



**National Crime Prevention and Privacy Compact
Compact Council Meeting
San Antonio, Texas
May 16-17, 2012**

FINAL MINUTES

Ms. Liane M. Moriyama, Chairman, National Crime Prevention and Privacy Compact Council (Council), called the Council meeting to order at 9:00 a.m. on May 16, 2012, in San Antonio, Texas.

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

State Compact Officers:

- Ms. Wendy L. Brinkley, North Carolina State Bureau of Investigation
- Ms. Terry Gibbons, Georgia Bureau of Investigation
- Mr. Jeffrey R. Kellett, New Hampshire State Police
- Ms. Julie A. LeTourneau Lackner, Minnesota Department of Public Safety
- Ms. Robyn Lyles, Maryland Department of Public Safety and Correctional Services, **Proxy for Ms. Carole Shelton**
- Captain Timothy P. McGrail, Missouri State Highway Patrol
- Ms. Liane M. Moriyama, Hawaii Criminal Justice Data Center
- Ms. Dawn A. Peck, Idaho State Police
- Ms. Donna M. Uzzell, Florida Department of Law Enforcement

State/Local Noncriminal Justice Agency Representative:

- Vacant

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. Steven W. Cooper, Department of Homeland Security

Advisory Policy Board Representative:

- Mr. Michael C. Lesko, Texas Department of Public Safety

Federal Bureau of Investigation:

- Mr. David C. Cuthbertson, FBI CJIS Division

Other meeting attendees introduced themselves and the agencies they represented.

(Attachment 1)

In her opening comments, Chairman Moriyama recognized the upcoming retirement of Ms. Kathy Dillaman from the Office of Personnel Management (OPM) who represents the noncriminal justice agencies of the federal government on the Council and acknowledged Mr. Bill Marosey acting as the proxy. She also acknowledged that Mr. Robert Finlayson of the Georgia Department of Community Health, who represented the state (or local) noncriminal justice agencies, has moved on in his career. In the near future, the Chairman Moriyama will nominate a representative to be considered by the United States (U.S.) Attorney General (AG) to fulfill the vacancy created by Mr. Finlayson's departure.

Mr. Gary S. Barron, FBI Compact Officer, advised that the deadline for topic paper requests for the fall Committee meetings is June 7, 2012. Next, he discussed the State Compact Officer (SCO) Council elections. He noted that as of September 30, 2012, there will be four vacant SCO positions on the Council. The officers who have expiring terms are Hawaii, Maryland, Minnesota, and North Carolina. He announced that six nominations were received for the four vacant positions. Mr. Barron explained that each of the SCOs, in attendance, received election material and completed ballots are to be provided to the CJIS staff. In addition, all of the SCOs not in attendance voted absentee with the exception of Mr. Bradley Truitt. Mr. Truitt's proxy, Ms. Ronan Harmon, voted in his absence.

The ballots were counted and certified on May 16, 2012. The following SCOs were elected to serve on the Council for a two-year term and their names have been forwarded to the U.S. AG for appointment:

- Ms. Wendy L. Brinkley, North Carolina State Bureau of Investigation
- Ms. Julie A. Lackner, Minnesota Department of Public Safety
- Ms. Debbie McKinney, Oklahoma State Bureau of Investigation
- Ms. Liane M. Moriyama, Hawaii Criminal Justice Data Center

In the event of a vacancy during the next year, the following individuals were elected as alternate State Compact Officers on the Council and their names were also forwarded to the U.S. AG for appointment:

- First Alternate: Ms. Carole Shelton, Maryland Department of Public Safety and Correctional Services
- Second Alternate: Ms. Julie Butler, Nevada Department of Public Safety

Mr. Barron advised the National Fingerprint File (NFF) SCOs to review the NFF statistical reports that were included in the meeting registration packets and address any questions to Ms. Paula Barron, FBI CJIS staff.

Topics provided as information only and not presented at the meeting included the NFF Quarterly Statistics and the Integrated Automated Fingerprint Identification System (IAFIS) Status report.

The Council finalized the draft minutes from the December 2011 meeting, approving with no changes necessary to the draft.

Compact Council Action: Ms. Dawn A. Peck moved to approve the December 2011 minutes. Seconded by Captain Thomas Turner. Motion carried.

Agenda topics were then discussed.

Topic #1 Council Chairman's Report

Chairman Moriyama provided an update on the current Council initiatives. She expressed her appreciation to the National Background Check System Task Force under the leadership of Ms. Terry Gibbons, the Standards and Policy (S&P) Committee, the FBI CJIS Division management and staff, and especially the Fee Programs Unit for their work on researching and analyzing potential reimbursable arrangements for states participating in the NFF program. Additionally, she recognized the Rap Back Focus Group and the S&P Committee for their efforts in laying the groundwork for topic #6, the Rap Back Focus Group Update. She noted that the Planning and Outreach (P&O) Committee had numerous teleconference calls to discuss the Council's Strategic Plan and the effort to streamline and refine it.

In closing, Chairman Moriyama reported that Nebraska, New York, and Alabama expressed interest in Compact ratification. West Virginia is scheduled to become the 16th NFF state in the fall 2012 and Missouri and Ohio are estimating participation before the end of 2012. She noted that the Council has made significant strides in reaching external partners and collaborating with government and federal partners relating to noncriminal justice use of criminal history information. She thanked everyone for their effort and commitment to the Council and the Compact process.

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

Topic #2 FBI's Criminal Justice Information Services (CJIS) Division Update

Mr. David C. Cuthbertson, FBI CJIS Assistant Director, provided an update on the CJIS Division. The presentation included an announcement of the new Executive Assistant Director of the Science and Technology Branch, updates on the National Criminal Information Center (NCIC), the National Instant Criminal Background Check System (NICS), the Law Enforcement National Data Exchange program (N-DEx), the Law Enforcement Online (LEO), the Uniform Crime Reporting (UCR), and the Law Enforcement Officers Killed and Assaulted programs. Additionally, Mr. Cuthbertson provided information on the NICS system rebuild that will allow for 24-hour processing and expanded use. He discussed the Next Generation Identification (NGI) and its future capabilities to enhance identification services, and the construction status of the Biometric Technology Center.

(Attachment 2)

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

Topic #3 Advisory Policy Board (APB) Update

Mr. Michael Lesko, Texas Department of Public Safety (TX-DPS), reported that the APB will meet on June 6-7, 2012, in Buffalo, New York. He provided a brief overview of the significant topics that would be discussed during the Subcommittees. Some of the topics included proposed changes to the *CJIS Security Policy*, UCR electronic reporting, N-Dex and UCR reporting relationship, and the extension of the United Kingdom Visa Project.

Finally, Mr. Lesko announced that the Working Group meetings and the NGI Plenary session are scheduled for August 14-16, 2012, in Atlanta, Georgia, the Subcommittees will meet on October 16-18, 2012, and the fall 2012 APB meeting is tentatively scheduled for December 5-6, 2012.

(Attachment 3)

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

Topic #4 The Standards and Policy Committee Report on the National Fingerprint File (NFF) Participation Implementation Plan Review

Ms. Paula A. Barron, FBI CJIS staff, presented the S&P Committee's report on the NFF participation implementation plan review. As background, Ms. Barron reflected that in November 2010, the Council approved a motion requesting the non-NFF Compact

states to submit an NFF implementation plan by November 2011. The S&P Committee received and reviewed the plans at its March 2012 meeting.

Ms. Barron reported that 10 of the 14 non-NFF Compact states provided plans. Of the remaining four states, two did not have active SCO's at the time of the request and one state was recovering from a natural disaster. In summary, Ms. Barron reported that of the 10 non-NFF Compact states, three states anticipated participation before the end of calendar year 2012, one state forecasted 2013, and another state projected 2014.

Ms. Barron explained that moving forward the S&P Committee Chair, Vice Chair, FBI Compact Officer, and the CJIS Division staff will baseline the implementation plans so that the S&P Committee may review the progress that the non-NFF Compact states have made on an annual basis. She noted that the S&P Committee will be requesting updates from the non-NFF Compact states and will report on those at the spring 2013 S&P Committee meeting.

Compact Council Action: Ms. Donna Uzzell moved to accept the NFF participation implementation plan review report as presented during the Council meeting. Seconded by Captain Timothy McGrail. Motion carried.

Topic #5 National Security Staff (NSS) Update

Ms. Kimberly Smith, FBI CJIS staff, provided a brief overview of the NSS Interagency Policy Committee members' request for enhanced access to the NCIC and the Interstate Identification Index (III) System. The update focused on the "quick win" information sharing solutions that were identified by the NSS and the FBI. Ms. Smith reported that those "quick wins" included enabling four specific Originating Agency Identifiers (ORIs) within the OPM to access purpose code J; the APB's approval of NCIC access to the Identity Theft, Supervised Release, and Missing Persons Files; purpose code I interim solution for the Transportation Security Administration (TSA); the Rap Back pilot; results of the Department of State's passport applicant study; and passage of House Resolution (H.R.) 658, the Federal Aviation Administration (FAA) Modernization and Reform Act of 2012.

(Attachment 4)

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

Topic #6 Rap Back Focus Group Update

Mr. David Gavin provided an update of the Rap Back Focus Group's (Focus Group) recent activities. He noted that during the March 2012, S&P Committee meeting,

the S&P Committee reviewed and provided feedback on the first draft of the NGI Rap Back Concept of Operations (CONOPS). Mr. Gavin explained that the CONOPS is intended to provide a description of the Rap Back program to State Identification Bureaus, participating federal agencies, and end users. In addition, the S&P Committee discussed several privacy strategies that could be implemented in the federal Rap Back program. The NGI Program Office, in coordination with the Focus Group, incorporated the feedback from the S&P Committee relating to the privacy strategies and presented the information during an April 2012, S&P Committee teleconference. As a result of the discussion, the S&P Committee recognized that no single mitigation strategy could address the needs of all the Rap Back program participants and therefore supported the flexibility provided by the five privacy risk mitigation strategies and the six mitigation tools. The Council endorsed the S&P Committee's recommendation at the May 2012 Council meeting.

Additionally, Mr. Gavin briefly provided information on the progress of the Rap Back pilot program. He explained that it is anticipated that the pilot will be delivered in three phases with the final phase continuing until the implementation of Rap Back in NGI's Increment 4. The initial participants under consideration include federal entities; however, during the May 2012 Council meeting, the Council approved the S&P Committee's motion that the FBI provide the necessary resources so that states may participate in the early services of the Rap Back pilot relating to the civil retention of fingerprints and noncriminal justice Rap Back.

(Attachment 5 and 6)

Compact Council Action: Ms. Donna Uzzell moved to accept the S&P Committee's motion to recognize that no single mitigation strategy can address the needs of all of the Rap Back program participants and therefore supports the flexibility provided by the five privacy risk mitigation strategies and the six mitigation tools presented in the Rap Back Focus Group topic paper. Seconded by Ms. Wendy Brinkley. Motion carried.

Compact Council Action: Ms. Donna Uzzell moved to accept the S&P Committee's motion to recognize the value of pilot projects in the NGI Program, such as the Repository for Individuals of Special Concern (RISC) pilot, as a way to not only identify policy or implementation issues but as a way to document successes and lessons learned that will greatly assist the FBI, the Compact Council, and the APB in marketing the technology for use. State agencies meeting certain legal requirements should be afforded the same opportunity as federal agencies to participate in the Rap Back pilot. To that end, the S&P Committee recommended that the FBI provide the necessary resources

to finalize any Privacy Impact Assessment, Systems of Record Notices (SORN), or any interim fee notices so that states may participate in the early services of the Rap Back pilot relating to the civil retention of fingerprints and noncriminal justice Rap Back. Seconded by Captain Timothy McGrail. Motion carried.

– *For the record: AD Cuthbertson abstained from voting* –

Compact Council Action: Mr. Michael Lesko motioned that the Council endorse the current direction of the draft version of the NGI Rap Back Concept of Operations (CONOPS) to include the forward transformation of the CONOPS into a business process document. Seconded by Captain Thomas Turner. Motion carried.

Topic #7 **Update on the FBI’s Periodic Fee Reviews**

Ms. Linda Patterson, FBI CJIS staff, provided an update on the FBI’s periodic fee reviews. Her presentation included an overview of Title 28, Code of Federal Regulations (CFR), Part 20.31(e), which states that the FBI may routinely establish and collect fees for noncriminal justice fingerprint-based and other identification services as authorized by federal law, and that the fees apply to federal, state, and other entities authorized by federal law requesting fingerprint identification records and name checks for noncriminal justice purposes. Ms. Patterson also discussed the three agencies that provide oversight which are the FBI, Department of Justice (DOJ), and the Office of Management and Budget (OMB). She touched upon the various policies that apply and the review and approval cycle. She concluded her presentation with a recap of the recent implementation efforts for the March 19, 2012, CJIS User Fee Rate change.

(Attachment 7)

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

Topic #8 **The Standards and Policy Committee Report on the National Background Check System Task Force Recommendation to the Standards and Policy Committee on Potential Reimbursable Arrangements for National Fingerprint File (NFF) Participants**

Ms. Denene Satterfield, FBI CJIS staff, presented the results of a preliminary study which assessed the FBI’s cost avoidance due to a Compact state’s participation in the NFF program. She explained that once determined, the FBI cost avoidance amount could be included in the User Fee Funding calculations. Ms. Satterfield emphasized that although the information was presented to the Council, the reimbursement option has not been vetted through the FBI’s OGC, the Finance Division, the DOJ, or the OMB.

After Ms. Satterfield's presentation, the Council endorsed the S&P Committee's motion which applauded the FBI for acknowledging that NFF states enable a cost avoidance at the FBI for the maintenance and distribution of criminal history records. Although the S&P Committee believed there could be multiple formulas used to more accurately reflect actual or approximate costs as incurred at the state level, the S&P Committee appreciated this as a great start and recommended that the CJIS Division move forward with the initial NFF reimbursement model and asked the FBI to explore that model for implementation.

Compact Council Action: Ms. Donna Uzzell moved to endorse the S&P Committee's motion that applauds the FBI for acknowledging that NFF states enable a cost avoidance at the FBI for the maintenance and distribution of criminal history records. While the Committee believes there could be multiple formulas used to more accurately reflect actual or approximate costs as they are incurred at the state level, the Committee appreciates this as a great start and recommends moving forward with the initial NFF reimbursement model and asks the FBI to explore that model for implementation. Seconded by Captain Timothy McGrail. Motion carried.

Topic #9 Update on the Proposed Changes to Departmental Order (DO) 556-73

On behalf of Mr. Thomas Aldridge, FBI OGC Access Integrity Unit (AIU), Ms. Roxane Panarella, FBI OGC PCLU, provided a brief update on the status of the proposed changes to the DO 556-73. She recognized that the topic has been a long standing issue with the Council and the AIU. She reported that the DO regulation remains under legal review by the OGC to determine the most appropriate updates to the regulation. Ms. Panarella explained that in addition to the legal analysis, the CJIS Division is working to establish procedures and policies to ensure that the DO process is used for the individual review of his/her record.

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

Topic #10 Compact Article IV Clarification

As background, the Council requested that the FBI and DOJ consider as one official purpose fingerprint-based record requests from agencies that screen for licensing or employment purposes persons who provide care to children, the disabled, or the elderly. For this particular population, the Council recommended that it would not require a subsequent record check nor would the Council consider it a new need for a subsequent record check if an agency that screens persons for licensing and employment who provide care to children, the disabled, or the elderly, if specific conditions are in place. Those conditions include identity verification by a biometric or a facial image that

was connected to the original submission, the agency's participation in the federal Rap Back program, and the agency must provide an adequate privacy notice to the applicant at the time of initial fingerprinting.

On behalf of Mr. Thomas Aldridge, FBI OGC AIU, Ms. Roxane Panarella, FBI OGC PCLU, provided a brief update on the status of the Council's request. The FBI OGC AIU and the DOJ revisited the interpretation that prohibited the sharing of criminal history record information (CHRI) amongst in-state agencies screening individuals that served vulnerable populations as identified by the National Child Protection Act (NCPA)/Volunteers for Children Act (VCA). Ms. Panarella announced that as a result of the review, it was determined that the Council's recommendation was feasible. However, she stressed that the specific details relating to the procedures must be established before a state may utilize this option. Ms. Panarella informed the Council that the FBI's OGC AIU, with input from the CJIS Division, will draft procedures which will be presented at an upcoming S&P Committee meeting.

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

Topic #11 The Standards and Policy Committee Report on the Proposed Procedures to Implement Background Checks Authorized by the Violence Against Women Reauthorization Act

Ms. Melody K. Ferrell, FBI CJIS staff, provided the Council with the S&P Committee's report on the proposed procedures to implement background checks authorized by the Violence Against Women Reauthorization Act (Act). She explained that section 112(d) of the Act authorized state and local court appointed special advocate (CASA) programs to request fingerprint-based background checks from the FBI for its prospective volunteers. However, the Act did not designate a specific entity that was responsible for implementing the procedures to conduct the background checks.

Ms. Ferrell informed the Council that although the Act was enacted in 2006, the CJIS Division did not receive any inquiries on this subject until last year. In the inquiry, the state had enacted a Public Law (Pub. L.) 92-544 statute to conduct fingerprint-based background checks of CASA volunteers, but the state hoped that the federal law would allow for the dissemination of the criminal history to a private entity since the Pub. L. 92-544 statute prohibited the dissemination.

The Council discussed the topic and the various recommendations presented in the staff paper. Based on the discussion, the Council moved to recommend that states conduct CASA background checks under Pub. L. 92-544 or [in the absence of a 92-544 statute] the NCPA since the population is the same.

(Attachment 8)

Compact Council Action: Ms. Donna Uzzell moved to recommend that states conduct the Court Appointed Special Advocate (CASA) background checks under Pub. L. 92-544 or [in the absence of a 92-544 statute] the NCPA since the population is the same. Seconded by Ms. Dawn A. Peck. Motion carried.

Topic #12 Identification of Topics for Best Practices

Ms. Anissa C. Drabish, FBI CJIS staff, presented the identification of topics for best practices. She noted that during the March 2012, P&O Committee meeting, the Committee members were asked to identify and discuss potential best practices. The P&O Committee identified three topics. The topics included the outsourcing of noncriminal justice administrative functions that would include various scenarios for the outsourcing of noncriminal justice administrative functions and a matrix that would indicate which documentation would be required if a state were participating in outsourcing, best practices for state Rap Back implementation, and methods for the states to share information with noncriminal justice users. Ms. Drabish provided the Council with the P&O Committee's recommendation to move forward with the preparation of best practices documents. The first topic recommended for development is the best practices guide for the outsourcing of noncriminal justice administrative functions.

(Attachment 9)

Compact Council Action: Ms. Terry Gibbons moved to endorse the P&O Committee's recommendation to move forward with the preparation of best practices documents. Seconded by Captain Thomas Turner. Motion carried.

Topic #13 Next Generation Identification (NGI) Program Status Update

Mr. Brian L. Edgell, FBI CJIS staff, provided an overview of the NGI Program and status updates on the incremental deployments, the Rap Back CONOPS, and the Rap Back pilot. He presented a high-level depiction of the specific milestones with the NGI Program. Mr. Edgell reported that Increment 1, which replaced the Automated Fingerprint Identification System (AFIS), deployed in February 2011. Increment 2 was deployed in August 2011. This increment included the RISC and initial NGI infrastructure. Increments 3, 4, and 5 are in progress.

Mr. Edgell further explained that increment 3 establishes the National Palm Print System and transitions IAFIS latent functionality to the new NGI infrastructure. Increment 4 will contain Rap Back, facial recognition, and text based scars, marks, and tattoo searches. Mr. Edgell provided a brief update on the Rap Back service, reporting

that the Focus Group and the S&P Committee made significant progress with discussing the privacy mitigation strategies and the CONOPS.

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

Topic #14 Multi-modal Biometric Submissions via the Next Generation Identification (NGI)

Mr. Brian L. Edgell, FBI CJIS staff, provided a brief update on multi-modal biometric submissions via the NGI. He provided a list of states that are currently submitting palm prints and photos to the NGI and he discussed the future submission capabilities that will be available. Additionally, he provided statistics on the number of palm prints collected to date and the number of states submitting with tenprint.

Mr. Edgell highlighted various capabilities with Increment 3 which is slated for release in Spring 2013. He noted that this increment establishes the National Palm Print System and provides for the enrollment capability using fingerprint image submission (FIS) type of transactions (TOT). The FIS TOT will allow for direct palm print enrollment with or without tenprint and requires that a memorandum of understanding is on file. In closing, Mr. Edgell explained that the Interstate Photo System (IPS) is scheduled for implementation in Increment 4.

(Attachment 10)

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

Topic #15 National Fingerprint File (NFF) Participation in Biometric Interoperability

Ms. Charity A. Harris, FBI CJIS staff, provided the Council with information regarding the system enhancements and changes made by the FBI CJIS Division in order to enable all NFF states to participate in the Automated Biometric Identification System (IDENT)/IAFIS interoperability and to receive the Department of Homeland Security (DHS) responses. She further explained that the CJIS Division currently supports the IDENT searches that are triggered by the Criminal Print Ident (CPI) message generated by NFF participating states. As implemented, the criminal master file image associated with each CPI message from a participating agency is retrieved and forwarded to IDENT for search and response. Initially, the CPI message did not include an optional field for the Transaction Control Number (TCN); however, with the system enhancement the TCN field is now available in the CPI message to enable participating NFF states to properly route the DHS responses.

Additionally, Ms. Harris described the process for an NFF participating state to submit a CPI. She stated that the NFF state sends the arrest fingerprints to the CJIS Division only at the time of the initial arrest. Second or subsequent criminal bookings in the NFF state results in a CPI file maintenance message to the CJIS Division. NFF states are required to send the CPI message within twenty-four hours after the state system receives the fingerprint submission from the local agency.

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

Topic #16 Biometric Interoperability

A. Progress Update

B. OPM's Participation in Biometric Interoperability

Ms. Charity A. Harris, FBI CJIS staff, presented the biometric interoperability update which provides IAFIS users with information regarding the implementation of biometric-based interoperability between the FBI CJIS Division and other federal agencies. She explained that the initial focus has been on biometric interoperability between DHS' United States Visitor and Immigrant Status Indicator Technology (US-VISIT) Program's IDENT and the FBI's IAFIS. However, the focus is expanding to include improved information sharing with other federal agencies. Ms. Harris discussed the long-term vision of biometric interoperability is to make IAFIS/NGI fully interoperable with additional biometric systems.

Additionally, Ms. Harris provided an update on the interoperability progress. She discussed the FBI's continued partnership with the DHS US-VISIT and the Department of Defense (DoD) to expand biometric interoperability for local, state, tribal, and federal stakeholders. In addition, she provided information on new interoperability users such as the DoD Special Operations Command.

Regarding interoperability with international partners, Ms. Harris explained that the FBI CJIS Division has been working with the United States National Central Bureau of the International Criminal Police Organization (INTERPOL) and the DHS US-VISIT on an effort to make INTERPOL records accessible to the DHS stakeholders via the IAFIS. In addition, Ms. Harris discussed the Preventing and Combating Serious Crime Information Sharing (PCSC) initiative. She explained that this effort will leverage existing IDENT/IAFIS Interoperability capabilities for the purpose of enhancing cooperation in preventing and combating serious crime.

Ms. Harris explained that state and local law enforcement latent print searches of IDENT are limited to a case-by-case basis because, at this time, the automated functionality does not exist for these agencies to submit latent searches to IDENT. She noted that the FBI CJIS Division, DHS US-VISIT, and the TX-DPS continue to collaborate on developing a pilot program for latent print interoperability. In addition,

she announced that the FBI CJIS Division, the DoD, and the TX-DPS began the Latent Interoperability Pilot which provides the option of searching the DoD's Automated Biometric Identification System.

Lastly, Mr. Marosey, OPM, provided the Council with examples of some of the successes that the OPM has realized as a participant in IDENT/IAFIS interoperability.

(Attachment 11)

Compact Council Action: Ms. Donna Uzzell moved that the Council indicate to the DHS that the OPM's participation in the biometric interoperability pilot has been successful and the Council would like to move to expand the pilot at the option of the states for the use of these checks for noncriminal justice purposes. Seconded by Ms. Wendy Brinkley. Motion carried.

Topic #17 The Standards and Policy Committee Report on the Notification from the U.S. Department of Homeland Security (DHS) to the National Crime Prevention and Privacy Compact Council on the Proposed Growth of Data Sharing Efforts Between DHS and the United Kingdom Border Agency (UKBA)

Mr. Brian Pittack, DHS US-VISIT, presented to the Council, the United Kingdom's (UK) request to expand the existing UKBA data sharing agreements to include an additional collection location. He noted that the proposal did not expand data sharing beyond the UK to any new additional foreign governments; however, the proposed effort would expand UK data collection locations to outside of the U.S. Mr. Pittack explained that expanding the agreement to Jamaica would provide the UKBA with enhanced screening at a high risk post.

The Council discussed the information presented and noted that the Council's position remained unchanged regarding the DHS/UKBA Pilot program's use of state's criminal history records for civil purposes and it must have congressional authorization for the sharing of CHRI for this purpose.

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

Topic #18 Compact Council Strategic Plan Update

Ms. Anissa C. Drabish, FBI CJIS staff, presented the P&O Committee's report on the progress of updating the Council's Strategic Plan. She explained that in an effort to further the Strategic Plan, the CJIS Division assessed the current format and focused on methods to streamline the review process. The proposed new format included a

scorecard approach which would track the actions related to the goals and objectives. She noted that the P&O Committee discussed the proposed format and agreed that it was a good approach to streamline the review process; however, the discussion revealed that the goals and objectives needed to be refined to ensure that each was specific, measurable, actionable, realistic and time-sensitive. Ms. Drabish briefly reviewed the scorecard approach and outlined the next steps in assessing the goals and objectives. Lastly, Ms. Dawn A. Peck, the P&O Committee Chair, thanked the Committee members for their hard work and expressed to the Council, the Committee's commitment to streamline and refine the Council's Strategic Plan.

(Attachment 12)

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

Topic #19 Update on the Implementation of the Centers for Medicare and Medicaid Services' (CMS) National Background Check Program

Mr. Martin Kennedy, CMS, and Mr. Mark R. Gritz, CNA Analysis and Solutions, provided an update on the implementation of Section 6201 of the Patient Protection and Affordable Care Act (PPACA), the CMS' National Background Check Program (NBCP), and the Long Term Care Criminal Convictions Work Group.

As background, Mr. Kennedy explained that Section 6201 of the PPACA, Pub. L. 111-148, requires the Secretary of the U.S. Department of Health and Human Services to establish a program for long-term care facilities and providers to conduct nationwide background checks on prospective direct patient access employees. He noted that to become a program participant states and territories must apply and obtain federal matching grant funding. He announced that grants have been awarded to 16 states and the District of Columbia. A sixth solicitation was issued in March 2012. States and territories were encouraged to apply by the June 29, 2012, deadline.

Mr. Kennedy explained that as part of the grant program, the CMS hosts periodic training conferences for grantee states and also invites applicant states and other states that are interested in applying for the grant. Mr. Kennedy informed the Council that CMS hosted its 3rd National Conference in Salt Lake City, Utah from May 8-10, 2012.

Mr. Kennedy turned the presentation over to Mr. Gritz who provided an update on the Long Term Care Criminal Convictions Work Group (Work Group). He explained that the Work Group was formed in March 2011 and will provide CMS with recommendations.

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

Topic #20 Conference of State Bank Supervisors (CSBS) Pilot Update

Mr. Tim Doyle, CSBS, provided an update on the National Mortgage Licensing System and Registry (NMLS&R) background check process. He opened the discussion by providing the background for the Secure and Fair Enforcement for Mortgage Licensing (S.A.F.E.) Act of 2008. The CSBS, a nonprofit organization which represents state banking regulators, began processing criminal background checks under the S.A.F.E. Act in January 2010. He explained that the S.A.F.E. Act requires all mortgage loan originators (MLOs) to obtain a federal fingerprint-based background check. Since the background check program started, CSBS has processed over 715,000 criminal background checks. Additionally, he discussed the results of the NMLS criminal background check survey.

Mr. Doyle provided an update on the pilot program. He explained the pilot project was developed through the cooperative partnership of the Council and the CSBS. As background, he noted that thirteen states have Pub. L. 92-544 statutes that require both a state and federal fingerprint-based background check from MLOs. In an effort to incorporate the state background check processes already established and to reduce duplication within those states, Mr. Doyle discussed how CSBS launched a pilot project with Hawaii and Florida. As part of this pilot, the two states utilized a web-based system, created by a contractor that allows an MLO applicant to apply for a license on-line, track the application progress, and schedule appointments to capture fingerprints. He explained that the pilot enabled MLOs in Hawaii and Florida to submit their fingerprints once, to the CSBS vendor. The fingerprints would then be used to conduct both a federal and state background check.

Lastly, Mr. Doyle briefly discussed the pros and cons of the NMLS process for state criminal background checks and then opened the floor for discussion.

(Attachment 13)

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

Topic #21 Legislative Update

On behalf of Mr. Thomas Aldridge, FBI OGC AIU, Ms. Melody K. Ferrell, FBI CJIS staff, provided an overview of legislation introduced in the 112th Congress that may significantly affect the noncriminal justice use of the III and the noncriminal justice user community. She opened her presentation by highlighting the enactment of the FAA Modernization and Reform Act of 2012. She noted that the law authorizes the FAA to establish a process to conduct state and FBI fingerprint-based criminal history background checks of airmen in compliance with the National Crime Prevention and Privacy Compact Act of 1998. Additionally, at the request of the P&O Committee in

March 2012, Ms. Ferrell provided an update on H.R. 3011, the TSA Authorization Act. She noted that there has not been any change in status of the bill.

Ms. Ferrell also discussed H.R. 4112, the Private Security Officer Screening Improvement Act. She explained that the bill amends Section 6402 of the Intelligence Reform Prevention Act of 2004 by permitting authorized employers of private security officers to submit fingerprints to a screening entity if the state of employment is a nonparticipating state. A screening entity is defined as a private business, nonprofit organization, or individual authorized by the AG to submit, receive, and screen CHRI for purposes of a CHRI search pursuant to the Act. Additionally, the bill requires the AG to issue regulations within 180 days to carry out the amendments.

Next, Ms. Ferrell discussed Senate Bill (S.) 2026 entitled “Allowing Social Security to Electronically Screen for Suitability (ASSESS) Act.” She explained that S. 2026 requires the AG and the FBI Director to provide the Commissioner of Social Security with access to CHRI contained in the NCIC-III, Wanted Person File, and any other files maintained by the NCIC that may be mutually agreed upon by the AG and the Commissioner.

Finally, Ms. Ferrell mentioned S. 2342, the National Association of Registered Agents and Brokers Reform Act of 2012. She noted that this bill was previously introduced in the 111th Congress as H.R. 1112. Section 2 of the bill amends Title 15, United States Code (U.S.C.), Section 6751, et seq. by requiring the National Association of Registered Agents and Brokers (Association), when requested by an insurance producer, to submit identification information obtained from a state-licensed insurance producer to the FBI for a criminal history record check. The FBI would return the CHRI to the Association, a nonprofit corporation.

After Ms. Ferrell’s presentation, the Council discussed the newly released U.S. Equal Employment Opportunity Commission’s (EEOC) Enforcement Guidelines. It was explained that the EEOC recently issued new and updated enforcement guidance concerning the use of arrest and conviction records in employment decisions under Title VII of the Civil Rights Act.

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

Topic #22 Update on the Advisory Policy Board (APB) Disposition Task Force (DTF)

Mr. Scott Trent, FBI CJIS staff, presented an update on the APB’s DTF. He provided a brief history of the DTF and listed the various Subject Matter Experts (SMEs) included in the membership. Mr. Trent announced that the DTF met on March 5, 2012. The discussion centered on the issue of incomplete dispositions and the proposed

mission, vision, and goals of the DTF. Additionally, the National Center for State Courts provided an update on the Warrant and Disposition Improvement Project; the National Consortium for Justice Information Statistics (SEARCH) provided an overview of the *Survey of State Criminal History Information Systems for 2010*; the Bureau of Justice Statistics discussed the National Criminal History Improvement Project and NICS Act Record Improvement Program grants; and, the DOJ Office of Tribal Justice provided an overview of Tribal courts. He concluded his presentation with a brief outline of the action items that resulted from the March 2012 meeting.

(Attachment 14)

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

Topic #23 The Standards and Policy Committee Report on the Vetting of Frequently Asked Questions

Ms. Anissa C. Drabish, FBI CJIS staff, provided the S&P Committee's report on the vetting of FAQs. She provided as background the vetting of the FAQs was a result of the S&P Committee's discussion on the challenges that are faced when instructing agencies and vendors on the proper use of and access to CHRI and the III System for noncriminal justice purposes. To address these challenges, the Council determined that compiling a list of FAQs from state agencies in which the S&P Committee would vet and provide answers would be beneficial; therefore, the FAQs would be a product of the Council and once approved posted to the Council's LEO SIG.

Ms. Drabish reported that the S&P Committee met on March 21, 2012, to discuss and answer ten questions previously submitted by federal and state agencies. She noted that after the meeting, the FBI CJIS Division staff compiled the answers provided by the S&P Committee members with input from the CJIS SMEs and the OGC AIU. Ms. Drabish explained that a few of the questions had very simple answers while others required additional research and the answers were quite complex. In a continued effort to move forward with the posting of the FAQs, the S&P Committee received two FAQs that made it through the review process.

Additionally, Ms. Drabish provided a visual tour of the FAQ sub-SIG on the Council's LEO SIG. She explained the process for accessing the site and for submitting an FAQ. Ms. Drabish concluded her presentation by requesting the Council to accept the S&P Committee's recommendation that the FAQs will be vetted by the S&P Committee; the CJIS Division will draft the answers based on the S&P Committee's discussion and will obtain input from CJIS SMEs and legal; the draft FAQs will be sent to the Committee for review and approval; and once approved the FAQs would be posted to the Council's LEO SIG.

(Attachment 15)

Compact Council Action: Ms. Donna Uzzell moved to accept the S&P Committee's recommendation that the FAQs will be vetted by the Standards and Policy Committee; the CJIS Division will draft the answers based on the Committee's discussion and will obtain input from CJIS SMEs and legal; the draft FAQs will be sent to the Committee for review and approval; and once approved the FAQs would be posted to the Council's LEO SIG. Seconded by Captain Thomas Turner. Motion carried.

Topic #24 Scenarios: Clarification on the Dissemination of FBI Criminal History Record Check Results Across State Lines

Ms. Melody K. Ferrell, FBI CJIS staff, provided the Council with several scenarios illustrating authorized and unauthorized dissemination of FBI CHRI across state lines. She noted that in the scenarios the FBI CHRI was provided under the authority of Pub. L. 92-544 approved state statute or the NCPA/VCA.

Ms. Ferrell explained that during the March 2012 P&O Committee meeting, the members found the scenarios to be extremely beneficial. As a result, the P&O Committee requested that a sub-SIG be added to the Council's LEO SIG to house the scenarios that have been presented to the Council to date.

(Attachment 16)

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

Topic #25 Ohio's Applicant Processing Program - "Web Check"

Ms. Melissa Winesburg-Ankrom, Ohio Bureau of Criminal Identification and Investigation, provided an overview of Ohio's applicant processing program. She provided the history of Ohio's AFIS and the state's participation in the National Fingerprint-Based Applicant Check Study in 2001. Next, Ms. Winesburg-Ankrom explained the evolution and successes of Ohio's Webcheck Pilot. She concluded her presentation with discussing Ohio's next flat initiative, the Court Disposition Project.

(Attachment 17)

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

Topic #26 The Planning and Outreach Committee Report on the Guiding Principle Documents Outlining Privacy Rights for Agencies and Applicants Use During Fingerprint-Based Background Checks

Ms. Roxane Panarella, FBI OGC PCLU, discussed the guiding principle documents outlining privacy rights for agencies and applicants use during fingerprint-based background checks. As background, she explained that at the September 2010 P&O Committee meeting, scenarios pertaining to the requirements of 28 CFR §50.12 which outline applicant's rights in the background check process were presented for discussion. After further discussion by the Council during its November 2010 meeting, the Council determined that two "guiding principles" documents should be developed, one for the authorized hiring/licensing agency and one for the applicant. The documents may be used as a foundation for advising agencies of their obligations in the background check process and for notifying applicants of their rights.

Ms. Panarella noted that additional discussion and input was provided at the March 2011, P&O Committee meeting. The information was incorporated and the guiding principle documents outlining privacy rights for agencies' or applicant's use during fingerprint-based background checks were presented at the September 2011 P&O Committee meeting. During the subsequent meetings, the P&O Committee and the Council vetted the documents. At the March 2012 P&O Committee meeting, it was recommended that the brochures be sent to the Council for approval and once approved posted on the Council's website.

***Compact Council Action:* Ms. Dawn A. Peck moved the P&O Committee's recommendation to accept the presented guiding principle documents as finalized and to post them on the Council's websites. Seconded by Mr. Bill Marosy. Motion carried.**

Topic #27 Global Privacy and Information Quality (GPIQ) Working Group Update

Mr. Owen Greenspan, SEARCH, provided an update on the U.S. DOJ's Global Justice Information Sharing Initiative (Global). He explained that Global serves as a federal advisory committee and advises the U.S. AG on justice information sharing and integration initiatives. He described Global as a group that represents more than 30 independent organizations, spanning the spectrum of justice agencies and beyond.

Mr. Greenspan noted that Global's mission is the efficient sharing of data among justice entities. He emphasized that Global has four areas of concentration: intelligence, technical standards, privacy and information quality which has the Global Privacy and Information Quality Working Group (GPIQWP), and, lastly, access and authentication. Mr. Greenspan focused the remainder of his presentation on the GPIQWP's various

privacy publications and provided the Council with copies of the documents. He also discussed future publications, initiatives, and announced the Office of Justice Programs Justice Information Sharing website (www.it.ojp.gov).

(Attachment 18)

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

Topic #28 The Planning and Outreach Committee Report on the Overview of the Council's Law Enforcement Online (LEO) CJIS Special Interest Group (SIG) Frequently Asked Questions Sub-SIG

A. Research on Creating a Federal and State Fee Chart on the Compact Council's LEO CJIS SIG

Ms. Anissa C. Drabish, FBI CJIS staff, presented an overview of the Council's LEO SIG. She provided as background that during the December 2011 Council meeting, the Council approved the creation of the National Crime Prevention and Privacy Compact Council's LEO SIG. Ms. Drabish explained that a LEO SIG is a multi-level access area for individuals that meet the membership criteria to participate in communities of specialized interests to securely share information. She announced that the Council's LEO SIG is located at www.leo.gov and was launched in February 2012. It is an Unrestricted SIG which is open and accessible to all LEO users.

Ms. Drabish provided a detailed description of the SIG which contains links to the Council's membership contact list, a copy of the Bylaws, future meeting information, meeting topic papers and meeting minutes, a copy of the Compact (42 U.S.C. §14616), guides to the Outsourcing of Noncriminal Justice Administrative Functions, and state statutes for civil retention. Within the Council's SIG there are several sub-SIGs. Sub-SIGs act as their own miniature special interest group, and are generally used to secure content which the average member of the LEO SIG does not need to access. Ms. Drabish explained that the Council's sub-SIGs include FAQs, information relating to the federal and state fee charts, and a variety of scenarios pertaining to the use of or access to CHRI for noncriminal justice purposes.

Ms. Drabish stated that the FAQs sub-SIG contains questions that are submitted by state agencies and answers that are vetted through the S&P Committee and endorsed by the Council. The first round of FAQ vetting occurred at the March 2012 S&P Committee meeting and once approved, the FAQs were posted in this section of the sub-SIG.

As a result of the discussion, the Council approved a motion to post the federal and state fee charts to an unrestricted sub-SIG for all LEO Users to view. The federal fee chart links to the Federal Register, while the state fee chart lists the fee information

provided by the state. Additionally, the sub-SIG provides a link for a state to easily update its fee information in the state fee chart.

Ms. Drabish reminded the Council that the membership criteria and a copy of the LEO User Application are available online at <www.leo.gov>.

(Attachment 19)

Compact Council Action: Ms. Dawn A. Peck moved to accept the P&O Committee's motion to place the state fee chart on the Council's unrestricted LEO SIG for all states to use. Seconded by Captain Thomas Turner. Motion carried.

Topic #29 Sanctions Committee Report

Ms. Julie A. LeTourneau Lackner, Sanctions Committee Chairman, addressed the Council with the Sanctions Committee's report. The Sanctions Committee met on May 15, 2012 and reviewed responses to the Sanctions' letters that were disseminated based on the review of audit findings during the fall 2011 meeting. The Sanctions Committee reviewed the responses to the Sanctions letters and determined that six states would be sent letters of closure. Two states would receive follow-up letters. Additionally, the Sanctions Committee requested that the CAU contact one state to determine the status of a pending issue. If completed, the CAU was directed to send a letter of closure. However, if the issue was not completed, then a follow-up letter would be sent to the state.

The Sanctions Committee reviewed a summary of recently conducted audits from three Compact signatory states for appropriate action. Recommendations were based on the following criteria: violations of articles of the Compact to include III misuse and Compact rules. Based on these requirements, the Sanctions Committee made the following recommendations: two states were recommended to receive letters of recommendation and it was recommended that one state receive a letter of concern and closure.

The Sanctions Committee reviewed audit findings from one federally regulated agency that was approved by the FBI Compact Officer to outsource noncriminal justice administrative functions to a third party for appropriate action. The Sanctions Committee also reviewed the corrective action plan implemented by this agency. Recommendations were based upon the requirements outlined in the Outsourcing Rule and the Security and Management Control Outsourcing Standard (Outsourcing Standard). Based on the criteria, the Sanctions Committee made the recommendation that the agency receive a letter of concern and closure.

The Sanctions Committee reviewed audit findings from seven federally regulated agencies for appropriate action. The Sanctions Committee also reviewed the corrective action plans implemented by the agencies. The recommendations were based on the following criteria: violations of articles of the Compact to include III misuse and Compact rules. Based on these requirements, the Sanctions Committee made the following recommendation: three agencies were recommended to receive letters of commendation and closure and three agencies were recommended to receive letters of concern and closure. Lastly, a federally regulated agency asked that the Sanctions Committee postpone the sanctions action until the agency addressed the Council via the Standards and Policy Committee at a future Committee meeting.

The Committee reviewed audit findings from two FBI-approved channelers for appropriate action. The Committee also reviewed the corrective action plans implemented by these agencies. Recommendations were based upon the requirements outlined in the Outsourcing Rule and the Outsourcing Standard. Based on the criteria, the Committee made the following recommendations: it was recommended that one channeler receive a letter of recommendation, and one channeler was recommended to receive a letter of concern and closure.

Compact Council Action: Ms. Julie A. Lackner moved that the Council accept the Sanctions Committee report. Seconded by Captain Thomas Turner. Motion carried.

Topic #30 Electronic Fingerprint Processing Capability for Tribal Entities Within a National Fingerprint File (NFF) Participating State

Ms. Paula A. Barron, FBI CJIS staff, provided a brief update on the electronic fingerprint processing capability for tribal entities within a NFF participating state. She explained that a III state may submit tribal arrest prints to the IAFIS on behalf of a tribe provided that the ORI and the Contributing Agency Identifier (CRI) have the same two-letter state abbreviation. The federal arrest is added to the FBI record, per the tribal ORI coding, and no state identification number (SID) is included on the submission. However, Ms. Barron pointed out that the NFF Qualification Requirements require that an NFF state submit to the FBI criminal fingerprint impressions containing a unique SID for each individual. She explained that the number of fingerprint submissions that contain non-unique SIDs shall be less than 0.25% of the total criminal fingerprint submissions. As such, any criminal fingerprint submission that does not contain a SID is rejected from the IAFIS.

Ms. Barron announced that on 05/06/2012, the IAFIS software was changed to align with the NFF Qualification Requirements to enable willing and able NFF states to channel tribal arrests to the national criminal history record database, making the arrest information available to law enforcement agencies nationwide. She stated that the IAFIS

change permits an NFF state to electronically submit tribal arrest prints that are considered federal arrests through the State Identification Bureau provided that the ORI and CRI have the same state abbreviation and the tribal ORI in the CRI field is appropriately coded within IAFIS to allow an NFF criminal transaction to process with no SID included in the submission. The arrest will be added to the FBI record.

During the discussion, Ms. Uzzell emphasized that it is important to recognize that some tribes book under state law; therefore, the arrest is included in the state criminal history record repository. As such, this change only applies to tribal arrests that are considered federal arrests.

(Attachment 20)

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

Topic #31 National Fingerprint File Quarterly Statistics

Handouts provided for information only, not presented.

Topic #32 IAFIS Status Report

Staff paper provided for information only, not presented.