



**National Crime Prevention and Privacy Compact
Compact Council Meeting
Tucson, Arizona
November 4-5, 2015**

MINUTES

Ms. Dawn A. Peck, Chairman, National Crime Prevention and Privacy Compact Council (Council), called the Council meeting to order at 9:00 a.m. on November 4, 2015, in Tucson, Arizona.

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. Katie Bower, Michigan State Police
- Dr. Natalie A. Chrastil, Wyoming Division of Criminal Investigation
- Ms. Julie A. Lackner, Minnesota Department of Public Safety
- Ms. Liane M. Moriyama, Hawaii Criminal Justice Data Center
- Mr. Joseph N. Morrissey, New York State Division of Criminal Justice Services
- Ms. Dawn A. Peck, Idaho State Police
- Mr. Matthew R. Ruel, Maine State Police Bureau of Identification
- Ms. Carole Shelton, Maryland Department of Public Safety and Correctional Services
- Mr. Bradley Truitt, Tennessee Bureau of Investigation

State/Local Noncriminal Justice Agency Representative:

- Ms. Becky Fleming-Siebenaler, Montana Department of Public Health and Human Services

State/Local Criminal Justice Agency Representative:

- Captain Thomas W. Turner, Virginia State Police

Federal Noncriminal Justice Agency Representative:

- Mr. William Marosy, U.S. Office of Personnel Management
Proxy for Mr. Merton W. Miller

Federal Criminal Justice Agency Representative:

- Mr. James W. Buckley, Jr., U.S. Immigration and Customs Enforcement
Proxy for Mr. Jason A. Henry

Advisory Policy Board Representative:

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

Federal Bureau of Investigation:

- Mr. Stephen L. Morris, FBI Criminal Justice Information Services Division

Other meeting attendees introduced themselves and the agencies they represented.

(Attachment 1)

Chairman Peck invited Mr. Stephen L. Morris, FBI Criminal Justice Information Services (CJIS) Division Assistant Director (AD), to introduce Assistant Special Agent in Charge (ASAC) of the Tucson Resident Agency, Mr. Andrew Black. ASAC Black welcomed the Council to Tucson, Arizona, and recognized the Council for its valuable work.

In her opening comments, Chairman Peck recognized the recent Attorney General (AG) appointed Council members. With terms expiring on September 30, 2017, the newly-appointed members include: Ms. Katie Bower, Michigan State Police; Ms. Dawn A. Peck, Idaho State Police; Ms. Carole Shelton, Maryland Department of Public Safety and Correctional Services; Mr. Joseph N. Morrissey, New York State Division of Criminal Justice Services; and Mr. Bradley Truitt, Tennessee Bureau of Investigation. In addition, Chairman Peck recognized new State Compact Officers (SCOs) – Ms. Melanie A. Veilleux, Arizona Department of Public Safety, and Major Jennie M. Temple, South Carolina Law Enforcement Division.

She expressed her appreciation for proxies that were in attendance. The proxies included: Mr. Jason Bright, Montana Department of Justice; Mr. James W. Buckley, Jr., U.S. Immigration and Customs Enforcement; Ms. Charis Paulson, Iowa Department of Public Safety; Mr. Gary R. “Rob” Sollars, Jr., Ohio Bureau of Criminal Identification and Investigation (BCI); and Mr. William Marosy, U.S. Office of Personnel Management.

Next, Chairman Peck recognized representatives of non-party states in attendance. The non-party state representatives included: Mr. Chris Eskew, Louisiana State Police, and Lieutenant Gabriel Keown, Philadelphia Police Department.

Chairman Peck expressed her appreciation for the guest speakers’ participation in the meeting. She acknowledged Ms. Kinza Ghaznavi of the Corporation for National and Community Service (CNCS); Ms. Mary Sprague of the U.S. Department of Health and Human Services (DHHS), Office of Child Care (OCC); Ms. Becki Goggins and Ms. Kelly Harbitter of the National Consortium for Justice Information and Statistics (SEARCH); Mr. Scott Manley of the Centers for Medicare and Medicaid Services

(CMS); Mr. Ernest Baumann, of CNA; and Mr. Rob Sollars, of the Ohio Bureau of Criminal Identification and Investigation.

Chairman Peck reported that two topics were provided as information only and were included in the meeting registration packets; however, they will not be presented at the meeting. These topics include the National Fingerprint File (NFF) Quarterly Statistics and the Next Generation Identification (NGI) Status report.

Next, Chairman Peck advised that anyone wishing to submit a topic to be addressed by the Council should submit a topic paper suggestion form to the FBI Compact Officer, Mr. Gary S. Barron. She noted that a copy of the topic suggestion form could be obtained on the Council's public Web site, and announced that the deadline for topic paper requests for the spring 2016 Committee meetings is December 1, 2015. In addition, Chairman Peck noted that the Standards and Policy (S&P) Committee and the Planning and Outreach (P&O) Committee meetings are tentatively scheduled for March 16-17, 2015, in Clarksburg, West Virginia.

Chairman Peck announced that due to the expiring terms for the Council Chairman and Vice Chairman, elections would be held. She noted that each of the Council members had been provided with an envelope of voting materials.

On November 5, 2015, an election for the positions of Council Chairman and Vice Chairman was conducted. Mr. Stephen L. Morris reviewed the applicable section of the Council bylaws, then opened the floor for nominations for the office of Council Chairman. Captain Thomas W. Turner nominated Ms. Dawn A. Peck and the nomination was seconded by Ms. Liane M. Moriyama. No other nominations were made for Chairman.

Compact Council Action: Captain Thomas W. Turner moved to accept the election by acclamation of Ms. Dawn A. Peck to the office of Council Chairman. Seconded by Ms. Liane M. Moriyama. Motion carried.

AD Morris then reviewed the applicable section of the Council bylaws and opened the floor for nominations for the office of Council Vice Chairman. Ms. Liane M. Moriyama moved to nominate Dr. Natalie A. Chrastil and the nomination was seconded by Ms. Carole Shelton. No other nominations were made for Vice Chairman.

Compact Council Action: Ms. Liane M. Moriyama moved to accept the election by acclamation of Dr. Natalie A. Chrastil to the office of Council Vice Chairman. Seconded by Mr. Matthew R. Ruel. Motion carried.

The Council finalized the draft minutes from the May 2015 meeting, approving them with no changes.

Compact Council Action: Ms. Liane M. Moriyama moved to approve the May 2015 minutes with no changes. Seconded by Mr. Joseph N. Morrissey. Motion carried.

Agenda topics were then discussed.

Topic #1 Council Chairman's Report

Council Chairman Ms. Dawn A. Peck provided a Council update. She welcomed the new SCOs and congratulated the SCOs elected to the Council during the May 2015 Council meeting. Ms. Peck also discussed changes to the membership of the Council's S&P, P&O, and Sanctions Committees, and briefly discussed the formation of the Outsourcing of Public Law 92-544 Task Force and the Noncriminal Justice Rap Back Service Outsourcing Task Force (RBOTF). Ms. Peck then reviewed several of the Council's accomplishments since 2013. Highlights included the Council's approval of the Bureau of Indian Affairs (BIA) Proposal to provide federally-recognized tribes with access to the Interstate Identification Index (III) on a delayed fingerprint submission basis when conducting criminal history records for placement of children in exigent circumstances, development of the Civil Fingerprint Image Quality Strategy Guide, efforts to increase NFF participation, Council participation in the National Defense Authorization Act Task Force, and a continued emphasis on both leadership and partnership.

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

Topic #2 FBI's CJIS Division Update

Mr. Stephen L. Morris, FBI CJIS Division AD, provided an overview of the CJIS Division's current initiatives. He opened his presentation with appreciation for the work of the Council, the SCOs, and the CJIS staff supporting the Council process. AD Morris congratulated the Council on its approval of the BIA Purpose Code X proposal, which will help ensure the safety of tribal children in emergency placement situations.

AD Morris then provided updates on various CJIS Division priorities. He briefed the success of the CJIS Division's first Tribal Engagement Conference, held in Tulsa, Oklahoma, on August 15, 2015, which assisted the CJIS Division in its efforts to provide tribes with needed access to the CJIS Division systems and services. AD Morris also briefed efforts related to Uniform Crime Reporting (UCR) and the nationwide push to transition to use of the National Incident-Based Reporting System (NIBRS) for provision of richer data. He played a video displaying one of FBI Director James Comey's

speeches related to the UCR and emphasized the CJIS Division's continued dedication to improving the UCR Program. AD Morris also addressed ongoing dedication to disposition improvement, highlighting successful efforts to collect missing dispositions from the FBI field offices and other federal agencies.

Next, AD Morris briefly addressed questions relating to the implementation of the NGI's Noncriminal Justice Rap Back Service. Specific issues included the enrollment of legacy fingerprints in the Rap Back Service, with AD Morris stating that five million legacy fingerprints is not a hard and fast number and the CJIS Division would re-evaluate this issue as needed. Regarding the Rap Back user fee structure, AD Morris stated that there is a study underway. Mr. William G. McKinsey stated that the results of the study would not be available until next spring.

AD Morris provided updates on various projects and information sharing programs at the CJIS Division. He noted the Biometric Center of Excellence and its important role in the development and usage of new biometric technologies. He also addressed the technical overhaul of the National Instant Criminal Background Check System (NICS) currently in progress, noting that it will improve the processes within the NICS both for the Federal Firearms Licensees and the CJIS Division staff. AD Morris stated that progress is also underway on the National Crime Information Center (NCIC) Third Generation (N3G) modernization effort, advising that there were approximately 5,300 responses to the N3G national survey. He noted that the Law Enforcement Enterprise Portal (LEEP) continues to add services and identity providers, and played a promotional video highlighting the LEEP and its available services. Lastly, AD Morris announced that the new Biometric Technology Center building was nearly complete, with staff expected to move into the building in December 2015. He also noted that the facility will house staff from the CJIS Division as well as the U.S. Department of Defense (DoD), fostering a collaborative environment.

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

(Attachment 2)

Topic #3 Advisory Policy Board (APB) Update

Captain Thomas W. Turner presented the APB update and provided an overview of items supported by the APB at its June 2015 meeting, as they relate to the Council. First, Captain Turner noted that the APB addressed 26 recommendations during its June 2015 meeting, including support of national transition from summary UCR reporting to the NIBRS, collection of use of force data, the use of pawn data in the National Law Enforcement Data Exchange, and updates to the CJIS Security Policy's (CSP) mobile device section.

Captain Turner announced that the fall 2015 APB meeting will be held December 1-3, 2015, in Atlanta, Georgia. The Working Group meetings are scheduled for March 1-3, 2016, in Pittsburgh, Pennsylvania. The Subcommittees will meet April 19-21, 2016, in Clarksburg, West Virginia. The spring 2016 APB meeting is tentatively scheduled for June 7-9, 2016, with the location yet to be determined.

Lastly, Captain Turner thanked all those involved in the APB process and encouraged SCOs to contact him, Designated Federal Officer Mr. R. Scott Trent, or the Council's APB representative Mr. Michael C. Lesko with any questions.

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

(Attachment 3)

Topic #4 CNCS – Implementation of the Serve America Act

Ms. Kinza Ghaznavi provided a briefing on the CNCS's implementation of the Serve America Act. Ms. Ghaznavi provided background on the CNCS and its role as a federal agency responsible for grant-making related to national community service. She then addressed the CNCS's work to implement the criminal history record check requirements put in place by the Serve America Act. She noted that three checks are required for each grant-funded employee or volunteer, including a check of the National Sex Offender Public Web site, a check of the state repository of the individual's state of residence and state of service, and a fingerprint-based FBI check.

Ms. Ghaznavi then briefed challenges faced by the CNCS in implementing these background check requirements. She stated that non-governmental agency grantees often encounter difficulties in obtaining state checks and in forwarding fingerprints to the FBI via the state repository; these issues stem from the fact that there may not be an appropriate state statute in place that covers the grantee's population, as well as a lack of state governmental staff available to conduct a fitness determination based on the background check results. In those instances where submission of fingerprints to the FBI via the state repository was not possible, grantees rely on the Departmental Order (DO) process designed for personal review of their criminal history record. Challenges also arise when the state of residence and state of service differ, as there are often barriers to obtaining an out-of-state check.

Ms. Ghaznavi noted that the CNCS continues to work diligently to help address these challenges. She stated that the CNCS had the authority to allow the use of alternate search procedures (ASPs) when the checks could not otherwise be conducted. She also noted that in situations where an ASP was not possible, the CNCS could grant an exemption from the FBI check requirement. Such an exemption requires the grantee to provide a letter of denial from the state repository. Ms. Ghaznavi then announced that

the CNCS had recently selected an FBI-approved channeler, which will provide a method to obtain the FBI check for those grantees unable to obtain such via the state repository, with implementation slated for January 2016.

Lastly, Ms. Ghaznavi emphasized the CNCS's desire to work in partnership with the states, and noted a possible future initiative to work with the states to provide a guide that would assist grantees in navigating the background check process.

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

(Attachment 4)

Topic #5 Draft *Federal Register* Notice of Approval for the BIA Criminal History Record Checks Utilizing Purpose Code X

Ms. Anissa C. Drabish, FBI CJIS Division staff, presented the draft *Federal Register* Notice of Approval for the BIA Criminal History Record Checks Utilizing Purpose Code X. Ms. Drabish first provided background on the BIA proposal on behalf of federally-recognized tribes to access the III system on a delayed fingerprint submission basis for emergency placement of children. The Council approved this proposal in May 2015, and directed the FBI CJIS Division to prepare a draft notice of approval for publication in the *Federal Register*. Ms. Drabish noted that the draft notice had been reviewed and approved by the FBI Office of the General Counsel's (OGC) Criminal Justice Information Law Unit (CJILU) and the Privacy and Civil Liberties Unit as well as the S&P Committee at its fall 2015 meeting.

Compact Council Action: Mr. James W. Buckley, Jr., moved to endorse the S&P Committee recommendation to accept the draft *Federal Register* notice as presented in attachment 2 of the staff paper. Seconded by Ms. Carole Shelton. Motion carried.

(Attachment 5)

Topic #6 Child Care and Development Block Grant Act of 2014 (CCDBG)

Ms. Mary Sprague, of the DHHS Office of Child Care, presented via telephone an overview of efforts related to the background check requirements of the CCDBG. She opened her presentation with background regarding the Child Care and Development Fund and the Office of Child Care's role in administering the block grant, noting that funding is provided to all 50 states, the District of Columbia, all U.S. territories, and 260 tribal grantees. Ms. Sprague highlighted several key features of the CCDBG, specifically focusing on new background check requirements.

Ms. Sprague noted that the CCDBGGA requires states to have policies and procedures in place to require criminal background checks for staff members of child care providers and defines staff members as any individual who is employed by a child care provider or whose activities involve unsupervised access to children. She briefed the required components for a background check under this law, including: 1) a search of the state criminal and sex offender registry in the state where the staff member lived and each state where they have lived for the preceding five years; 2) a search of the state child abuse and neglect registry in the state where the individual lives and each state where they have lived for the preceding five years; 3) a search of the NCIC; 4) an FBI fingerprint check; and 5) a search of the National Sex Offender Registry (NSOR) established under the Adam Walsh Child Protection and Safety Act (Adam Walsh Act). Ms. Sprague noted that the law also includes a list of disqualifying criteria, requires staff members to receive a full criminal background check every five years, requires staff currently employed to have completed all of the background check requirements by September 30, 2017, requires states to carry out background checks as quickly as possible and not to exceed 45 days after the request is submitted, requires states to indicate the results of the background check in an eligible/ineligible format without revealing specific disqualifying information in order to protect individual privacy, and requires states to provide a statement about each disqualifying crime to the individual and provide an appeals process for staff members to challenge the accuracy and completeness of the background check.

Ms. Sprague then addressed challenges related to implementation of the CCDBGGA background check requirements. She noted that the Office of Child Care had identified significant overlap between the five required background check components and was working to determine efficient solutions. She stated that cross-state checks also presented a major challenge for grantees, as state laws vary widely related to access to state child abuse and neglect registries and other databases. Ms. Sprague acknowledged the difficulties with satisfying the requirement to check the NCIC, as only law enforcement agencies have direct NCIC access. She also noted that confusion existed regarding the requirement to check the NSOR, as the NSOR is housed within the NCIC, and stated that work was ongoing to resolve this issue. Ms. Sprague noted that the Office of Child Care recognized the potential for interaction between the CCDBGGA requirements and existing federal statutes. Lastly, she noted that the CCDBGGA is unclear on whether tribal entities will be held to the new background check requirements.

Ms. Sprague stated that the Office of Child Care is working in collaboration with the FBI OGC in an effort to address these challenges, and noted that a Notice of Proposed Rulemaking (NPRM) will follow in the *Federal Register*. Council Chairman Peck requested that the Council members and SCOs be notified when the NPRM is made available for comment.

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

(Attachment 6)

Topic #7 Legislative Update

Mr. Thomas G. Aldridge, of the FBI OGC CJILU, provided an overview of recently enacted laws and legislation introduced in the 114th Congress that may significantly affect the noncriminal justice use of the III and the noncriminal justice user community. First, he discussed Senate Bill (S.) 675, Record Expungement Designed to Enhance Employment Act of 2014. The bill authorizes eligible individuals convicted of a covered federal nonviolent offense that is not a crime of violence or a sex offense to file a petition for sealing when certain requirements have been met. The S. 675 also requires the AG to retain a nonpublic record of all nonviolent records that have been sealed which may only be accessed for investigative purposes, for defense of civil lawsuits, if the AG determines that disclosure is necessary for serving the interest of justice, public safety, or national security, for federal or state law enforcement agencies to determine whether the individual is eligible for first-time offender diversion programs, investigatory or prosecutorial purposes, or law enforcement background checks for government security clearances. Section 7 of the bill would amend 28 United States Code (U.S.C.) Section 534 by requiring the AG to establish and enforce procedures to ensure the prompt release of accurate records exchanged for employment related purposes. If the AG determines a record is inaccurate or incomplete, the AG is required to correct the record by making deletions or obtaining the disposition (if any) within 10 days, and notify the appropriate reporting jurisdiction. Further, the record may not be exchanged for an arrest that: is more than 2 years old that does not include a disposition; pertains to an adult or juvenile non-serious offense; or is not clearly an arrest or disposition.

Mr. Aldridge also briefed S. 2123, the Sentencing Reform and Corrections Act of 2015. This bill would allow the AG to disseminate incomplete records on federal arrests over two years old for the following background check purposes: law enforcement employment or any position that a federal agency designates as a national security or high risk public trust position.

Mr. Aldridge then discussed House Resolution (H.R.) 2643, State Licensing Efficiency Act of 2015. The bill amends Section 1511(a) of the Secure and Fair Enforcement Mortgage Licensing Act of 2008 by including the additional category of “other financial service providers” to have background checks conducted through the Conference of State Bank Supervisors.

Next, Mr. Aldridge briefed H.R. 2843, TSA PreCheck Expansion Act. This bill requires the Transportation Security Administration (TSA) to establish PreCheck enrollment standards to add multiple private sector application capabilities to the TSA PreCheck program, to include online enrollment, kiosks, tablets, or staffed laptop stations

at which an individual can apply for entry into the program. The TSA will partner with the private sector to collect biographic and biometric identification information to reduce the number of passengers which need to travel to enrollment centers. The TSA will leverage Department-held data and technologies to verify the citizenship of individuals enrolling in the TSA PreCheck program, and partner with the private sector to use advanced biometrics to facilitate the enrollment in the program.

Mr. Aldridge discussed H.R. 3584, the TSA Reform and Improvement Act of 2015. Section 101 of this bill requires TSA to operate a trusted passenger screening program that provides expedited screening for low risk passengers based on comprehensive and continuous analysis of factors to include whether the passenger is a member of other Trusted Traveler programs and whether the passenger possesses an active security clearance or federal government credential for which TSA had conducted a written assessment and has issued a Known Traveler Number. The bill also contains provisions relating to private sector application capabilities for TSA precheck enrollment. The TSA must ensure that any enrollment using a private sector risk assessment instead of a fingerprint-based criminal history record check is determined to be equivalent to the fingerprint-based check conducted by the FBI. Section 103 of the bill requires that within 100 days of enactment that expedited airport screening be limited to passengers who voluntarily submit biographic and biometric information and whose TSA PreCheck application has been approved, passengers traveling under certain laws including the Risk-Based Security for Members of the Armed Forces Act, Helping Heroes Fly Act, and Honor Flight Act, and passengers who did not voluntarily submit biographic or biometric data but are members of a population designated as low risk and possess a Known Traveler Number. Section 109 of the bill amends 6 U.S.C. § 561, et. seq., to require that not later than December 31, 2015, that TSA in coordination with the FBI may conduct a Rap Back Service pilot program to determine the feasibility of full implementation of the service. The pilot program may evaluate whether the information can be tailored to ensure that TSA only receives notification of a change with disqualifying offense. If TSA determines the Rap Back Service is feasible and can be carried out consistent with current regulations, then TSA must submit the determination to various congressional committees along with the associated costs incurred with implementation. TSA must ensure that the protocols are in place to align the retention of personally identifying information and biometric information of the Rap Back Service within the valid credential period.

Next, Mr. Aldridge discussed H.R. 1735, the National Defense Authorization Act for Fiscal Year (FY) 2016. This bill would amend the Security Clearance Information Act (SCIA), 5 U.S.C. § 9101, by adding additional agencies, including the Department of Homeland Security (DHS), the Office of the Director of National Intelligence, an Executive agency that is authorized to conduct background investigations under a federal statute, or a contractor that conducts background investigations on behalf of a covered agency; Subsection 9101(b) is also amended by adding an additional reason a covered

agency may conduct the suitability determination to include the basic suitability or fitness assessment for federal or contractor employees; credentialing under the Homeland Security Presidential Directive 12; and for the Federal Aviation Administration (FAA) checks under the FAA Drug Enforcement Assistance Act of 1988. The H.R. 1735 would also amend Subsection 9101(b)(2) to require a state central record repository to allow a covered agency to conduct both biometric and biographic searches of CHRI, and amend the definition of the term CHRI to include any analogous juvenile records as well as those records of a state or locality sealed pursuant to law if such records are accessible by state and local criminal justice agencies for the purpose of conducting background checks.

Mr. Aldridge then briefed H.R. 5, Student Success Act. This bill provides that a local or state educational agency shall be ineligible for funds under this Act if the agency employs an individual who refuses to consent to a criminal background check that includes a search of the state criminal registry where the individual resides or previously resided; a search of the NCIC; an FBI fingerprint check; and a search of the NSOR as established under the Adam Walsh Act.

Mr. Aldridge discussed S. 1380, Strong Start for America's Children Act. Section 106 of this bill requires the governor in consultation with the Indian tribes and tribal organizations in the state that desire to receive grants under the Child Care Development and Block Grant Act, the Individuals with Disabilities Education Act, and the Social Security Act to submit an application that includes information as to how the state will ensure that all high quality prekindergarten programs will conduct criminal history background checks on employees and applicants with unsupervised access to children. The criminal background check shall include a search of the state criminal history repository and a search of the state-based child abuse and neglect registry and databases in the state where the applicant resides or previously resided, an FBI fingerprint check, and a search of the NSOR. The background checks must be updated at least once every five years, completed within 45 days after the date the request was submitted, and the results will be provided in a statement that does not confirm or deny the existence of a disqualifying crime. The background check review process must be consistent with the Equal Employment Opportunity Commission Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions. The bill requires the state to provide the individual with a timely process to appeal the results or challenge the accuracy or completeness of the background check, as well as provide appropriate relief for any final employment decision based on materially inaccurate or incomplete information. A state is not prohibited from disqualifying individuals for crimes not listed in the section that may bear upon the fitness of an individual to provide care to children.

Lastly, in response to state inquiries regarding the CMS implementation of Section 6401 of the Affordable Care Act pertaining to background checks of high risk Medicaid providers, Mr. Aldridge noted that the Compact Team is currently working with the CMS

to assist them in establishing the procedures for submitting fingerprints to the FBI, and that a CJIS Systems Officer/State Identification Bureau (SIB) letter will be sent out with more information once those procedures are finalized.

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

Topic #8 (A) SEARCH Update

Ms. Becki Goggins, SEARCH, presented an update on SEARCH activities of potential interest to the Compact Council. First, Ms. Goggins briefed a recent Transportation Network Company Survey related to background check requirements for ride sharing company employees. Ms. Goggins also stated that SEARCH is working in collaboration with the Bureau of Justice Statistics (BJS) on a study to evaluate the efficacy of name-based versus fingerprint-based background checks, noting that the last large-scale examination of this subject was conducted in 1999. The Council discussed this study and expressed that it would be beneficial to evaluate the efficacy of name-based checks of commercial databases against fingerprint-based FBI checks. Ms. Goggins stated that she would discuss this concept with the BJS.

Next, Ms. Goggins discussed SEARCH's monitoring of the Uniform Law Committee and its Criminal Records Accuracy Committee. She noted that the Criminal Records Accuracy Committee is developing model legislation aimed at creating nationwide background check uniformity. The model legislation would: prevent the sharing of arrests without dispositions for civil background check purposes; prevent the sharing of arrests for civil background check purposes if there are no pending charges or dispositions 18 months after the reporting of the arrest; require all arrests without dispositions to be researched on a case-by-case basis prior to releasing the criminal history for civil background check purposes; require courts to ensure that an individual's fingerprints are on file at the time of adjudication; require annual independent auditing of all state criminal history repositories; and create civil and criminal penalties for repository staff and those responsible for contributing dispositions to the repository for failure to comply with the bill's provisions. Additional provisions that have been proposed include the creation of a 72-hour deadline for updating dispositions and possible provision of one free criminal background check per person per year. Ms. Goggins noted that SEARCH would be open to receiving state comments and concerns related to this model legislation.

Ms. Goggins then briefly discussed several upcoming publications. She noted that the 2014 Survey of State Criminal History Information Systems was slated to be published soon and thanked the states for their contribution to the survey. Ms. Goggins also noted that SEARCH was working with the BJS and the National Center for State Courts on bulletins related to the substantial increase in the availability of mental health records and protection orders in the NICS Index in recent years.

Ms. Goggins noted the availability of SEARCH's Warrants and Disposition Matching Toolkit as a best practices resource for states. She also noted that SEARCH continues outreach and education efforts, highlighting an ongoing project to establish focus groups to identify strategies to better engage prosecutors in contributing records to the state criminal history repositories. She also briefly discussed SEARCH's information sharing projects, including assisting states in their efforts to transition from summary to the NIBRS reporting for the UCR, work related to justice to healthcare information exchanges, and provision of technical assistance for states striving to improve background checks for firearms.

Lastly, Ms. Goggins announced that the next SEARCH Membership meeting would be held January 26-28, 2016, in San Diego, California.

Council Action: This topic was accepted for information only.

(Attachment 7)

(B) Developing Legislative Updates

Ms. Kelly Harbitter, SEARCH, provided a briefing of SEARCH's Government Affairs Program and an update on legislation currently of interest. Ms. Harbitter prefaced her presentation by describing the role of the Government Affairs Program in educating and providing outreach and support to congressional staff as they consider legislation. She gave a brief summary of congressional items of interest to date in 2015, identifying large bipartisan packages related to human trafficking, criminal justice reform, the NICS and mental health records, immigration, and reauthorization of major justice programs as key congressional priorities. Ms. Harbitter also briefed items that the SEARCH Government Affairs Program closely monitors, including criminal justice reform, the National Criminal History Improvement Program (NCHIP) and NICS Act Record Improvement Program (NARIP) grant programs, criminal history record use and management, and data and information sharing. She shared SEARCH concerns related to FY 2016 Department of Justice (DOJ) Appropriations. Ms. Harbitter addressed concerns related to funding of the NCHIP and NARIP programs, noting SEARCH's continued efforts to provide needed education on the programs, their unique roles, and the importance of both.

Ms. Harbitter then discussed several pieces of current legislation. She noted that language in the S. 2123, Fair Sentencing Reform and Corrections Act, had been adjusted to better serve the SEARCH membership based upon SEARCH's efforts. She also discussed S. 1119 and H.R. 2330, which would establish a National Criminal Justice Commission to conduct an 18-month review of the criminal justice system at all levels and provide recommendations based on this review to Congress. Ms. Harbitter also

spoke regarding several bills related to the NICS, including some addressing mental health record reporting, default proceed periods, and universal screening. She briefly discussed several bills related to background screening for non-criminal justice decision making and noted that SEARCH concerns related to some of these bills include ambiguous language, failure to require a state criminal history records check, and establishment of operational and policy processes outside of the Compact Council's existing policies. Ms. Harbitter noted that SEARCH continues to educate congressional staffers and sponsors on the importance of a fingerprint-based state and federal criminal history record check, the III and the NFF, and the critical role of the Compact Council.

Lastly, Ms. Harbitter briefly discussed potential future legislation. Items of interest included possible amendments to the National Child Protection Act, bills related to domestic violence protection orders and the NICS, and reauthorization of the Adam Walsh Act.

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

(Attachment 8)

Topic #9 Update on the Compact Mentorship Program (CoMP)

Ms. Anissa C. Drabish, FBI CJIS Division staff, provided an update on the CoMP. Ms. Drabish provided background on the creation of the CoMP and its mission to pair non-party and MOU state representatives with SCOs for education and outreach. She noted that as of November 4, 2015, five SCOs had volunteered to serve as mentors and encouraged other SCOs to consider becoming a CoMP mentor.

Ms. Drabish then asked Chairman Peck to discuss recent outreach efforts. Chairman Peck stated that during the May 2015 Council meeting, she, along with Wyoming SCO Dr. Natalie Chrastil, Hawaii SCO Ms. Liane Moriyama, and Kansas SCO Ms. Leslie Moore, met with Captain Stacey Barrett, Louisiana State Police, Ms. Margaret Cavett, Mississippi Department of Public Safety, and Ms. Julie Singh, Nebraska State Patrol. During the meeting, they provided information on the benefits of Compact ratification, the Council, its committees, and the NFF Program. Dr. Chrastil, Ms. Moriyama, and Ms. Moore each briefly spoke about the meeting and felt it was a success.

Chairman Peck noted non-party state representatives had indicated that turnover at the SIB level often served as an impediment to Compact ratification. She also noted the Compact Team is in the process of drafting a letter on behalf of the Council to be sent to the head of the SIB's parent agency as well as the SIB Chief in an effort to raise awareness of the Compact, dispel common misconceptions, and help counter the effect of frequent turnover at the SIB level.

Next, Ms. Drabish briefly discussed other Compact ratification efforts being considered by the Council. These included the possibility of hosting a non-party Compact ratification seminar in conjunction with a future Council meeting and providing a breakout session on Compact ratification during a SEARCH Membership meeting. Lastly, Ms. Drabish encouraged non-party state representatives interested in learning more to contact the Compact Team to set up a meeting with CoMP volunteers.

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

(Attachment 9)

Topic #10 Biometric Interoperability Update

Mr. Robert D. Holman, FBI CJIS Division staff, presented the biometric interoperability update, which provides the NGI users with information regarding the implementation of biometric-based interoperability between the FBI CJIS Division and other federal agencies. Mr. Holman reviewed biometric interoperability progress and provided updated statistics related to interoperability searches. He briefly touched upon the progress made in relation to biometric interoperability, stating that all 50 states and 4 of the 5 U.S. territories participate in interoperability.

Mr. Holman reported that the CJIS Division had been working with INTERPOL Washington, as well as the Department of Homeland Security (DHS) Office of Biometric Identity Management, in an effort to make INTERPOL notices accessible to the DHS stakeholders via the NGI. The first phase was completed in November 2013 and provides the initial capability for the automated sharing to the DHS's Automated Biometric Identification System (IDENT) through the NGI. He noted that when the final phase of this project is complete, all INTERPOL notices will be removed from the IDENT system and IDENT customers will search against INTERPOL notices using the NGI. Mr. Holman noted that technical changes are in the works to send INTERPOL photos to the DHS IDENT system.

Mr. Holman announced that a DHS-1 memo was issued requiring all DHS agencies to send submissions through DHS IDENT to the NGI through interoperability, and reported that the Federal Emergency Management Administration has already transitioned to this new process with additional agencies expected to follow. He also noted that as of October 2014 all submissions from criminal justice agencies using the Criminal Print Direct Route Type of Transaction are activated for biometric interoperability.

Mr. Holman noted that work continues with the DoD to draft the Automated Biometric Identification System (ABIS)/NGI interface control agreement; completion of

this agreement will set the stage for multimodal sharing with the DoD and define the technical guidelines for such exchange.

Mr. Holman announced that in May 2015 the U.S. Coast Guard was reactivated with the ability to search DHS IDENT. He also noted that as of June 19, 2015, the CJIS Known or Suspected Terrorist (KST) feed to the DHS IDENT was discontinued; the DHS IDENT now receives the KST data directly from the Terrorist Screening Center.

Mr. Holman advised that the automated functionality for full latent interoperability for all users was deployed with the NGI Increment 4. The search is not automatic. He further clarified that users will need to select whether to search the latent submission in an external system by utilizing the Name of Designated Repository field. Even though the technical infrastructure will be in place for latent users to search external systems, participation is not automatic. It will require coordination with the FBI CJIS Division and the external user. Mr. Holman announced that a latent interoperability is being tested with the Texas Department of Public Safety.

Lastly, Mr. Holman provided a brief overview of next steps for interoperability. These included updating the MOU between the DHS and the Department of State (DOS), efforts to transition from shared data to shared services, and work to increase the number of authorized participants with access to the NGI, the DHS IDENT, and the DoS ABIS.

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

(Attachment 10)

Topic #11 Establishment of the CJIS Division's Partner Relations and Outreach Unit

Mr. Michael D. McIntyre, Jr., FBI CJIS Division staff, presented an introduction to the CJIS Division's Partner Relations and Outreach Unit (PROU). He noted that the PROU was created to enhance relationships with, and the enterprise services for, external and internal partners. Mr. McIntyre stressed that the role of the PROU is to provide assistance and coordination for both internal and external stakeholders and is not a replacement for existing relationships with the various CJIS business lines and specific services. He provided contact information and encouraged states to contact the PROU when they need a point-of-contact for a particular service, when they are seeking CJIS Division representation at a conference or meeting, when they want to share information about a new service or resource that may be available to the CJIS Division, or when they want to visit CJIS to discuss enterprise service issues or new ideas.

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

(Attachment 11)

Topic #12 Compact Council Strategic Plan Update

Ms. Anissa C. Drabish, FBI CJIS Division staff, presented the Council's Strategic Plan Update. She reported that during the September 2015 P&O Committee meeting, the members reviewed the detailed Status Report and focused only on those items that were scheduled for review. She noted that for the Council's update, the members should refer to the Scorecard. As a reminder, the Scorecard is designed to provide a quick visual status of each of the strategic actions. She remarked that most of the strategic actions are green, which indicates the Council is proceeding on schedule toward meeting its goals and objectives.

After quickly reviewing the setup of the Scorecard, Ms. Drabish reviewed each of the objectives, provided a status update, and presented several accomplishments that supported each of the strategic actions. Some of the successes included the presentation of lessons learned during Ohio's NFF implementation, development of the Civil Fingerprint Image Quality Strategy Guide, NFF onsite readiness assessments at the South Carolina Law Enforcement Division and the Nevada Department of Public Safety, establishment of the CoMP, and development of the Compact Ratification Checklist.

Ms. Drabish noted that during the September 2015 P&O Committee meeting, the Committee discussed modifying strategic action 3.1.3 to provide the Compact ratification checklist to non-party and MOU states during the Council's annual outreach efforts.

Compact Council Action: Mr. Joseph N. Morrissey moved to endorse the P&O Committee recommendation to modify Strategic Action 3.1.3 to note that the Council will provide annual outreach to non-party and MOU states. Seconded by Ms. Katie Bower. Motion carried.

Ms. Drabish also stated that during the September 2015 P&O Committee meeting, the Committee discussed modifying Strategic Action 4.1.3 to make new SCO and Council member Orientation a semi-annual event.

Compact Council Action: Mr. Joseph N. Morrissey moved to modify Strategic Action 4.1.3 to make new SCO and Council Member Orientation a semi-annual event. Seconded by Ms. Carole Shelton. Motion carried.

(Attachment 12)

Topic #13 Proposed Amendments to the Council Bylaws

Ms. Anissa C. Drabish, FBI CJIS staff, presented proposed revisions to the Council's bylaws. First, Ms. Drabish provided background on the Council's bylaws and the proposed amendments, and outlined the process for amending the bylaws. She noted that proposed amendments are sponsored by Ms. Liane M. Moriyama, a member of both the P&O Committee and the Council.

Ms. Drabish then briefed each proposed revision. The first proposed revision modifies Section 7.2 for clarity and to eliminate redundancy.

Compact Council Action: Ms. Liane M. Moriyama moved to modify Section 7.2 of the bylaws as presented in the topic paper and listed below.

“The Chairman and Vice Chairman of the Compact Council:

- (A) Shall be members of the Compact Council; and**
- (B) Shall be Compact officers, unless there is no Compact officer on the Compact Council who is willing to serve, in which case the Compact Council Chairman or Vice Chairman may be an at-large member; ~~the Compact Council Vice Chairman must be a member of the Compact Council.~~”**

Seconded by Mr. Joseph N. Morrissey. Motion carried.

Ms. Drabish discussed the second proposed revision, which modifies Section 7.4 to address the special election due to a vacancy before the end of the term.

Compact Council Action: Ms. Liane M. Moriyama moved to modify Section 7.4 of the bylaws as discussed and listed below.

“The newly elected officers shall serve a two-year term commencing immediately preceding the adjournment of the Compact Council meeting at which they were elected. In the event of a special election due to a vacancy before the end of a term, the newly elected officer shall immediately serve the remainder of the term.”

Seconded by Ms. Julie A. Lackner. Motion carried.

Ms. Drabish briefed the third proposed revision, which modifies Section 7.5 to address interim roles of succession in the event of a vacancy before the end of the term.

Compact Council Action: Ms. Liane M. Moriyama moved to modify Section 7.5 of the bylaws as presented in the topic paper and listed below.

“In the event of a vacancy in the office of the Compact Council Chairman, the Compact Council Vice Chairman shall succeed the Compact Council Chairman for the remainder of the term of office and shall hold a special election for a new Compact Council Vice Chairman at the next Compact Council meeting. In the interim, the most senior Compact Council member that is a state Compact officer shall assume the role of the Compact Council Vice Chairman until the next Compact Council meeting. If there is no state Compact officer willing to serve, then the most senior at-large member may fill the role of the interim Compact Council Vice Chairman. This interim role is terminated by the election of the new Compact Council Vice Chairman as outlined in Section 7.4.

In the case of a vacancy that occurs before the end of a term in the office of the Compact Council Vice Chairman, a special election will be held at the next Compact Council meeting for a new Compact Council Vice Chairman. In the interim, the most senior Compact Council member that is a state Compact officer shall assume the role of the Compact Council Vice Chairman until the next Compact Council meeting. If there is no state Compact officer willing to serve, then an at-large member may fill the role of the Compact Council Vice Chairman. This interim role is terminated by the election of the new Compact Council Vice Chairman as outlined in Section 7.4.

If both offices become vacant, the Compact Council member who is an FBI employee shall call for and hold a special election for the remainder of the terms of office. In the interim, the most senior Compact Council member that is a state Compact officer shall assume the role of the Compact Council Chairman and the second most senior Council member that is a state Compact officer shall assume the role of the Compact Council Vice Chairman. If there are no state Compact officers willing to serve, then an at-large member may fill each role. These interim

roles are terminated by the election of the new Compact Council Chairman and Compact Council Vice Chairman as outlined in Section 7.4.

Nominations and voting shall be made in the same manner as stated in Section 7.4. Serving for a partial term shall not be counted toward the two-term limit set in Section 7.3.”

Seconded by Mr. Joseph N. Morrissey. Motion carried.

Ms. Drabish noted that the amendments will become effective at the end of the November 2015 Council meeting.

(Attachment 13)

Ad Hoc Topic IT Security Audits of Non-Criminal Justice Agencies

Mr. Derek A. Holbert, FBI CJIS Division staff, presented an overview of noncompliance findings from the zero-cycle IT Security Audits of noncriminal justice agencies. Mr. Holbert noted that 71 agencies were audited between October 2014 and September 2015. He briefed the 16 policies for which noncompliance was found in rank order from highest incidence of noncompliance, noting that outsourcing of IT functions and encryption carried the highest rate of noncompliance. He then briefly described each of the policies and some common causes of noncompliance for each policy.

The Council requested the development and presentation of a summary of common IT security challenges faced by the states. The Council also discussed the possible development of a Frequently Asked Questions resource for noncriminal justice agencies to assist with IT security concerns.

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

(Attachment 14)

Topic #14 Update on the CMS’ National Background Check Program

Mr. Scott Manley, CMS, and Mr. Ernest Baumann, CNA, presented an update on the CMS National Background Check Program. Mr. Manley provided the background for Section 6201 of the Patient Protection and Affordable Care Act (PPACA), Pub. L. 111-148. He explained that the PPACA requires the Secretary of the DHHS to establish a program for long-term care facilities and providers to conduct nationwide background checks on prospective direct patient access employees. Further, states and

territories must apply to become a program participant and obtain federal matching grant funding.

Mr. Manley announced that more than \$50 million in grant funding has been awarded to 26 states and territories. He stated that CMS has a contract with CNA to provide technical assistance to grantee states. Mr. Manley briefly discussed successes that have emerged during the CMS National Background Check Program, including establishment of a multi-state Nurse Aide Registry Pilot, and development of a CMS and States' Collaboration Forum to provide opportunities for grantee states to share information. Mr. Manley then introduced Mr. Baumann.

Mr. Baumann spoke regarding the technical assistance effort of the National Background Check Program. He outlined the program requirements and shared statistics related to program successes. He also briefly described challenges faced by the states in implementing the National Background Check Program. Mr. Baumann shared highlights from several grantee states.

Mr. Manley provided a case scenario in which the National Background Check Program assisted in preventing employment of an individual arrested for exploitation of the elderly. Lastly, he noted that solicitations for grants are ongoing and provided contact information for interested states.

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

(Attachment 15)

Topic #15 Sanctions Committee Report

Ms. Julie A. Lackner, Sanctions Committee Chairman, addressed the Council with the Sanctions Committee's report. The Sanctions Committee met on November 3, 2015, and reviewed responses to the Sanctions' letters that were disseminated based on the review of audit findings during the May 2015 meeting. The Sanctions Committee reviewed the responses to the Sanctions letters and determined that four states, five federally-regulated agencies, and one FBI-approved channeler would be sent letters of closure, one state, one federally-regulated agency, and one FBI-approved channeler would be sent letters of closure contingent on completion of open corrective actions by specified dates, and two states would be sent a follow-up letter.

The Sanctions Committee reviewed audit findings from three NFF states. Recommendations were based on the following criteria: compliance with the NFF qualifications, violations of articles of the Compact to include III misuse, and Compact rules. Based on these requirements, the Sanctions Committee recommended that three states be sent letters of recommendation.

The Sanctions Committee reviewed audit findings from one Compact state. Recommendations were based on the following criteria: violations of articles of the Compact to include III misuse and the Compact rules. Non-NFF Compact states are also reviewed for compliance with the NFF qualifications; however, these findings are only provided for informational purposes. Based on these requirements, the Sanctions Committee recommended that one state receive a letter of recommendation.

The Sanctions Committee reviewed audit findings from two MOU states. Recommendations were based on the following criteria: violations of articles of the Compact to include III misuse and the Compact rules. Based on these requirements, the Sanctions Committee recommended that one state receive a letter of commendation and closure and one state receive a letter of recommendation.

The Sanctions Committee reviewed audit findings from one non-Compact, non-MOU state. Recommendations were based on the following criteria: Non-Compact and non-MOU states are reviewed for violations of articles of the Compact to include III misuse and the Compact rules. Based on these requirements, the Sanctions Committee recommended that one state receive a letter of recommendation.

The Sanctions Committee reviewed audit findings from three federally regulated agencies for appropriate action. Recommendations were based on the following criteria: violations of articles of the Compact to include the III misuse and Compact rules. Based on these requirements, the Sanctions Committee recommended that one agency receive a letter of commendation and closure, one agency receive a letter of recommendation, and one agency receive a letter of concern and closure contingent upon completion of open corrective actions by a specified date.

The Sanctions Committee reviewed audit findings from four FBI-approved channelers for appropriate action. Recommendations were based upon the requirements outlined in the Outsourcing Rule and the Outsourcing Standard. Based on these requirements, the Sanctions Committee recommended that three agencies receive letters of concern and closure, and one agency receive a letter of recommendation.

In addition, Ms. Lackner noted that the CJIS Audit Unit announced its plan to post reference material for noncriminal justice audits to the Council's public Web site and its Law Enforcement Online Special Interest Group.

Compact Council Action: Ms. Julie A. Lackner moved to accept the Sanctions Committee Report. Seconded by Ms. Carole Shelton. Motion carried.

Topic #16 Task Force Update on Outsourcing Public Law 92-544

Ms. Melody K. Ferrell, FBI CJIS Division staff, presented an update on the Outsourcing Public Law 92-544 Task Force (Task Force). Ms. Ferrell provided background on the events that led to formation of the Task Force, noting that the Task Force was formed in response to a vendor proposal designed to reduce duplicative federal checks for non-mortgage loan originators licensed in multiple states under approved Pub. L. 92-544 statutes. Ms. Ferrell then introduced the Task Force Chairman, Mr. Joseph N. Morrissey.

Chairman Morrissey explained the Task Force's mission to explore the feasibility of utilizing a channeler/vendor when processing Pub. L. 92-544 noncriminal justice background checks to reduce redundant national checks and improve data sharing while continuing to allow for state checks. He briefed the Task Force's conclusions, which included support for reducing redundant national fingerprint-based background checks for multi-state licensee applicants, support for outsourcing of approved Public Law 92-544 state statutes, and that any outsourcing arrangement should include a state check facilitated by the vendor. In addition, the Task Force concluded that the outsourcing requirements would need to be met by the state, authorized recipient, and vendor, and that a change to the NFF Qualification Requirements would be necessary for NFF states to participate in outsourcing under this arrangement.

Mr. Morrissey stated that in September 2015 the S&P Committee endorsed the Task Force recommendation to allow the outsourcing of the Sole Source function by a state for approved Public Law 92-544 statutes.

Compact Council Action: Mr. James W. Buckley, Jr., moved to adopt the S&P Committee motion to endorse the Task Force's recommendation to allow the outsourcing of the Sole Source function by a state for approved Public Law 92-544 statutes. Seconded by Mr. William Marosy. Motion carried.

Mr. Morrissey then presented a proposed modification to the NFF Qualification Requirements to allow for optional NFF state participation in outsourcing of approved Public Law 92-544 statutes as outlined in the previous motion.

Compact Council Action: Mr. Joseph N. Morrissey moved to modify the NFF Qualification Requirements as presented in the topic paper and written below, with additions in bold red underline, to allow NFF states to participate in the outsourcing of the Sole Source function for approved Public Law 92-544 statutes.

“A. An NFF state shall maintain a central criminal history record repository with full technical fingerprint search capability. An NFF state shall perform technical searches on both applicant and criminal fingerprint impressions prior to their submission to the FBI. When an individual is identified at the state level as having records previously indexed in the National Identification Index, the NFF state shall notify the contributor of the search results and provide the criminal history record information if requested on the fingerprint submission. **Note: If an NFF state outsources the national applicant fingerprint-based background check process for a particular industry, the NFF state shall only conduct a state check; the national applicant fingerprint-based background check and dissemination of the results is the responsibility of the contractor.**”

Seconded by Ms. Liane M. Moriyama. Motion carried.

(Attachment 16)

Topic #17 (A) Update on the Noncriminal Justice Rap Back Service Outsourcing Task Force

Mr. Gary S. Barron, FBI Compact Officer, briefly introduced the RBOTF, providing background on the formation of the RBOTF and its mission to evaluate considerations related to the potential outsourcing of noncriminal justice Rap Back Service. Mr. Barron noted that the RBOTF had requested the development of several documents to outline requirements for outsourcing of noncriminal justice Rap Back Service, to be presented in part B of Topic #17.

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

(B) The Introduction of the NGI Program Rap Back Service Contractor Policy and Implementation Guide and the Contractor Agreement

Ms. Giget M. Stover, FBI CJIS Division staff, presented the NGI Program Rap Back Service Contractor Policy and Implementation Guide (Contractor Guide) and the Contractor Agreement for the Council’s consideration. Ms. Stover provided background on the development of the Contractor Guide and Contractor Agreement. She noted that the Contractor Agreement closely mirrors Appendix 2 of the Noncriminal Justice Rap

Back Service Policy and Implementation Guide, and serves in a capacity similar to an MOU between the submitter and the FBI. Ms. Stover noted that similarly, the Contractor Guide mirrors the existing Noncriminal Justice Rap Back Service Policy and Implementation Guide, with modifications tailored to contractors. In addition, Ms. Stover noted that the Rap Back Team developed a training packet to assist with training contractors on the noncriminal justice Rap Back Service.

Ms. Stover then reviewed several considerations related to the Contractor Guide and Contractor Agreement for the Council's input, noting that the S&P Committee reviewed, discussed, and made recommendations related to each consideration during its September 2015 meeting. Consideration 1 addressed the question of whether to limit contractors to participation in the Event-Based Subscription Management Plan only. The S&P Committee recommended the inclusion of a caveat in the Contractor Guide to allow for a Person Based Subscription Management Plan to be utilized when a contractor was providing service to an industry requiring multi-state licensing fingerprint-based background checks.

Compact Council Action: Ms. Carole Shelton moved to endorse the S&P Committee recommendation to change to the Contractor Guide in regards to Consideration 1, as presented. Seconded by Ms. Katie Bower. Motion carried.

Ms. Stover reviewed Consideration 2, which posed the question of what subscription terms contractors should be allowed to offer for Rap Back Services. The S&P Committee recommended that contractors be allowed to offer two terms: 2 year and 5 year.

Compact Council Action: Ms. Carole Shelton moved to endorse the S&P Committee recommendation to change to the Contractor Guide in regards to Consideration 2, as presented. Seconded by Mr. Joseph N. Morrissey. Motion carried.

Ms. Stover reviewed Consideration 3, which posed the question of which privacy mitigation strategies should be allowed for contractors. The S&P Committee recommended that only one privacy risk mitigation strategy, composed of prenotification with mandatory validation, expiration within one year, and synchronization of records, be offered for contractors, with a possible new strategy to be developed when offering a Person Based Management Plan.

Compact Council Action: Ms. Carole Shelton moved to endorse the S&P Committee recommendation to change the Contractor Guide in regards to Consideration 3, as presented. Seconded by Ms. Katie Bower. Motion carried.

Ms. Stover briefly addressed Consideration 4, which posed the question of how many Rap Back Triggers should be offered to contractors. She noted that the S&P Committee voted to return Consideration 4 to the Rap Back Focus Group for further discussion.

Ms. Stover then reviewed Consideration 5, which posed the question of what Rap Back notification methods should be allowed for contractors. The S&P Committee recommended allowing only pre-notification for contractors.

Compact Council Action: Ms. Carole Shelton moved to endorse the S&P Committee recommendation to change the Contractor Guide in regards to Consideration 5, as presented. Seconded by Mr. Joseph N. Morrissey. Motion carried.

(Attachment 17)

(C) Noncriminal Justice Rap Back Policy and Implementation Guide – Addition to Appendix 2

Ms. Stover presented a proposed addition to Appendix 2 of the Noncriminal Justice Rap Back Policy and Implementation Guide. Ms. Stover provided brief background on Appendix 2. She stated that the proposed addition would require each state and federal Rap Back participating agency to submit a list of all state and federal statutory authorities for which applicants are to be enrolled in Rap Back Service to the OGC CJILU.

Compact Council Action: Mr. Joseph N. Morrissey moved to recommend amending the Non-Criminal Justice Rap Back Policy and Implementation Guide, Appendix 2, question 1 to add that each state/federal Rap Back participating agency must submit a list of all state/federal statutory authorities for which applicants are to be enrolled in Rap Back to the OGC CJILU and must update the list as appropriate. Seconded by Ms. Carole Shelton. Motion carried, with one opposed.

(Attachment 18)

Topic #18 Update on the Maximizing Criminal Justice Data Access Study

Mr. James R. McDonald, FBI CJIS Division staff, provided an update on the Maximizing Criminal Justice Data Access Study (Study). Mr. McDonald stated that the

FBI CJIS Division's concept for the Study was developed in 2013. Following intermittent delays, efforts related to the Study resumed in early spring 2015. Mr. McDonald noted that the Study engaged a joint advisory group consisting of both CJIS APB and Council members to assist with definition of the scope for the Study. On November 3, 2015, the advisory group met in Tucson, Arizona, to consider questions related to the Study's goals and scope. Mr. McDonald invited Chairman Peck to summarize the results of the advisory group's discussion.

Chairman Peck stated that the advisory group noted that the Study concept was developed prior to the implementation of the NGI Increment 4 in September 2014. As such, the advisory group felt many of the questions posed in the concept had been overcome by the NGI Increment 4, and no clear scope for the Study could be identified at this time. Chairman Peck also noted that two topics that had been placed on hold pending possible inclusion in the Study would be presented during the spring 2016 Committee meetings.

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

Topic #19 Update on Missing Dispositions

Mr. James R. McDonald, FBI CJIS Division staff, provided an overview of efforts to obtain missing dispositions. He noted that disposition dashboards had been provided to all states to display the number of missing dispositions and that updated dashboards would be available in spring 2016. Mr. McDonald announced that efforts continue toward obtaining missing dispositions from the FBI field offices and significant progress has been made. He noted that the FBI CJIS Division is also working closely with other federal agencies to obtain missing dispositions. Mr. McDonald briefed the tentative plan for disposition improvement efforts in the coming years, stating that federal dispositions are the priority and state disposition outreach will occur on an incremental basis beginning with those states with the lowest disposition completeness rates. Lastly, Mr. McDonald stated that Automated Disposition and Processing Technology concept, which would build upon the NGI State Outreach to identify, automatically capture, and post missing dispositions from state records to the NGI, is undergoing analysis at the FBI CJIS Division level.

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

Topic #20 Departmental Order (DO) Update

In a continued effort to address the concerns for misuse of the DO process raised by the Council, Mr. James R. McDonald, FBI CJIS Division staff, provided a brief update on the ongoing efforts to modify the DO fingerprint processing procedures. Mr. McDonald announced that September 2015 had the lowest incoming volume of DO

requests of any September in the last five years. He also stated that the CNCS's recent decision to contract with an FBI-approved channeler for submission of fingerprints under the Serve America Act was anticipated to significantly reduce the volume of DO requests. In addition,

Mr. McDonald noted that the *Federal Register* notice regarding a possible process change to limit the third-party dissemination of a DO request is being reviewed by the DOJ. Lastly, Mr. McDonald noted that a small pilot is underway to allow individuals to apply and pay online for a DO request. Fingerprints are still submitted via mail, with hard copy results mailed to the requester.

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

Topic #21 Sharing Information on Lessons Learned During NFF Implementation

Mr. Rob Sollars, Ohio BCI, shared lessons learned during Ohio's NFF implementation. He presented a timeline of Ohio's journey toward NFF participation, beginning with Ohio's Compact ratification in April 2004. One key point was Ohio's decision to implement the applicant portion of NFF participation first; this produced operational savings despite requiring some additional manual processing. Mr. Sollars noted that key lessons learned included the importance of involving all stakeholders during all stages of planning, the value of reviewing plans when delays or staffing changes occur, the cruciality of documenting all workflows both before and after implementation, and the need to communicate constantly with the vendor, project team, and the FBI CJIS Division.

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

(Attachment 19)

**Topic #22 (A) Civil Fingerprint Image Quality Pilot Program Update
 (B) Review of the Draft Civil Fingerprint Image Quality Strategy Guide**

Ms. Riley J. Combs, FBI CJIS Division staff, presented the update on the Civil Fingerprint Image Quality Pilot Program. As background, she explained that in March 2013, the CJIS Division hosted a civil fingerprint image quality discussion in which 22 individuals from the fingerprint community participated, along with members of the S&P Committee, and several CJIS Division subject matter experts. The discussion focused on different issues that might be affecting civil fingerprint image quality, as well as possible solutions on how to lower the reject rates for civil fingerprint image quality. As a result of the discussion, the Council voted at its May 2013 meeting to approve a pilot program.

Ms. Combs presented the newly updated Civil Fingerprint Image Quality Pilot Program Report. This document provided details regarding the pilot program results, results of interviews with states performing well in civil fingerprint image quality, and lessons learned throughout the pilot program. Ms. Combs shared information regarding the successes Arkansas and New Mexico achieved through increasing electronic fingerprint capture and provided statistics demonstrating the impact of the pilot programs in those states. She also discussed the results of her interviews with New Jersey and Tennessee; both states have low civil fingerprint image quality reject rates and cited use of a single vendor for electronic fingerprint capture as key to their success. Additional success factors included Tennessee's close partnership with its fingerprinting vendor to monitor reject rates and take corrective actions, and New Jersey's practice of conducting quality control processing on low image quality submissions prior to sending fingerprints to the FBI.

Ms. Combs shared several lessons learned throughout the course of the pilot program. She noted that barriers to implementing a successful civil fingerprint image quality improvement program include lack of communication, lack of funding, limited resources, staff transition without succession planning, legislative obstacles, resistance from the customer base, and lack of education on the importance of civil fingerprint image quality. Ms. Combs presented a one-page educational flyer designed for distribution to noncriminal justice agencies highlighting the importance of capturing quality fingerprint images and providing quick tips on fingerprint capture.

Lastly, Ms. Combs stated that as a result of the pilot program, the Civil Fingerprint Image Quality Strategy Guide was developed as a high-level strategy resource for states and large agencies to use in reducing civil fingerprint image quality reject rates.

Compact Council Action: Captain Thomas W. Turner moved to adopt the Civil Fingerprint Image Quality Strategy Guide and the one-page educational flyer, and post them to the Council's public Web site. Seconded by Mr. Joseph N. Morrissey. Motion carried.

(Attachment 20 and 21)

Topic #23 Information Security Office (ISO) Program Update

Mr. Stephen C. Exley, FBI CJIS Division staff, presented an update on the activities of the FBI CJIS ISO Program. He noted that two topics of potential interest to the Council would be addressed during the fall 2015 APB meeting, including a paper aimed at generalizing security incident response reporting to include physical security breaches in addition to computer security breaches. Mr. Exley also announced that CSP Version 5.4 had recently been released and includes the revised Appendix J endorsed by

the Council in 2014. Lastly, Mr. Exley briefed the Council on the upcoming deployment of Transport Layer Security (TLS) 1.2, aimed at closing a known existing security vulnerability within TLS 1.0.

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

(Attachment 22)

Topic #24 National Fingerprint File Quarterly Statistics

Staff paper provided for information only, not presented.

Topic #25 Next Generation Identification Status Report

Staff paper provided for information only, not presented.

The meeting adjourned at 2:15 p.m.

**National Crime Prevention and Privacy
Compact Council Meeting
Tucson, Arizona
November 4-5, 2015
List of Attachments**

Attachment (1)

List of meeting attendees

Attachment (2)

Handout #1 – FBI’s CJIS Division Update presentation

Attachment (3)

Handout #1 – APB Update presentation

Attachment (4)

Handout #1 – CNCS – Implementation of the Serve America Act presentation

Attachment (5)

Handout #1 – Draft Federal Register Notice of Approval for the BIA Criminal History Record Checks Utilizing Purpose Code X presentation

Attachment (6)

Handout #1 – CCDBGGA presentation

Attachment (7)

Handout #1 – SEARCH Update presentation

Attachment (8)

Handout #1 – Developing Legislative Updates presentation

Attachment (9)

Handout #1 – Update on the CoMP presentation

Attachment (10)

Handout #1 – Biometric Interoperability Update presentation

Attachment (11)

Handout #1 – Establishment of the CJIS Division’s PROU presentation

Attachment (12)

Handout #1 – Compact Council Strategic Plan Update presentation

Attachment (13)

Handout #1 – Proposed Amendments to the Council Bylaws presentation

Attachment (14)

Handout #1 – IT Security Audits of Non-Criminal Justice Agencies presentation

Attachment (15)

Handout #1 – Update on the CMS National Background Check Program presentation

Attachment (16)

Handout #1- Task Force Update on Outsourcing Public Law 92-544 presentation

Attachment (17)

Handout #1 – Update on the RBOTF and The Introduction of the Contractor Guide and the Contractor Agreement presentation

Attachment (18)

Handout #1 – Noncriminal Justice Rap Back Policy and Implementation Guide – Addition to Appendix 2 presentation

Attachment (19)

Handout #1 – Sharing Information on Lessons Learned During NFF Implementation presentation

Attachment (20)

Handout #1 – Civil Fingerprint Image Quality Pilot Program Update presentation

Attachment (21)

Handout #1 – Review of the Draft Civil Fingerprint Image Quality Strategy Guide presentation

Attachment (22)

Handout #1 – FBI CJIS ISO Program Update presentation