officers for review and comments. CJIS staff took an action item to have the draft forwarded to all State Compact Officers via email and to schedule a teleconference with State Compact Officers to revisit use cases and explain the impact of the new CJIS Security Policy to noncriminal justice customers from a perspective of fiscal cost and policy cost.

(Attachment 4)

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

Topic #6 National Fingerprint File Implementation Status Report

Ms. Paula A. Barron, FBI CJIS Staff, provided a status of the National Fingerprint File (NFF) implementation of the Compact states. Ms. Barron congratulated Hawaii for becoming the 13th NFF participant as of October 4, 2009. Ms. Barron reported Ohio, Maryland, and Connecticut, which anticipated NFF participation in 2009, now estimate 2010 implementation. Arkansas, Iowa, and Missouri are anticipating participation either late 2010 or early 2011. Arizona, Maine, and Minnesota are anticipating participation in

2011.

Ms. Barron also announced that since the May Compact Council meeting, two onsite assessments have been completed, one at the Alaska DPS and the other at the West Virginia State Police.

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

Topic #7 **The Standards Committee Report on the Proposal to Establish Benchmarks for Meeting State National Crime Prevention and Privacy Compact (Compact) Requirements**

Mr. Randall P. Wickline, FBI CJIS Staff, provided recommendations from the September 2009 Standards Committee meeting for the establishment of benchmarks for two specific provisions of the Compact. The first provision was to ensure Compact states respond to all III purpose codes and the second was participation in the NFF program. He explained that the topic originated from discussions during the spring 2009 Sanctions Committee meetings. He discussed the background of each provision along with the Standards Committee's recommendations for each provisions.

During the presentation, questions arose regarding whether or not there were any proposed issues for the states that were currently not in compliance with the recommendation for Compact states to support all III purpose codes. Two states, Michigan and Alaska, were among those that would be affected by the recommendation. Mr. Tim Bolles, Michigan State Police, stated that he did not foresee any issues with compliance, that it would be a matter of IT resources being made available. Ms. Kathy Monfreda, Alaska Department of Public Safety, stated that Alaska would not only have revenue issues to become compliant, but state legislative issues as well. She stated that a state statute currently prevents OPM from having III Purpose Code S access. Mr. Danny Moye, FBI Attorney Advisor, stated that he would be available to discuss any issues or concerns with the attorneys in Alaska regarding the legislative issue.

Mr. Wickline went on to discuss the second recommended provision to establish a requirement that all non-NFF Compact states must provide, semi-annually, a justification explaining the current steps being taken toward achieving NFF participation and identify the anticipated date for NFF participation to the Sanctions Committee. Upon review of the information provided, the Sanctions Committee then may choose to forward a recommendation to the Council.

Discussion arose regarding several issues and questions from various Compact

Officers, which led to an agreement that the topic needed further evaluation by the Standards Committee.

Compact Council Action: Ms. Debbie McKinney moved that the Council accepts the Standards Committee motion with regard to Issue #1 in the staff. Seconded by Mr. William L. Marosy. The motion carried.

Establish a benchmark requiring that a Compact state must be able to support all III purpose codes within 12 months after the effective date of the Compact. Existing Compact states are required to comply with this requirement 12 months after the date of approval by the Council. If the state is not a III participant on the effective date of the Compact, then the state must be able to support all III purpose codes immediately upon becoming a III participant. Compact states will be subject to this requirement and sanctions may be imposed by the Council for noncompliance.

Ms. Donna M. Uzzell moved that the Council recommends to establish a requirement that all non-NFF Compact states must provide by the anniversary of the effective date of Compact ratification, or after an FBI NFF on-site visit, whichever date is later, a strategic plan to achieve NFF participation and an anticipated date of NFF compliance. The non-NFF state shall provide status reports annually to the Standards Committee. The status report will include any changes to time line, progress made, and any critical issues or obstacles that may impede implementation. The plan and status reports will be forwarded to the Sanctions Committee for review of the states compliance with its own plan. The Sanctions Committee may choose to forward a recommendation to the Compact Council. Seconded by Captain Timothy P. McGrail. The motion tabled as follows:

Ms. Dawn A. Peck made a motion to table Issue #2 in the staff paper until tomorrow for staff to work with Ms. Donna M. Uzzell on the language. Seconded by Ms. Donna M. Uzzell.

During discussions the next day the motion was withdrawn as follows:

Ms. Dawn A. Peck withdrew her motion to table Issue #2 in the staff paper. Seconded by Ms. Donna M. Uzzell.

Ms. Dawn A. Peck moved that the Council recommends sending Issue #2 back to the Standards Committee. Seconded by Captain Thomas W. Tuner. The

motion carried.

Topic #8 **The Standards Committee Report on the Proposed Changes to the National Fingerprints File (NFF) Program Regarding Fingerprint Image Submission (FIS) Transactions**

Ms. Paula A. Barron, FBI CJIS Staff, presented the Standards Committee's proposed changes to the State NFF Qualification Requirements (Quals) to reflect the requirement for NFF Program participants to submit all second and/or subsequent fingerprint impressions as FIS transactions and to provide an update on the implementation plan. Ms. Barron discussed the three qualification requirements that were identified by the Standards Committee and the proposed changes in order to enable an NFF state to send all second and subsequent arrest prints as FIS transactions.

During the Council's discussion, a recommendation was made to add language to the Quals staff paper that states, "Prior to submitting FIS transactions to the FBI on all second and subsequent arrests, the NFF state must contact the FBI's CJIS Division in advance to coordinate scheduling and ensure that sufficient technical and operational resources are available to handle such requests so as not to diminish current IAFIS processing."

***Compact Council Action:* Mr. David G. Sim moved that the Council (1) accepts the changes to the Quals as identified on page 3 of the staff paper and recommends the changes to the Quals be forwarded to the APB's ISS, and (2) recommends adding the following sentence to the end of the Standards Committee motion on page 5 of the staff paper: "Prior to submitting FIS transactions to the FBI on all second and subsequent arrests, the NFF state must contact the FBI's CJIS Division in advance to coordinate scheduling and ensure that sufficient technical and operational resources are available to handle such requests so as not to diminish current IAFIS processing."**
Seconded by Ms. Dawn A. Peck. The motion carried.

Topic #9 **Next Generation Identification (NGI) Program Update**

Mr. Nicky J. Megna, FBI CJIS Staff, provided a high-level overview on the status, incremental development, QUICK WINS, transition efforts, and privacy considerations of the NGI program. Mr. Megna mentioned that NGI was recently part of an earned value management audit which was completed in July 2009. He noted the results of that audit can be found in a report released to the public in November 2009. He reported the preliminary design review for NGI is scheduled for November 16-17, 2009.

Mr. Megna went on to discuss the incremental development stages of NGI. He explained the first increment will consist of advanced technology work stations and new fingerprint systems with new algorithms to enhance fingerprint processing. He discussed future increments which will include the national palm print system implementation, latent enhancements, photos, and Rap Back. He mentioned that trade studies have been completed on the identification fingerprint, slap fingerprint segmentation, and they have already begun trade studies on investigative latents and palm prints, and are currently establishing a face test repository. He reported currently NGI is in the Increment 0 phase. He went on to explain, Increment 0 means they have completed the system acceptance review and testing and are now working on the replacement of their service provider hardware. Mr. Megna also reported that beginning in January 2010, current work stations at FBI CJIS, the CJIS satellite facility in Fairmont, WV, the Laboratory Division in Quantico, VA, and in Dover, DE, will be replaced with state-of-the-art flat screen technology.

Mr. Megna discussed the NGI QUICK WINS, defined as pieces of the NGI functionality that are relatively inexpensive and are deployed with a high probability of success outside the NGI development contract. He explained that with the utilization of CJIS resources, they have implemented the ability to store additional biometric data: palm prints, photos with civil submissions, and iris images. Mr. Megna discussed the Repository for Individuals of Special Concern (RISC) pilot, and stated that several states are participating, including the Ohio Bureau of Criminal Identification and Investigation (BCI), Texas Department of Public Safety, Florida Department of Law Enforcement (FDLE), and Minnesota Bureau of Criminal Apprehension (BCA).

Mr. Megna discussed the transition efforts, which included the Rap Back Task Force, identity management, and EBTS. He explained that efforts are being made by the NGI staff to prepare a topic paper for the next round of meetings that will outline the universal control number (UCN). He also stated that the EBTS Version 9.0 is currently under review.

Mr. Megna discussed the current privacy considerations within the NGI program. He reported that the interstate photo system privacy impact assessment (PIA) has been completed and released to the public. The Enhanced IAFIS Repository (EIR) PIA has been split into three PIAs, to include civil retention, rap back services, and the additional receipt, storage and use of biometrics. He stated they are also currently developing and implementing a RISC PIA, have completed a privacy threshold analysis of the NGI Network (NGINET), and are updating the Biometric Identification Records System's System of Records Notice and the Code of Federal Regulations.

Discussions arose regarding the possibility of a symposium to help stakeholders identify what technologies states are using/used to get where they are today. Mr. Roberts stated that he would talk offline afterwards to find a way for the FBI to host an NGI symposium.

Other discussions arose regarding the Rap Back services, specifically about entering persons placed on probation or parole in Rap Back. Mr. Megna agreed to discuss the issue with Ms. Uzzell offline.

(Attachment 5)

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

Topic #10 The Standards and Policy and Planning Committees Report on the Noncriminal Justice Fingerprint Retention in Preparation of Future Next Generation Identification (NGI) Services

Mr. Nicky J. Megna, FBI CJIS Staff, provided the Standards and Policy and Planning Committees report on the noncriminal justice fingerprint retention in preparation of future NGI services. Mr. Megna reported the NGI staff is currently working closely with the FBI's Access Integrity Unit (AIU) and the Privacy and Civil Liberties Unit (PCLU) to update the system of records notice and the privacy impact assessment to reflect the option for states to request the FBI to retain their civil submissions. He also reported that in preparation for NGI services and the option of civil retention, the Privacy Act Notice has been updated. He explained the FD-258 fingerprint card has recently been updated to reflect the change; however, those who use the LiveScan devices would still need to advise individuals being printed of the Privacy Act Notice update through other means. He asked that the Compact Council endorse a policy that requires states to advise individuals of the Privacy Act Notice at the time of image capture. He suggested two options: (1) notifying the individual through a paper, waiver form, or a poster that he/she is required to read; or (2) require the individual to acknowledge the notification through signature. Mr. Megna went on to report that the Standards and Policy and Planning Committees discussed this issue and were in strong support of option one, to make the notification a requirement, but not require a signature of acknowledgment.

During discussions, a request was made for the FBI CJIS NGI staff to send out information to states about the Privacy Act Notice update and its requirement to notify individuals that noncriminal justice submissions may be retained.

Compact Council Action: Captain Thomas W. Turner moved that the Council

endorses Option #1 (as outlined in the staff paper)

For those civil fingerprints that may be provided to the FBI for a national criminal history record check, the Committee is requested to endorse a requirement for notifying individuals of the retention and use of noncriminal justice submissions, similar to (or adopting) the language on the back of the amended FD-258, for both paper and live scan collections.

Seconded by Ms. Dawn A. Peck. The motion carried.

Ms. Donna M. Uzzell moved to reconsider yesterday's motion. Seconded by David G. Sim. The motion carried. (Captain Thomas W. Turner voted nay).

Captain Thomas W. Turner moved that the Council endorses Option #1 (as outlined in the staff paper). Seconded by Ms. Dawn A. Peck. The motion failed.

Ms. Dawn A. Peck moved that the Council recognizes the importance of the Privacy Act and requests that the topic go back to the Standards Committee for further discussion on the ramifications to the states on noncriminal justice fingerprint retention in preparation of NGI services. Seconded by Ms. Donna M. Uzzell. The motion carried.

Topic #11 The Policy and Planning Committee Report on the Rap Back Service Task Force

Mr. Nicky J. Megna, FBI CJIS Staff, and Daniel Foro, NY Division of Criminal Justice Services, provided an overview of discussion points and responses from the Rap Back Task Force meeting held on August 11-12, 2009. Mr. Megna individually discussed the following:

Discussion Point 2.) Should at least one civil submission be required from each state?

Task Force response: Yes. NGI staff was asked to review requirements for potentially also including a verification process by submitting fingerprints through the direct enrollment. This recommendation needs to be passed on to Compact Council's Policy and Planning Committee along with the Advisory Policy Board.

Compact Council Action: Ms. Dawn A. Peck moved that the Council endorses that (1) there should be one civil fingerprint at the FBI to enroll an individual and (2) the NGI committee consider a unique TOT be considered to enroll an individual in rap back. Seconded by Mr. William L. Marosy. The motion carried.

Discussion Point 2a.) If the set of prints on file at the FBI is past a certain age should a new set of civil fingerprints be required?

Task Force response: No. Many agencies do not have the authority or a mechanism to obtain new prints.

Compact Council Action: Ms. Dawn A. Peck moved that the Council agrees that a new set of civil fingerprints should not be required if the set on file at the FBI is over a certain age. Seconded by Ms. Donna M. Uzzell. The motion carried.

Discussion Point 3.) Define Rap Back Triggers.

Task Force response: Triggers

- Criminal retain submissions (including the NFF state's Criminal Print Ident (CPI) messages)

- Dispositions (and explore a unique message for NFF states, which would function similar to a CPI)

- Limited Civil (Office of Personnel Management, e.g., Security Clearance Information Act)

- Expunge/Partial Expungement

- Warrants

- Sex Offender Registry (SOR)

- External (TBD)

- III Ownership change

Policy and Planning Committee: concurred and added two FBI CJIS additions: Death Notices and Immigrator Violation File Flags

The subscribing state decides which triggers it will be notified on.

Compact Council Action: Ms. Donna M. Uzzell moved that the Council recommends sending back Discussion Point 3 to the Rap Back Service Task Force for further discussion before the Council makes a determination, with

the understanding that the Council needs to think about contributing as well as receiving agencies. Seconded by Ms. Dawn A. Peck. The motion withdrawn.

Ms. Donna M. Uzzell moved that the Council agrees with Discussion Point 3 with the caveat that the only participating factor for a contributing and receiving state is arrest notification, and everything else is optional on both the contributing and receiving state. Seconded by Ms. Dawn A. Peck. The motion carried.

Discussion Point 3a.) Action Items/Recommendations

Recommendation: The Task Force recommended that the Policy and Planning Committee request the FBI determine the feasibility of a new message key to provide notification of disposition updates.

Compact Council Action: No motion required.

Discussion Point 3b.) Define how to determine in-state activity.

Task Force response: Use first two characters of the Originating Agency Identifier (ORI) to identify in-state activity. A process would need defined to allow notification of federal and tribal arrests/events that occur within the state.

Compact Council Action: Ms. Dawn A. Peck moved that the Council concurs with Discussion Point 3b (how to determine in-state activity). Seconded by Captain Thomas W. Turner. The motion carried.

Discussion Point 4.) What information should be returned when an individual is subscribed in the Rap Back Service?

Task Force response:

Pre-Notification

- Enrollment name
- Unique Identity Number
- OCA/MNU/other such numbers
- Controlling Agency Identifier (CRI)
- Transaction Control Number (TCN)
- Date of submission
- Date of birth on enrollment
- State Identification Number (SID) on enrollment

use caution with use of Personally Identifiable Information (PII)

Triggering Event

Enrollment information plus treat as if it was the only event in an initial response
Identification of triggering event

Highlighting of Event – how will this be done?

Begin Triggering Event

Event

End Triggering Event

Add notation to NFF provided records that triggering event will NOT be highlighted.

***Compact Council Action:* Captain Thomas W. Turner moved that the Council accepts the prenotification fields. Seconded by Mr. Wyatt Pettengill. The motion carried.**

Ms. Dawn A. Peck moved that the Council accepts the triggering event information. Seconded by Ms. Donna M. Uzzell. The motion carried.

Ms. Donna M. Uzzell moved that the Council opposes this action of the highlighting of the event. Seconded by Ms. Dawn A. Peck. The motion carried.

Discussion Point 5.) Providing civil information in response to civil submissions.

Task Force response: Provide all biographical information (including biographical information received from civil submissions) in all responses. Do not provide civil event information in response to civil submissions or as part of a Rap Back response. Possible exception for national security purposes which needs to be further researched.

***Compact Council Action:* Ms. Dawn A. Peck moved that the Council recommends sending back Discussion Point 5 to the Rap Back Service Task Force for further study on providing civil information in response to civil submissions. Seconded by Ms. Donna M. Uzzell. The motion carried.**

Discussion Point 6.) If a Rap Back agency elects to receive an Identity History Summary, what processes will be used to provide the Identity History Summary?

Task Force response:

The audit process needs to be examined for no responses to pre-notifications.
Use the existing dissemination processes to provide Identity History Summary.

Compact Council Action: Ms. Donna M. Uzzell moved that the Council, with the removal of the word "audit," accepts Discussion Point 6. Seconded by Mr. David G. Sim. The motion carried.

Discussion Point 7.) Responses and notifications when individuals are no longer of interest.

Task Force response:

Provide a list of enrollees for validation.
If no expiration date is set, then pre-notification required or some acceptable state process which addresses this privacy concern.

Compact Council Action: Ms. Dawn A. Peck moved that the Council supports Discussion Point 7, with additional discussion on privacy concerns of individuals. Seconded by Mr. William L. Marosy. The motion carried.

Discussion Point 8.) Retention of civil fingerprints when the individual is no longer of interest: the FBI could potentially retain civil fingerprint transactions when the individual is no longer of interest. This is mitigated in part by the ability of agencies to delete a civil record and its associated Rap Back subscription.

Task Force response:

Mitigations presented are sufficient.
Civil fingerprint will be retained unless submitter requests removal.

Compact Council Action: Ms. Dawn A. Peck moved that the Council concurs with Discussion Point 8. Seconded by Ms. Donna M. Uzzell if the person of the record had the ability to ask for removal. Friendly amendment to motion as follows:

Ms. Dawn A. Peck moved that the Council recommends sending back Discussion Point 8 to the Rap Back Service Task Force to study the issue of allowing the individual, in addition to the submitter, the ability to request

removal of the civil fingerprint. Seconded by Ms. Donna M. Uzzell. The motion carried.

Discussion Point 9.) The FBI will use retained civil submissions for purposes other than the Rap Back Program (e.g., searching latent fingerprint). It is the FBI's plan to search incoming civil fingerprint transactions (whether retained or not) against the unsolved latent file and to allow searching of retained civil submissions by latent fingerprint search transactions. Latents include valuable counterterrorism and violent crime investigative potential and would provide benefit to the screening agency. Some states may elect to *not* have the FBI retain their civil submissions nor participate in the Rap Back.

Task Force response:

Add criminal justice investigation to "use limited."
Mitigations presented are sufficient.

Compact Council Action: Mr. David G. Sim moved that the Council accepts Discussion Point 9. Seconded by Ms. Debbie McKinney. The motion carried.

Discussion Point 10.) Due to the additional costs associated with providing Rap Back Services, the FBI will charge an additional fee when the Rap Back Services are for non-criminal justice purposes. Although the fee associated with the Rap Back Service is unknown at this time, the FBI will conduct a cost analysis of Rap Back Services to establish the Rap Back fee. As more information becomes available, the CJIS Division will also work with stakeholders, the FBI's Finance Division, Department of Justice, and Office of Management and Budget to ensure compliance with all necessary procedures prior to implementation of this fee.

Task Force response:

How will the fee be assessed? (One time, recurring, etc.)
Single fee up front is desired by most Task Force members (not recurring).
Yearly assessment is used in Virginia and Florida.

Discussions arose and it was decided that the Rap Back Task Force would continue to work through the questions regarding fees, as more information is made available.

Compact Council Action: No motion needed.

(Attachment 6)

Topic #12 Advisory Policy Board Update

Captain Thomas W. Turner presented the APB update and gave a brief overview of three items supported by the APB, as they relate to the Council.

The first item was the APB's support of the concept of flat fingerprint submissions, and a study of the impact of using flat fingerprints for criminal justice purposes. The study will look at the collection, retention, and searching of all types of fingerprints: rolled, flat, latents, and the best possible sets of prints for identification of an individual.

The second item was that the APB strongly supports the work of the Secure and Fair Enforcement for Mortgage Licensing (S.A.F.E). Act Task Force and that the state records be used in the fulfillment of these requirements in compliance with the federal law.

The third item was the APB's endorsement of the appropriate information sharing with international partners. The first initiative is the UK-VISA Project US-VISIT database, which contains local records from IAFIS when a U.S. citizen applies for a visa to the United Kingdom and the use will be predicated on previously established data protection strategies.

(Attachment 7)

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

Topic #13 Compact Council's Strategic Plan Update

Mr. David G. Sim presented an update on the Compact Council's Strategic Plan and provided the Council with updated versions of the current and completed action items spreadsheets. Mr. Sim reported that the Policy and Planning (P & P) Committee approved the requirement to put priorities in place for strategic plan objectives that have not yet been accomplished, but explained that due to the change in leadership, that the requirement had not been completed. He further explained that the priorities requirement along with the current action items on the strategic plan will be handled at the next Policy and Planning meeting, to allow the new Chairman and Vice Chairman a chance to provide guidance.

Compact Council Action: This topic was accepted as information only. Chairman and Vice Chairman will provide short term goals and objectives to the Policy and Planning Committee.

Topic #14 Transportation Security Administration (TSA) Update

Mr. Nathan Tsoi and Mr. Ron Bartels, TSA, provided an update on the HAZMAT and TWIC programs. Mr. Tsoi stated that since the HAZMAT program began in January 2005, over 1.3 million threat assessments have been completed, and up to 25,000 applications are processed per month at 221 locations. Of that 1.3 million, just under 12,000 applicants have been disqualified based on the list of criminal and legal status disqualifiers. A majority of those 12,000 did not respond to the letter asking for more information about the particular disqualifier, therefore, the cases were closed. The remaining cases that were disqualified, were mostly due to the inability to determine the legal status of a particular applicant. In mitigation, a data field regarding legal status and a data field for additional contact information were added to reduce the number of days to process the application.

Mr. Tsoi explained that currently L1 is the TSA contractor for drivers in 38 states plus D.C., and became a direct channeler to the FBI for the purpose of the HAZMAT Program. He went on to report that TSA is currently in the review process to determine a way for states to become a direct channeler of state criminal history records to TSA, in order to get a more comprehensive state rap sheet. He also reported that TSA is working on a technological, as well as a rule making process to compare assessments used to issue HAZMAT credentials, TWIC cards and other TSA credentials. He explained that TSA is also working on co-locating certain sites where there would be a high population of HAZMAT and TWIC applicants. He mentioned that currently there are over 20 sites that have joint facilities, where drivers have the convenience to apply for both at one location.

Mr. Bartels reported that currently there are 134 TWIC enrollment centers located throughout the United States and its territories, plus a few mobile stations. He reported that as of October 7, 2009, there has been about 1.4 million enrollments and about 1.25 million card activations. Leading up to compliance, TSA was fingerprinting about 45,000 transportation workers a week, but that has dropped to about 7,500 a week. About 22,000 applications have expired and about 62,000 letters were sent out for disqualifying offenses. Individuals who have expired applications have the opportunity to contact TSA to have the case reopened, if he/she has evidence to mitigate the initial determination.

(Attachment 8)

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

Topic #15 The Standards and Policy and Planning Committees Report on the Data Sharing for the Department of Homeland Security/United States - Visitor and Immigrant Status Indicator Technology (DHS/US-Visit) UK Visa Project

Ms. Chasity S. Anderson, FBI CJIS Staff, and Troy Potter, Department of Homeland Security (DHS), provided the Standards and Policy and Planning Committees with an update on the potential expansion of the data sharing for the Department of Homeland Security/United States Visitor and Immigrant Status Indicator Technology (DHS/US-Visit) UK Visa Project.

Ms. Anderson explained that the project began with a December 2000 arrangement between the DHS and the United Kingdom Border Agency (UKBA). Under that arrangement, the DHS began collecting fingerprints at the United States Citizenship and Immigration Services Application Support Centers (ASCs) for both U.S. Citizens and non-U.S. citizens who were applying for a visa to the United Kingdom.

Ms. Anderson continued to state that procedurally, the fingerprints are collected at the ASCs. They are then sent to the UKBA through a virtual private network. The UKBA then sends the fingerprint images to the U.S. Visit's IDENT database for a search of the IDENT watch list. The results are then returned to the UKBA which makes a final adjudication as to whether or not the visa is issued. An interagency agreement was executed in July for the initial phase of this project, and the agreement was vetted through the FBI's Advisory Policy Board process and the Compact Council Committees.

The initial phase of the project allowed match responses to be provided to the UKBA when matches took place on those IDENT watch list records containing: Wanted and Known and Suspected Terrorist information; criminal justice encounter information (those where DHS is recognized as the owner of the watch list record or DHS has a previous independent encounter); and previous derogatory information from a DHS law enforcement agency or where DHS took law enforcement action or administrative action based on previous criminal history record information. Approval for the initial phase of the project did not allow for release of match responses on matches against watch list records for which DHS has only a noncriminal justice encounter and DHS has not taken action based on available criminal history record information provided to them.

To explore further expansion of the project and allow dissemination of match responses on these noncriminal justice encounters by DHS, the FBI had sought

Department of Justice (DOJ) input regarding use of a strengthened consent form. At the request of the Compact Council Committees, the Compact Council Chairman drafted a letter to DOJ stating that utilizing a knowing consent (strengthened consent form) would not be an appropriate substitute for congressional or executive authority and absent this, which would allow for dissemination of CHRI to a foreign noncriminal justice agency, the committees could not endorse expansion of the UK Visa project beyond the initial phase. Based on the Committee's position outlined in the Compact Council Chairman's letter, the FBI and the DOJ recognized the Council's jurisdiction in this matter and discontinued exploring the use of a strengthened consent form for expansion of the project.

(Attachment 9)

Compact Council Action: Ms. Dawn A. Peck moved that the Council formally endorse the October 8, 2009, Council Chairman letter to Mr. Eric T. Gormsen regarding the use of a "knowing consent" form to allow for dissemination of CHRI to the United Kingdom Border Agency (UKBA) through the UK Visa Project. Seconded by Ms. Julie A. Lackner. The motion revised as follows:

Ms. Dawn A. Peck moved that the issues and concerns raised in the October 8, 2009 Chairman letter by the committees are recognized by the entire Council as the issues and concerns that continue. Seconded by Ms. Julie Lackner. The motion carried.

Topic #16 Update on the Secure and Fair Enforcement for Mortgage Licensing (S.A.F.E.) Act of 2008 Task Force (Task Force)

Mr. Tim Doyle, Conference of State Bank Supervisors (CSBS), addressed the Council and provided a brief overview of the background, current status and future implementations in regards to issues, concerns, and actions that have been brought to the attention of the S.A.F.E Act Task Force. As way of background, he explained that pursuant to the S.A.F.E Act there are three main areas that CSBS must adhere to in order to represent the state banking regulators. Those requirements are: the NMLS has to receive the fingerprints, CSBS will serve as the channeler, and that all state agencies (Mortgage Loan Originators) are meeting the minimum the federal standards.

Mr. Doyle mentioned that CSBS is tentatively scheduled to start submissions to the FBI in January 2010. CSBS published a request for proposal and selected a livescan vendor, Business Information Group (BIG), a wholly owned subsidiary of Vertical Screen, Inc. There will be approximately 1000 livescan locations that will be available

through which mortgage loan originators and applicants to submit fingerprints. Currently, NMLS will only be conducting an FBI check and not a state check on the mortgage loan originators.

During the presentation, the Compact Council expressed concerns with not having a state background check conducted. Members also expressed interest, although unsure of the feasibility, in the possibility for states to work with BIG to have the fingerprints sent to the FBI and to the state.

In response, Mr. Doyle explained resources are an issue for CSBS as well as the states, but CSBS has to look to what the federal law instructs them to do. He pointed out that CSBS is working to find a solution to include the state background check, but with the federal mandate, they are more concerned with meeting the implementation deadline in the SAFE Act.

(Attachment 10)

***Compact Council Action:* Provide status to Mr. Mike Lesko and consider reconvening the task force. Take issue of missed state checks to the Council Executive Committee, to include the possibility of the FBI serving as the Channeler to the states.**

Topic #17 Sanctions Committee Report

Ms. Julie LeTourneau Lackner, Sanctions Committee Chairman, addressed the Council with the Committee's report. Ms. Lackner reported that the Sanctions Committee met on November 3, 2009, and reviewed six topics.

The Committee considered a proposal on modification of sanctions correspondence resulting from the review of audit results for bifurcated states in which the CJIS systems Agency (CSA) and state repository are separate agencies. The Committee approved an option to address audit findings to the responsible party in each state and a courtesy copy would go to the state Compact Officer or repository chief.

The Committee reviewed the responses to the sanctions letters that were disseminated based on the review of audit findings during the spring 2009 meeting. The Committee approved the responses to the sanctions letters, determined that one follow-up was required, and the remaining would be sent a letter of closure with the exception one would receive both a letter of concern and closure.

The Committee reviewed audit findings from two NFF states for appropriate actions. Recommendations were based on the following criteria: NFF states are reviewed for state NFF qualification requirements violations, violations of articles of the Compact to include III misuse, and Compact rules. Based on these requirements, the Committee made the following recommendation: Both states were recommended to receive a letter of recommendation.

The Committee reviewed audit findings for seven Compact signatory states for appropriate action. Recommendations were based on the following criteria: Compact state are reviewed for violations of articles of the Compact to include III misuse and Compact rules. Compact states are additionally reviewed for compliance with NFF qualifications; however, these findings are only provided for informational purposes.

Based on those requirements, the Committee made the following recommendations: All seven entities reviewed were recommended to receive a letter of concern and closure.

The Committee reviewed audit findings from three non-Compact, non-MOU states for appropriate action. The recommendations were based on the following criteria: Non-Compact, non-MOU states are reviewed for violations of articles of the Compact to include III misuse and Compact rules. Based on recommendations, all three states were recommended to receive a letter of concern and closure.

The Committee reviewed audit findings from four 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 the authorized recipients.

Recommendations were based upon the requirements outlined in the outsourcing rule and the security and management control outsourcing standard. Based on that criteria, the Committee made the following recommendations: All four entities, were recommended to receive a letter of recommendation.

Compact Council Action: Ms. Julie LeTourneau Lackner made a motion to accept the Sanctions Committee Report and amended her motion to include that Pennsylvania would also receive a letter of recommendation. Seconded by Ms. Dawn A. Peck. The motioned carried.

Topic #18 **Legislative Update (A) H.R. 2200 - Transportation Security Administration Authorization Act**

Mr. Theodore Yoneda, FBI Office of the General Council (OGC), provided the legislative update and spoke more specifically about the House of Representatives (HR) Bill 1469 and related bills, HR 1939, HR 2200, and HR 2554. Mr. Yoneda suggested other items of interest to the Compact Council may include: the FAA Air Transportation Modernization and Safety Improvement Act; the Child Care Criminal Background Check Act of 2009; the Carbon Market Oversight Act of 2009; the Safety for Schoolchildren Act of 2009; America's Affordable Health Choices Act of 2009; and the National Parent Corps Act of 2009.

(Attachment 11)

Compact Council Action: Ms. Liane M. Moriyama will follow-up with Mr. Ron Welch, send a copy of the 08/2009 Council Chair letter to Assistant Attorney of Legislative Affairs concerning pending legislation intended to amend the NCPA/VCA (S. 163 and H.R. 6995), remind Mr. Ron Welch that a response was not sent, and request a response.

Topic #19 Update on CJIS Division Departmental Order 556-73 Fingerprint Processing

Mr. Danny R. Moyer, FBI OGC provided an update on the recent efforts to modify the DO fingerprint processing procedures and request form.

Mr. Moyer reported the requested changes are being looked at by the Office of Legal Policy (OLP), and after a few minor changes, OLP will forward it to OMB and then publish the changes in the Federal Register.

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

Topic #20 Update on the Adam Walsh Child Protection and Safety Act of 2006 Implementation

Ms. Barbara S. Wiles, 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 (the Act) and the FBI's efforts to provide guidance to states implementing the access made available under this new authority.

Ms. Wiles explained that Section 151 of the act authorizes name-based access to NCIC and III by the National Center for Missing and Exploited Children (NCMEC) to assist or support law enforcement agencies in the administration of criminal justice

functions and by governmental social service agencies with child protection responsibilities for use in investigating reports of child abuse, neglect or exploitation. In order to request approval under section 151 of the Act, a state must submit a letter signed by the CSO and the request must meet the specifications as outlined in that CJIS letter dated October 31st, 2006.

Ms. Wiles also explained that Section 153, also known as the Schools Safely Acquiring Faculty Excellence Act of 2006, provides that the Attorney General shall, upon request from a state's chief executive officer, conduct fingerprint-based criminal history record checks for: child welfare agencies on prospective foster or adoptive parents; and public or private elementary or secondary schools or local or state educational agencies on current and prospective employees or individuals in positions that would work with or around children in the school or agency. In order to request access under this section, the state identification bureau must coordinate a request letter to the FBI under the signature of the state's governor.

Ms. Wiles reported that currently 12 states plus NCMEC have been approved for access under Section 151, and 9 states plus the District of Columbia have been approved for access under Section 153. Also, an additional 7 states have been approved under both Sections 151 and 153 of the Act. The FBI CJIS Division has received requests from 16 states and one Indian tribe regarding information on how they could obtain approval for access under this Act.

Ms. Wiles also reported that during the May 2009 Council meeting, the Council requested the FBI CJIS staff draft a letter on behalf of the council to further educate states on the advantages of utilizing the Adam Walsh Act and to compare the provisions of the Act to other processes for conducting background checks. She made note that all state Compact officers and state identification bureau chiefs should have received that letter, which was dated September 9, 2009.

(Attachment 12)

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

Topic #21 Access to Department of Homeland Security (DHS) Information by Federal, State, and Local Criminal Justice, Intelligence, and Authorized Noncriminal Justice Agencies: Update on the Progress to Date With Interoperability

Ms. Chasity S. Anderson, FBI CJIS Staff, and Mr. James Buckley, DHS, provided an update on the progress with the interoperability between the FBI's IAFIS and the DHS's IDENT system. Ms. Anderson gave a brief overview of the current statistics, the transition of the FBI interim Data Sharing Model (iDSM) users to shared services, the transition from the two-print to the ten-print repository, the full search of the IDENT repository, the IDENT data response (IDR) and evaluation, and current data protection strategic plans.

Mr. Buckley gave a brief overview of the current progress with ICE's Secure Communities Program and the next steps in implementation to future locations. He explained that as of October 2009, about 1500 level 1 offenders were identified through Secure Communities. Those level 1 offenders, individuals who have drug crimes or crimes of violence against a person, are a number one priority. Currently there are 21,000 detainers placed on those individuals, who have been identified from all levels of criminal activity and on what action can be taken.

(Attachment 13)

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

Topic #22 Update on the Joint Task Force on Rap Sheet Standardization (JTF)

Mr. Charlie Schaeffer, Federal Department of Law Enforcement (FDLE) and Mr. Jerry Ramker, Bureau of Justice Statistics (BJS) provided an update on recent activities and initiatives of the Joint Task Force on Rap Sheet Standardization (JTF).

Mr. Schaeffer discussed the current project sponsored by BJS and the NLETS regarding the criminal history information exchange format. The discussion resulted in a request for the FBI staff to prepare a staff paper on the Logical Entity Exchange Specification (LEXS) wrapper, either separately or rolled into the NGI update, for the March 2010 Standards Committee meeting.

Mr. Ramker discussed the Criminal History Record Information Sharing (CHRIS) and the need for another recidivism study. During this discussion, it was noted that while there is a great support in regards to the recidivism study, BJS was requested to provide a more comprehensive staff paper for the Spring 2010 Compact Council meetings, regarding BJS studies and research.

Donna M. Uzzell expressed concerns that issues may arise regarding the release of information under the Purpose Code C for research purposes. Danny R. Moye agreed to discuss those legal issues with FDLE's attorney.

(Attachment 14)

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

Topic #23 Update on Special Interest Records Contained in the Integrated Automated Fingerprint Identification System (IAFIS)

Ms. Karen Seyler, FBI CJIS Staff, provided an update regarding concerns expressed during the spring Council meeting pertaining to Special Interest Records in IAFIS. Ms. Seyler explained that based on the requests from the Council, the CJIS Division made two changes in its procedures. One was to suppress or seal the intelligence arrest data, and the other was to provide the fingerprint identification match to the state via a separate avenue. All special interest records which are currently about 450,000, will be flagged within the IAFIS and all fingerprint identification will be routed to a specialty unit for review prior to releasing a response to the state or local agency. She further explained, that each fingerprint identification will be manually reviewed to determine whether or not the reason fingerprinted is for noncriminal justice purposes. If the fingerprint submission is for a noncriminal justice purpose, then the intelligence arrest information will be suppressed and removed from the identification record. Once that data has been removed, the response will be released to the state or local agency. The response may be a non-IDENT response or the response may contain other criminal arrest data. Since the CJIS Division protocol is to contact the Terrorist Screening Center (TSC) on each fingerprint identification which occurs on special interest subjects, the specialty unit will make a telephone call to the TSC advising of the fingerprint identification. The TSC will log the information into an encounter management system and the information will be routed to federal or state intelligence officers. When the TSC is telephoned regarding the identification, the examiner will advise the TSC that the local Joint Terrorism Task Force or the Field Office Intelligence Group (FIG) must be advised of the noncriminal justice identification.

Ms. Seyler also stated that in order to address the second concern of the Council, that the CJIS analyst will follow up with the FIG regarding the identification and the CJIS division will pursue future automation to the IAFIS, to make this process automatic and not a manual process to be completed by an analyst.

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

Topic #24 Proper Use of Purpose Code X Scenarios

Mr. Scott Phillips, FBI CJIS Staff, provided an overview of the Purpose Code X scenarios and the implementation of the various state and federal models. Mr. Phillips explained pursuant to the Council's Fingerprint Submission Requirements Rule (28 CFR, Part 901), the Council approved requests for “authorized agencies” (state or federal law enforcement, criminal justice, or authorized noncriminal justice agencies) to conduct Interstate Identification Index (III) purpose code X name checks followed by the delayed submission of fingerprints. The criteria used in evaluating the requests are: (a) the risk to health and safety; and (b) the emergency nature of the request. Proposals approved by the Council and published as notices in the *Federal Register* include: (1) the original Florida proposal (emergency placement of a child with follow-up fingerprint submission within five working days of the date of the III check); (2) amended Florida proposal (emergency placement of a child with follow-up fingerprint submission within 15 calendar days of the III check); and (3) Federal Emergency Management Agency (FEMA) proposal (pre-employment checks on FEMA emergency workers during times of natural disasters and catastrophic emergencies with follow-up fingerprint submission within five working days of the III check). Because III name-based checks often produce false positive and false negative results, follow-up fingerprint submissions are required to ensure positive identification. The authorized agency must log each III transaction and record the reason any fingerprints were not obtained and submitted within the specified time frame.

The following scenarios illustrate examples of authorized III purpose code X checks:

1. **Florida** - The parents of a child are killed in a late-night car accident resulting in the need for emergency placement of the child. The Florida Department of Child and Family Services (DCFS) determines that the child’s grandparents are willing to take custody of the child, conducts III purpose code X checks producing negative results on both grandparents, and places the child with the grandparents. Within 15 calendar days of the date of the III checks, the DCFS obtains the fingerprints of both grandparents and forwards the prints through the Florida state identification bureau to the FBI. The FBI provides “No Record” responses.
2. **Nevada** - A facility providing temporary shelter has been caring for a child for two months when the child’s aunt arrived to take custody of the child. The Nevada authorized agency conducts III purpose code X checks producing negative results on the aunt and her boyfriend (who also lives at the aunt’s residence) and places the child in the aunt’s custody. Within 15 calendar days of the date of the III checks, the authorized agency obtains the fingerprints of the aunt and her boyfriend and forwards the prints through the Nevada SIB to the FBI. The FBI provides a “No Record” response for the aunt; however,

a rap sheet containing a conviction for a child sex offense is provided on the boyfriend. Nevada authorities immediately remove the child from the residence and return the child to the temporary shelter. (Note: The child would also be removed from the aunt's residence if any adult resident refuses to provide fingerprints.)

3. **Tennessee** - A minor child is removed from its parents due to child abuse and neglect. The child's adult sister wants temporary custody. The Tennessee Department of Children's Services (DCS) conducts III purpose code X checks producing negative results on the sister and all adults residing at the sister's residence. A court judge holds a hearing to decide whether to place the child with the adult sister, takes into consideration the results of the III checks, and places the child with the sister. Within 15 calendar days of the date of the III checks, the DCS obtains the fingerprints of the sister and all adults residing within her residence and forwards the prints through the Tennessee SIB to the FBI. The SIB and the FBI provide "No Record" responses.

4. **FEMA** - A devastating hurricane strikes the Gulf Coast creating the immediate need for FEMA to hire a large number of emergency workers. FEMA or its authorized agency conducts pre-employment III purpose code X checks producing various results on the applicant emergency workers. Within five working days of the date of the III checks, FEMA obtains the fingerprints of the applicant emergency workers and forwards the prints to the FBI. The results of the FBI fingerprint checks are returned to FEMA to make final hiring decisions.

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

Topic #25 Central America Fingerprint Exploitation (CAFE) Initiative Update

Compact Council Action: This topic was not presented. This topic was accepted as information only.

Topic #26 Improvements to the Interstate Identification Index (III) System's Online Expungement Process

Compact Council Action: This topic was not presented. This topic was accepted as information only.