



**National Crime Prevention and Privacy Compact  
Compact Council Meeting  
Albuquerque, New Mexico  
December 8-9, 2011**

**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 December 8, 2011, in Albuquerque, New Mexico.

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

**State/Local Noncriminal Justice Agency Representative:**

- Mr. Robert M. Finlayson, III, Georgia Department of Community Health

**State/Local Criminal Justice Agency Representative:**

- Captain Thomas W. Turner, Virginia State Police

**Federal Noncriminal Justice Agency Representative:**

- Ms. Kathy Dillaman, Office of Personnel Management

**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 welcomed the new FBI representative on the Council, the Criminal Justice Information Services (CJIS) Division's Assistant Director (AD) David Cuthbertson. She also recognized recently appointed Council members. With terms expiring on September 30, 2013, the new members include: Ms. Terry Gibbons, Georgia Bureau of Investigation; Mr. Jeffrey R. Kellett, New Hampshire Department of Safety; Captain Timothy P. McGrail, Missouri State Highway Patrol; Ms. Dawn A. Peck, Idaho State Police; and, Ms. Donna M. Uzzell, Florida Department of Law Enforcement. The new Council members with terms expiring on September 30, 2014, include: Ms. Kathy Dillaman, United States (U.S.) Office of Personnel Management (OPM), representing a Federal Noncriminal Justice Agency; Mr. Michael C. Lesko, the Advisory Policy Board (APB) representative, from the Texas Department of Public Safety; and, AD Cuthbertson.

Chairman Moriyama expressed her appreciation to proxies that were in attendance. The proxies included: Mr. Wyatt Pettengill, North Carolina State Bureau of Investigation; Ms. Joan Hilliard, Connecticut State Police; and, Mr. Gary Lee, Alaska Department of Public Safety. She also recognized Ms. Michelle Moore, as South Carolina's newest State Compact Officer (SCO). Additionally, Chairman Moriyama articulated her gratitude for the participation of the guest speakers.

Chairman Moriyama 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 then finalized the draft minutes from the May 2011 meeting, approving with no changes necessary to the draft.

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

Agenda topics were then discussed.

**Topic #1 Council Chairman's Report**

Chairman Moriyama provided an update on the current Council initiatives. The update included a brief summary of the White House National Security Staff (NSS) discussions; progress of the Rap Back Focus Group (Focus Group); and initiatives from the National Background Check System (NBCS) Task Force. Additionally, Chairman Moriyama congratulated Minnesota on becoming the fifteenth NFF state participant. In closing, Chairman Moriyama challenged each state attendee to imagine their own state's operation with a significant reduction in the noncriminal justice applicant processing. She emphasized that with proposed federal legislation continuing to bypass the state's criminal history record repositories, the noncriminal justice agencies are potentially not receiving the most comprehensive criminal history records and that it may also have a significant impact on a state's revenue and ability to support the criminal justice community.

**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 AD, provided an update on the CJIS Division. The presentation included an announcement of the release of the 2011 CJIS Annual Report, 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, the construction status of the Biometric Technology Center, and the online availability of the CJIS Link.

**(Attachment 2)**

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

### **Topic #3     Advisory Policy Board (APB) Update**

Colonel Steven F. Cumoletti, New York State Police, reported that the APB met on December 6-7, 2011, in Albuquerque, New Mexico. He provided an overview of the significant topics of discussion which included tribal access to criminal justice information, UCR Summary Reporting versus the National Incident-Based Reporting System, the Department of Homeland Security's (DHS) U.S. Immigration and Customs Enforcement's (ICE) Secure Communities program, and the various mobile applications that are currently being piloted across the nation for sharing and accessing criminal history information.

Next, Colonel Cumoletti discussed some of the significant motions from the meeting. Included in these motions was a motion to allow the Department of State (DOS) to access the NCIC Supervised Release File, Missing Persons File, and the Identity Theft File for DOS Passport Services. The second motion that he discussed was the change to the UCR Summary Reporting System's definition of forcible rape. There was also a motion to postpone the conformance date for the Subject Acquisition Profile level 30 Repository for Individuals of Special Concern (RISC) mobile devices. An additional motion that the APB passed was for the CJIS Division's Bioterrorism Risk Assessment Group, which backgrounds individuals seeking access to dangerous biotoxins and select agents to have access to the NICS Index. He emphasized that the APB strongly believed that it was important to accommodate the access in a manner that would allow states an explicit opt out capability if they so choose. The APB endorsed a policy statement allowing the use of the N-DEx to support criminal justice employment background investigations. Additionally, the APB passed a motion to clarify the meaning of "state of residency check" within the *CJIS Security Policy*.

Finally, Colonel Cumoletti mentioned future topics for upcoming meetings. He announced that the Working Group meetings will occur during the week of March 6, 2012, the Subcommittees will meet at the CJIS Division on April 18-19, 2012, and the APB meeting will be held during the week of June 5, 2012.

**(Attachment 3)**

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

### **Topic #4     The International Justice and Public Safety Network (Nlets)**

Mr. Steven Correll and Ms. Cathy Plummer, Nlets staff, provided a brief review of Nlets and an update on the Criminal History Information Exchange Format (CHIEF) and the Criminal History Records Information Sharing (CHRIS) projects. Mr. Correll opened the presentation with a discussion on Nlets operations and the role Nlets is playing in providing funding assistance to states and federal members. He turned the presentation

over to Ms. Plummer to discuss two grants that may be of interest to the Council, the CHIEF and the CHRIS projects.

As background, Ms. Plummer explained that the CHIEF project began in the mid-1990's with the focus of developing a method to tag information in a standard way for court dispositions. As a result, the Joint Task Force (JTF) on Rapsheet Standardization was created and developed this tagged specification. Over the years, the CHIEF project migrated from the Interstate Criminal History Transmission Specification Version 3.01 (rapsheet) to a Version 4.0 conformant with the National Information Exchange Model (NIEM); and, supported the eXtensible Markup Language (XML) rapsheet transmission in numerous states; and developed and installed XML transformation services on Nlets network information exchange broker.

Additionally, Ms. Plummer provided a brief update on the CHRIS project. As background, the project was designed to improve the Bureau of Justice Statistics' (BJS') ability to conduct national recidivism studies and other criminal history record research by utilizing XML to parse out specific data elements. She explained that there are several benefits to the states, including eliminating the burden from the state to produce the information for the BJS, and the new statistical information helps to support the BJS position for more funding through the National Criminal History Improvement Program. Lastly, Ms. Plummer announced that state criminal history record repository staff will have access to a statute database via Nlets to assist in interpreting state statutes for out-of-state rapsheets.

**(Attachment 4)**

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

**Topic #5     **The Planning and Outreach Committee Report on the National Fingerprint File (NFF) Program Brochure****

Ms. Paula A. Barron, FBI CJIS staff, presented the Planning and Outreach Committee's report on the NFF Program brochure, which was crafted to support the Council's focus on outreach, increase Compact ratification and NFF participation. The Planning and Outreach Committee requested a high-level informational pamphlet that could be utilized to market Compact ratification and NFF participation to Chief Repository Administrators, state legislators, the State Attorneys General, etc. Ms. Barron noted that for those states that have not yet ratified the Compact, staff suggested that rather than a single informational pamphlet, Compact Ratification and NFF Program Participation were best served by individual marketing material to accommodate differing audiences.

**(Attachment 5 and 6)**

**Compact Council Action: Ms. Dawn A. Peck moved to endorse the Planning and Outreach Committee’s recommendation to approve the brochures as presented and post on the Compact Council’s website. Seconded by Ms. Carole Shelton. Motion carried.**

**Topic #6     **The Standards and Policy Committee Report on NFF Participation Status for Non-NFF Compact States****

Ms. Paula A. Barron, FBI CJIS staff, provided a summary on the NFF participation status for non-NFF Compact states. She announced that at the September 2011 Standards and Policy Committee meeting, there were 15 non-NFF Compact States. Since the Standards and Policy Committee meeting, Minnesota became the fifteenth state to participate in the NFF program. Based on information received from the Compact states, it is anticipated that Ohio and Missouri will become NFF participants in early 2012. Ms. Barron also noted that West Virginia and Vermont have both estimated participation in mid-2012. Discussion included whether any of the Compact states were planning to take advantage of the phased-in approach for NFF participation. Ms. Barron informed the Council that Minnesota implemented the phased-in approach, but should be full NFF within the next few months.

**(Attachment 7)**

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

**Topic #7     **The Standards and Policy Committee Report on the Outsourcing Standard Changes****

Mr. Randall P. Wickline, FBI CJIS staff, discussed proposed changes to the Council's Outsourcing Standard (Outsourcing Standard) for Channelers and Non-Channelers. As background, he explained that the Outsourcing Standard for Channelers and Non-Channelers requires adequate security and privacy of criminal history record information (CHRI) that has been provided to a Contractor performing administrative functions for an Authorized Recipient. Both the Outsourcing Standard for Channelers and the Outsourcing Standard for Non-Channelers require that audits be conducted by Authorized Recipients, the states, and the FBI at various intervals. Mr. Wickline explained that section 2.05 of each Standard stipulates that the audit timeline begins with a 90-day audit of the Contractor by the Authorized Recipient (for non-channelers) or the FBI (for Channelers).

Mr. Wickline reviewed section 2.05 which includes a reference to “the terms of the contract” as a trigger for the 90-day audit requirement. He explained that the purpose of the 90-day audit requirement is for the Authorized Recipient to establish an initial baseline assessment of a Contractor’s compliance in an effort to identify and correct

shortfalls prior to entering into the longer-term triennial audit cycle. As written, the 90-day audit requirement could be interpreted as being triggered by any change in the terms of a contract between the Authorized Recipient and the Contractor.

By associating the trigger with the approval to outsource, rather than the terms of the contract, 90-day baseline assessments would only occur when there is increased risk for potential compliance issues due to the contractor performing a new function(s) or a new contractor performing the function(s). Mr. Wickline requested that the Council consider associating the audit trigger directly to the approved outsourcing request rather than to the terms of the contract. He noted that the changes would affect section 2.05, as well as footnote 2; specifically, it would strike the phrase, “terms of the contract,” and replace it with the phrase, “approved outsourcing agreement.” Mr. Wickline also indicated that the specific language would be incorporated into both of the Outsourcing Standards.

**Compact Council Action: Ms. Donna M. Uzzell moved to endorse the Standards and Policy Committee’s recommendation that option 1 of the staff paper be incorporated into both of the Outsourcing Standards. Option 1 specifically changes Section 2.05, as well as footnote 2, by striking the specific phrase, “terms of the contract,” and replacing that with the phrase “approved outsourcing agreement.” Seconded by Ms. Carole Shelton. Motion carried.**

## **Topic #8      Joint Task Force (JTF) on Rapsheet Standardization Update**

Mr. Charles Schaeffer, Florida Department of Law Enforcement (FDLE) and the Council’s representative on the JTF, provided an update on the rapsheet standardization. He explained that a variety of items were added that were not previously included in the 4.0 specification, which is the current approved specification. Some of those items include, but are not limited to, the availability of indicators for different modalities; the addition of the Electronic Biometric Transmission Specification transaction control number which will assist agencies with linking the record back to the fingerprint submission; the inclusion of a juvenile arrest cycle and a noncriminal justice cycle; the ability to specify multiple agencies that are party to an arrest; the addition of agency extension information to send in-state elements; and, the inclusion of the NCIC Code literal description. He also discussed the revised disposition types, the court case status category, and the post sentence event type. Mr. Schaeffer requested that the Council move to adopt the JTF Rapsheet Specification version 4.1 as the new NIEM XML conformant rapsheet transmission standard.

**(Attachment 8 and 9)**

**Compact Council Action: Ms. Donna M. Uzzell moved the Compact Council adopt the JTF Rapsheet Specification version 4.1 as the new NIEM XML conformant rapsheet transmission standard. Seconded by Mr. Robert M. Finlayson, III. Motion carried.**

**Topic #9     The National Consortium for Justice Information and Statistics (SEARCH) Group Update**

- A. SEARCH Update on the Repository Quality Assurance Programs**
- B. Update on Survey of State Criminal History Information Systems, 2010.**

Mr. Owen Greenspan, SEARCH, provided an overview of the results of the 2010 Survey of the State Criminal History Information Systems. He explained that the survey provides a snapshot of continuing growth, ongoing improvements, and practices associated with the initiation and updating of state held criminal history records. Mr. Greenspan mentioned that for the 2010 survey, responses were received from all fifty states and a few territories. Additionally, Mr. Greenspan presented the results from the Survey of State Policies Requiring Electronic Capture of Fingerprints. He noted that this survey identified issues or difficulties that arose following implementation of an all electronic fingerprint submission policy. Finally, Mr. Greenspan presented an update on the Repository Records and Reporting Quality Assurance Program (QAP). He reported that the QAP encouraged data quality and integrity through the development of voluntary performance standards.

**(Attachment 10)**

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

**Topic #10     The Planning and Outreach Committee Report on the Council Website Enhancements**

Ms. Anissa C. Drabish, FBI CJIS staff, provided an overview of the Compact Council’s public website and discussed future enhancements to the site. She explained, as background, that the Council’s website hosted on [www.fbi.gov](http://www.fbi.gov) became operational in November 2005 and was created to provide up-to-date information relating to the Council. Over the years, the website has undergone cosmetic changes and the content has been updated as needed. In a continuous effort to keep the website up-to-date, the site was reviewed for staleness, consistency, and value of the information posted to the site.

Ms. Drabish’s presentation included a pictorial view of the website enhancements. Some of the enhancements included, but are not limited to, the addition of the “What’s Happening Now” section, rearranging the information contained in the “Library”, a

newly created “Reference Materials” section, and the inclusion of an eye-catching “Contact Us” link. Ms. Drabish requested that the Council discuss the proposed website enhancements and provide recommendations for consideration. Discussion from the Council included adding the III Name-Based Efficacy Study, the Attorney General’s Report to Congress and exploring if the public website will permit the addition of a Member’s Only page which would require member authentication and specifically be designated for State Compact Officers’ use.

**(Attachment 11)**

**Compact Council Action: CJIS Compact Team staff to explore if the Compact Council’s public website hosted by fbi.gov will permit the addition of a “Member’s Only” page, specifically for Compact Officers, which would be password protected and allow members to view information that would also be found on the Compact Council’s LEO SIG.**

**Topic #11 The Planning and Outreach Committee Report on Guiding Principle Documents Outlining Privacy Rights for Agencies and Applicants Use During Fingerprint-Based Background Checks**

Ms. Melody K. Ferrell, FBI CJIS staff, provided the Council with the Guiding Principles documents outlining privacy rights for agency and applicant use during background checks. These documents were presented by Ms. Roxane Panarella, FBI Office of the General Counsel (OGC), during the September 2011 Planning and Outreach Committee and comments were incorporated from that discussion. Ms. Ferrell highlighted basic points in each of the documents. She also explained that if approved by the Council, Appendix 1 and 2 would be posted on the Council’s website, while Appendix 1A and 2A are documents that may be modified by an agency for its own use. Additionally, Ms. Ferrell reported that Ms. Panarella offered to review privacy notices for states.

The Council discussed the documents and requested further clarification from Ms. Panarella regarding the written form of notification and a few requirements under Title 28, Code of Federal Regulations (CFR), section 50.12. Based on the discussion, the Council recommended revised language for each of the brochures for the FBI OGC’s consideration. The revised brochures will be re-presented at the Spring 2012 Planning and Outreach Committee meeting for discussion. Additionally, the Council expressed concern about the Departmental Order process and its connection to employment and licensing.

**Compact Council Action: FBI’s Privacy Attorney, AIU, and CJIS Compact staff will assess the Council’s recommended language for the**

**applicant and agency privacy brochures to determine if the proposed revision adheres to the requirements established by the Privacy Act, 28 CFR 50.12, and 28 CFR 16.34. These brochures will be re-presented at the Spring 2012 Planning and Outreach Committee meeting for discussion.**

**Compact Council Action: CJIS staff to prepare a topic paper for a future Standards and Policy Committee meeting that focuses on the proper use of the Departmental Order.**

**Topic #12 The Standards and Policy Committee Report on the NFF State Audit Criteria Updates Related to Recent Revisions to the NFF Qualification Requirements (Quals)**

Since the 2010 revision of the NFF Qualification Requirements and the Council's approval of the phased-in approach to NFF participation, the CJIS Division staff recognized that the NFF State Quals Audit Criteria required modification to align with the new Quals language. Ms. Paula A. Barron, FBI CJIS staff, presented the proposed revision to the audit criterion for Qual I(A). She quoted Qual I(A) from the staff paper and explained that the criteria does not address the NFF phased-in approach.

Ms. Barron presented the proposed revised audit criterion for Qual I(A) which asserts that the state establishes and administers effective policies and procedures to perform technical searches on criminal and civil fingerprint submissions and to provide contributors with notifications of search results and CHRI. She also discussed the "Note" that was added to the criterion which indicates that portions of the Qualification Requirement and criteria are not applicable to Phase 1 and 2 NFF Participants. She explained that the language within the note addresses the phased-in approach and provides in plain language the information that a state needs to ensure it is meeting the requirements based on its phased-in approach.

Ms. Barron requested that the Council discuss the proposed revised language for qualification requirement I(A)'s audit criterion and endorse the revised language as provided by the Standards and Policy Committee.

**(Attachment 12)**

**Compact Council Action: Ms. Donna M. Uzzell moved the Standards and Policy Committee's recommendation to endorse the revised language to the audit criterion for Qual I(A). Seconded by Ms. Kathy Dillaman. Motion carried.**

**Topic #13 Update on the Implementation of the Centers for Medicare and Medicaid Services' (CMS) National Background Check Program**

Mr. Martin Kennedy, CMS, provided an update on the status of the CMS' National Background Check Program (NBCP), and, Mr. Mark R. Gritz, CNA Analysis and Solutions, discussed the technical assistance available to the NBCP grantee states.

As background, Mr. Kennedy explained that Section 6201 of the Patient Protection and Affordable Care Act (PPACA), Public Law 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. States and territories must apply to become a program participant and obtain federal matching grant funding.

Mr. Kennedy announced that to date \$38.6 million dollars in grants have been awarded to 16 states and the District of Columbia. A fifth solicitation was issued in November 2011. States and territories are encouraged to apply as the deadline is February 28, 2012. He 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 revealed that the 3rd National Conference is tentatively scheduled for May 8-10, 2012, in Salt Lake City, Utah.

Additionally, Mr. Gritz discussed that grantee states have benefited from the technical support contract which is provided at no cost to the grantees. He noted that CNA provided to states assistance in defining the state background check process, legislative and regulatory consulting, offered stakeholder outreach support and communications to build alliances in the community, and supplied information technology consulting to adapt systems to a state's particular needs. Mr. Gritz also noted that some states are using the technical assistance support to develop a state rap back program.

**(Attachment 13)**

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

**Topic #14 Vermont Repository Status Report**

The State of Vermont was dramatically affected by the flooding that occurred in August 2011 as a direct result of Tropical Storm Irene. Mr. Jeffrey Wallin and Mr. Paco Aumand, Vermont Criminal Information Center (VCIC), discussed the experience and lessons learned from the flooding of Vermont's central repository.

Mr. Aumand provided an overview of the pre-planning activities and activation of Vermont's Emergency Operations Center, a timeline of Irene's travel and devastation, the response coordination and evacuation of buildings, photographs of the aftermath, and the impact to the VCIC. He shared valuable information on lessons learned during the event. Additionally, Mr. Wallin shared his experience and stressed the importance of communication during a disaster and provided additional lessons learned. The Council was extremely grateful to Mr. Wallin and Mr. Aumand for sharing their experiences.

**(Attachment 14)**

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

**Topic #15 Update on the White House National Security Staff (NSS) Request for Expanded Access for Federal Agencies**

Ms. Kimberly K. Smith, FBI CJIS staff, discussed the White House NSS request for expanded access for federal agencies. As background, she explained that the White House NSS hosted a meeting in April 2011, of the Information Sharing and Access (ISA) Interagency Policy Committee (sub-IPC) regarding expanded access to the NCIC and the Interstate Identification Index (III). Since then, subsequent meetings have been held by the NSS concerning requests by other federal agencies for expanded access to FBI-maintained systems, specifically the III, and solutions for obtaining this access. Those federal agencies seeking expanded access include the DHS, the U.S. Citizenship and Immigration Services, the U.S. Customs and Border Protection, the Transportation Security Administration, the OPM, the DOS, and the Federal Aviation Administration.

Ms. Smith provided an overview of each of the federal agencies' requests for expanded access. She cited some of the legal authorities and privacy requirements that have been discussed with the NSS agencies regarding the requests. She also referenced a few interim solutions that were identified to address some of the requests which fell within the current legal framework.

Ms. Smith explained that early on in the NSS discussion, it was recognized the importance of engaging the Council and the APB leadership. She reported that on September 20, 2011, the Council's Executive Committee, along with representation from the APB, met in Pittsburgh, Pennsylvania, with the federal agency representatives that are requesting expanded access. Each of the federal agencies presented case scenarios in which the expanded access would have been useful. Ms. Smith emphasized that the meeting was beneficial for both sides to understand each other's needs. Additionally, she noted that common ground areas were identified, along with potential solutions that may address the requests.

Ms. Smith mentioned that following the September 20<sup>th</sup> meeting, the Chairs of the Council and the APB met with the NSS IPC. At the meeting, the importance of the APB and Council partnerships was stressed and a recap of the information sharing initiatives was provided to the NSS IPC. Lastly, Ms. Smith reported that in addition to the Council and the APB leadership engagements, the highest levels of leadership at the FBI and the Department of Justice have been briefed on the NSS initiatives.

**(Attachment 15)**

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

### **Topic #16 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 CJIS RISC Pilot, incremental deployment, and trade studies. He presented a high-level depiction of the specific milestones with the NGI Program. Mr. Edgell reported that Increment 2 was deployed in August 2011. This increment included the RISC and initial NGI infrastructure. Mr. Edgell further explained that since the deployment of Increment 2, RISC transactions are up to about 100 per day. Increments 3, 4, and 5 are in progress.

In relation to Increment 3, Mr. Edgell announced that approximately 3 million palm prints have been collected to date. Increment 4 will contain Rap Back, facial recognition, and text based scars, marks, and tattoo searches. Mr. Edgell provided an update on the NGI Face Pilot, reporting that the face matching system will be available in early 2012 with 8.5 million local/state/federal searchable photos at deployment. He also indicated that a new version of the Universal Facial Workstation software will be released in late spring/early summer 2012. Increments 5 and 6 will include the Iris Pilot and additional system tuning to meet non-functional requirements. He reported that the Iris Trade Study Report was delivered to the CJIS Division and the Iris Pilot is projected for deployment around September 2013.

**(Attachment 16)**

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

### **Topic #17 Rap Back Focus Group Update**

Mr. Brian L. Edgell, FBI CJIS staff, discussed the most recent Rap Back Focus Group (Focus Group) activities. He opened his presentation by providing a brief history behind the evolution of the Rap Back Task Force (Task Force) into the Focus Group.

Mr. Edgell reported that the Focus Group met in Clarksburg, West Virginia, on November 8-9, 2011. The agenda included an overview of the states' rap back programs,

discussion on current rap back service features and rap back requirements, a review of the draft Rap Back Executive Concept of Operations, discussion on validation and pre-notification services as they relate to privacy, and an overview of the conceptual services. The meeting provided a forum for the Focus Group, NGI Program Office staff, and various CJIS Division and the Office of the General Counsel staff to discuss current and emerging issues relating to the development of a national rap back solution. Lastly, Mr. Edgell mentioned that the CJIS Division is exploring the feasibility of implementing a Rap Back Pilot program.

**(Attachment 17)**

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

**Topic #18 The Standards and Policy Committee Report on Frequently Asked Questions (FAQs) of State Agencies**

Ms. Anissa C. Drabish, FBI CJIS staff, presented the Standards and Policy Committee's report on Frequently Asked Questions (FAQs) of State Agencies. She provided a brief history on the evolution of the FAQs topic, explaining that the discussions began in September 2010 at the Standards and Policy Committee meeting as members were trying to identify innovative methods to share information relating to instructing agencies on the proper access and use of the III CHRI for noncriminal justice purposes. That discussion evolved into a topic that was presented at the May 2011 Council meeting which provided the Council with discussion points and potential solutions for enhancing standardization and consistency of implementing rules and procedures relating to noncriminal justice access to and use of CHRI. The Council discussed the information and, as an alternative, requested that the FBI's CJIS Division staff compile a list of FAQs from agencies.

Next, Ms. Drabish advised that during the September 2011 Standards and Policy Committee meeting, the members reviewed the list of FAQs and identified a LEO Special Interest Group (SIG) as an appropriate forum to host the information. Ms. Drabish requested that the Council endorse the Standards and Policy Committee's recommendation to create a LEO SIG to post FAQs that have been vetted by the Standards and Policy Committee. Answers to the FAQs will include a caveat which states that the information is not an official opinion of the FBI. She also announced that the first round of FAQ vetting will occur at the Spring 2012 Standards and Policy Committee meeting.

**(Attachment 18)**

**Compact Council Action: Ms. Donna M. Uzzell moved the Standards and Policy Committee's recommendation to endorse the FAQ concept**

**and move forward with the creation of the LEO SIG. Seconded by Ms. Kathy Dillaman. Motion carried.**

**Topic #19 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 December 7, 2011. The Sanctions Committee reviewed responses to the Sanctions' letters that were disseminated based on the review of audit findings during the spring 2011 meeting. The Sanctions Committee reviewed the responses to the Sanctions letters and determined that nine states and one territory would be sent letters of closure. Two states and one federally regulated agency would receive follow-up letters. Additionally, the Sanctions Committee requested that the CJIS Audit Unit (CAU) contact one state to determine the status of a pending issue. The CAU was directed to send a letter of closure if the issue was completed. 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 seven states for appropriate action. Recommendations were based on the following criteria: violations of articles of the Compact to include III misuse and 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 made the following recommendations: four states were recommended to receive letters of recommendation and three states were recommended to receive letters of concern and closure.

The Sanctions Committee reviewed audit findings from one Memorandum of Understanding (MOU) state for appropriate actions. The recommendation was 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 made the recommendation that the state receive a letter of recommendation.

The Sanctions Committee reviewed audit findings from three non-Compact, non-MOU states for appropriate actions. The 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 Compact rules. Based on these requirements, the Sanctions Committee made the following recommendations: two states were recommended to receive letters of recommendation and one state was recommended to 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 plans implemented by this agency. Recommendations were based upon the requirements outlined in the Outsourcing Rule and the 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 six federally regulated agencies for appropriate action. The Sanctions Committee also reviewed the corrective action plan 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: six agencies were recommended to receive letters of commendation and closure.

**Compact Council Action: Ms. Julie A. Lackner moved that the Council accept the Sanctions Committee report as presented. Seconded by Ms. Carole Shelton. Motion carried.**

#### **Topic #20 Biometric Interoperability: Update On The Progress To Date**

Ms. Lisa A. Vincent, FBI CJIS staff, presented a brief summary on the recent progress achieved with biometric interoperability between the FBI CJIS Division, DHS, and other federal and international agencies. She reported that as of April 2011, the IAFIS is now sharing identification for firearms sales and sexual offender registry information with the DHS Automated Biometric Identification System (IDENT).

Ms. Vincent also announced that as of June 2011, the FBI CJIS Division Special Identities Unit (SIU) which represents the operational arm of the Global Operations Section now has access to IDENT. This provides SIU with the ability to query the IDENT database on a case-by-case basis to fully support their domestic and foreign customers. In addition, she reported that state and local law enforcement in 43 states and one U.S. territory are participating in IDENT/IAFIS Interoperability. Ms. Vincent explained that in an effort to bring on new users to IDENT/IAFIS Interoperability, the FBI CJIS Division and the DHS developed the IDENT/IAFIS Interoperability User Deployment and Evaluation Strategy Plan. The new user application from the FDLE Fusion Centers and Regional Domestic Task Forces is currently under review by the DHS. The DHS is considering deploying a pilot program in Region Four. Ms. Vincent also noted that the FBI CJIS Division has requested that the DHS recognize all FBI-approved criminal justice users as authorized users of IDENT/IAFIS Interoperability.

Regarding interoperability with international partners, Ms. Vincent 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 United

States-Visitor and Immigrant Status Indicator Technology (US-VISIT) on an effort to make INTERPOL records accessible to the DHS stakeholders via the IAFIS.

Lastly, Ms. Vincent discussed a potential new form of interoperability for latent prints. She 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. The FBI CJIS Division, the DHS US-VISIT, and the Texas Department of Public Safety are collaborating to discuss the opportunity to pilot a latent print interoperability project.

**(Attachment 19)**

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

**Topic #21 Legislative Update**

Mr. Thomas G. Aldridge, FBI OGC's Access Integrity Unit (AIU) staff, provided an overview of legislation introduced in the 112<sup>th</sup> Congress that may significantly affect the noncriminal justice use of the III and the noncriminal justice user community. Mr. Aldridge discussed the Guardian Accountability and Senior Protection Act, introduced as Senate (S) 1744, explaining that the bill authorizes the U.S. Attorney General to carry out a pilot program with up to five states to conduct national and state fingerprint-based background checks on individuals to be appointed as guardians or conservators to determine their suitability to serve in that position.

Mr. Aldridge also reported on House Resolution (HR) 3011, the Transportation Security Administration Authorization Act of 2011, which would prohibit a state or political subdivision from requiring a separate security threat assessment of an individual who possesses a valid hazardous materials transportation security credential, unless the state demonstrates a compelling need for a separate threat assessment. He noted the similarity between this bill and section 432 of HR 2200 which was introduced in the 111<sup>th</sup> Congress. House Bill 2200 contained the Castor amendment which prohibited the state or political subdivisions from also requiring separate background checks for any purpose of a transportation security card.

The Stop Child Abuse in Residential Programs for Teens Act of 2011, S 1667, runs parallel with HR 3126. The bill would require the U.S. Department of Health and Human Services to conduct a state check, a search of the National Sex Offender Registry, and an FBI fingerprint check of staff members and volunteers having unsupervised contact with children and youth in covered programs. Mr. Aldridge explained that a covered program includes both public and private programs that provide a residential environment such as a wilderness or outdoor experience, boot camp, therapeutic boarding school, or behavioral modification programs.

Next, Mr. Aldridge discussed the Safety for Our Schoolchildren Act of 2011, S 124. Section 2 of the bill amends Title 20, United States Code, Section 7101 et. seq. by adding a new section which requires that state or local educational agencies that receive federal funds obtain a state and FBI fingerprint-based background check on school employees prior to employment. The agency must also report to a local law enforcement agency if any applicant is a sexual predator. Mr. Aldridge explained that school employees include employees in a public school: administrators, teachers, substitute teachers, custodians, cafeteria workers, and school bus drivers, and also includes contractor employees that have exposure to students.

Mr. Aldridge also mentioned that the Federal Aviation Administration Air Transportation Modernization and Safety Improvements Act, S 223, which was discussed in previous updates, has not had any recent movement. The bill would provide access to criminal history records, driver records, vehicle records, and other law enforcement records and this access would be similar to law enforcement access.

Another bill before Congress is the Passport Identity Verification Act, reintroduced as S 744 (formerly S 3666 in the 111<sup>th</sup> Congress). The bill provides that data sharing activities, engaged by the DOS personnel, relating to granting, refusal, revocation, or adjunction of a passport, would be considered law enforcement activities that involve the administration of criminal justice under 28, CFR, § 20.3. This would allow DOS personnel access to information in relevant databases maintained by any federal, state, tribal, territory, local government department or agency, or private organization which contains criminal history information, motor vehicle information, naturalization or immigration information, et cetera.

Lastly, Mr. Aldridge discussed the Second Chance for Ex-Offenders Act of 2011, HR 2065. He explained that this bill would provide an individual who has been convicted of a nonviolent offense, and fulfills certain requirements, to file a petition to expunge the record or conviction. He advised that this proposed bill was very specific in that it authorizes the Department of Justice to maintain a nonpublic manual or computerized index of expunged records containing only the name and alphanumeric identifiers of the petitioner and agency maintaining the expunged offense. The expunged records would still be made available to the prosecutor, law enforcement agencies, or courts who are criminally investigating, prosecuting, or adjudicating the individual; state or local agencies that issue a license to possess a gun; or prospective employers or agencies involved in investigating applicants for the position of police or peace officer, or prosecuting individuals under criminal or civil statutes.

**Compact Council Action: CJIS Compact Team staff to email the GAO Report on the TSA background check process to the Compact states.**

**Topic #22    The Planning and Outreach Committee Report on the Compact Council’s Strategic Plan Update**

Ms. Anissa C. Drabish, FBI CJIS staff, discussed the Planning and Outreach Committee's recommended changes to the Council's Strategic Plan. She explained that the Planning and Outreach Committee reviewed and discussed the status of goal number four’s objectives and strategies. The Planning and Outreach Committee also reviewed all of the open action items associated with the fourth goal. As a result, it was determined that several of the objectives and strategies are still relevant and should remain unchanged. However, there were substantial changes to the strategies associated with objectives 4.1, 4.2, and 4.4. The Planning and Outreach Committee also recommended removing strategy 4.3.3 and rewording strategy 4.3.4. Additionally, Ms. Dawn A. Peck, Planning and Outreach Committee Chairman, announced that at the Spring 2012 Planning and Outreach Committee meeting, the members will work to make the Strategic Plan more streamlined and high-level.

**(Attachment 20 and 21)**

**Compact Council Action: Ms. Dawn A. Peck moved that the Council accept the proposed changes to the Strategic Plan as noted in Topic #22, Handout #1, with the knowledge that a more streamlined Plan will be presented at the Spring 2012 Council meeting. Seconded by Ms. Terry Gibbons. Motion carried.**

- Topic #23    Updates to the CJIS Security Policy**
- A: Visitor Logs of Physically Secure Location**
  - B: State of Residency Fingerprint Based Background Checks**
  - C: Policy Language Change For The Security Addendum Electronic Certification**
  - D: New VoIP Verbiage Within The CJIS Security Policy**

Mr. George A. White, FBI CJIS Information Security Office (ISO), provided an update on the discussions held at the recent APB Working Group meetings regarding the revised *CJIS Security Policy*. The update included such topics as the signatures for visitors to physically secure locations, the purpose and meaning of “state of residency check,” electronic certification of the CJIS Security Addendum, multiple criminal justice agencies with the state that contract with the same vendor, and noncriminal justice agreements.

Mr. White explained that the APB approved a motion to delete the policy language requiring signatures of visitors to physically secure locations and clarifying that the change does not require a signature, but simply means that as a policy measure it is not required. Next, he reported that the APB endorsed a motion to clarify the purpose and

meaning of “state of residency check” required by section 5.12.1.1 of the *CJIS Security Policy*. Additionally, Mr. White discussed the approved policy language changes for accepting electronic certification of the CJIS Security Addendum.

Lastly, he reported that a few ad hoc issues were discussed rather than the VoIP topic. He noted that the new VoIP verbiage within the *CJIS Security Policy* was previously approved. The first ad hoc issue addressed multiple criminal justice agencies within a state that contract with the same vendor. He explained that the APB Security and Access (SA) Subcommittee requested the ISO staff develop additional language that describes the CSO latitude for accepting background checks previously conducted by other agencies within the CSO’s jurisdiction. The second ad hoc issue pertained to noncriminal justice agreements. The SA Subcommittee motioned that the CJIS ISO staff develop additional language describing what agreements are required for noncriminal justice agencies outsourcing noncriminal justice functions and present the results at the next SA Subcommittee meeting.

**(Attachment 22)**

**Compact Council Action: In coordination with the APB’s Security and Access Subcommittee action, the Standards and Policy Committee should evaluate which written agreements are required when implementing outsourcing of noncriminal justice administrative functions and develop a matrix of those agreements that would assist states.**

**Topic #24 Public Release of Originating Agency Identifier Numbers**

Mr. George A. White, FBI CJIS Information Security Officer, discussed the public release of originating agency identifier numbers. He explained that after a lengthy discussion of this topic at the APB Working Group meetings, it was decided that the topic should be tabled and CJIS staff will present the topic with additional information during the Spring 2012 APB Working Group meetings. In addition, he reported that once the topic paper is presented at the Working Group meetings, it will be presented to the Standards and Policy Committee for discussion.

**(Attachment 23)**

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

**Topic #25 The Standards and Policy Committee Report on the National Fingerprint File (NFF) Quarterly Statistical Report**

Handouts provided for information only, not presented.

**Topic #26 IAFIS Status Report**

Staff paper provided for information only, not presented.