

National Crime Prevention and Privacy Compact Compact Council Meeting Atlanta, Georgia November 14-15, 2012

FINAL MINUTES

Ms. Liane M. Moriyama, Chairman, National Crime Prevention and Privacy Compact Council (Council), called the Council meeting to order at 9:00 a.m. on November 14, 2012, in Atlanta, Georgia.

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

State Compact Officers:

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

State/Local Noncriminal Justice Agency Representative:

Vacant

State/Local Criminal Justice Agency Representative:

- Captain Thomas W. Turner, Virginia State Police

Federal Noncriminal Justice Agency Representative:

- Mr. Merton W. Miller, 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

Mr. David C. Cuthbertson introduced Atlanta Assistant Special Agent in Charge (ASAC) Angela M. Tobon and the FBI Science and Technology Branch (STB) Executive Assistant Director (EAD) Steven M. Martinez. ASAC Tobon welcomed the Council to Atlanta, Georgia. EAD Martinez extended his appreciation of the work and service the Council provides.

Other meeting attendees introduced themselves and the agencies they represented.

(Attachment 1)

In her opening comments, Chairman Moriyama recognized the recently appointed Council members. With terms expiring on September 30, 2014, the new members include: Ms. Wendy L. Brinkley, North Carolina State Bureau of Investigation; Ms. Julie A. LeTourneau Lackner, Minnesota Department of Public Safety; Ms. Liane M. Moriyama, Hawaii Criminal Justice Data Center; and Ms. Debbie McKinney, Oklahoma State Bureau of Identification. In addition, she announced that Mr. Merton W. Miller, United States (U.S.) Office of Personnel Management (OPM), is the new Federal Noncriminal Justice Agency representative, completing the term vacated by Ms. Kathy Dillaman's retirement.

Chairman Moriyama expressed her gratitude for the participation of the guest speakers. She recognized Ms. Catherine Plummer as the guest speaker for the International Justice and Public Safety Network (Nlets) Update; Mr. Ronald W. Hawley as the presenter for The National Consortium for Justice Information and Statistics (SEARCH) Update; and, Mr. Martin Kennedy and Mr. Mark Gritz as the speakers for the update on the implementation of the Centers for Medicare and Medicaid Services (CMS) National Background Check Program.

Topics provided as information only were included in the meeting registration packets; however, they were not presented at the meeting, included the Criminal History Record Information Sharing (CHRIS) Project Update, the National Fingerprint File (NFF) Quarterly Statistics, the Addition of a Caveat to the Integrated Automated Fingerprint Identification System (IAFIS) Certified Products List on www.fbibiospecs.org, and the IAFIS Status report. Chairman Moriyama advised that questions relating to those topics should be addressed to the author of the staff paper.

Mr. Gary S. Barron, FBI Compact Officer, reported that the deadline for topic paper requests for the spring Committee meetings is December 4, 2012. In addition, he noted that the Standards and Policy (S&P) Committee and the Planning and Outreach (P&O) Committee meetings are tentatively scheduled for March 19-21, 2013. The Council meeting is tentatively scheduled for May 15-16, 2013. The meeting locations have yet to be determined.

The Council then finalized the draft minutes from the May 2012 meeting, approving them with no changes to the draft minutes.

<u>Compact Council Action:</u> Mr. Steven Cooper moved to approve the May 2012 minutes. Seconded by Captain Thomas Turner. Motion carried.

Agenda topics were then discussed.

Topic #1 Council Chairman's Report

Chairman Moriyama provided an update on the current Council initiatives. She expressed her appreciation to EAD Martinez for attending the Council meeting. She discussed the crosswalk that exists between the criminal justice side and the noncriminal justice side and the importance of both to the public safety of the states and the nation.

During her report, Chairman Moriyama acknowledged the FBI and their efforts in getting the states involved and encouraging states to provide input into the development and implementation of the federal Rap Back program. In addition, she recognized the efforts of the Rap Back Focus Group under the leadership of Mr. Jeffrey Kellett and the S&P Committee for laying the groundwork for topic #6, Rap Back Focus Group Implementation Recommendations. She noted that during the September 2012 Committee meetings, the S&P Committee had healthy discussions focusing on Article IV of the Compact and Departmental Order (DO) 556-73. In addition, the P&O Committee discussed changes to the Strategic Plan in an effort to streamline and refine it.

Chairman Moriyama reported that West Virginia became the 16th NFF state on September 16, 2012. She announced that Iowa is anticipating NFF participation in February 2013, followed by Missouri and Ohio in early 2013. It is projected that by the end of 2013, 19 states will be participating in the NFF program. In addition, two other states have expressed interest in the program.

Next, Chairman Moriyama provided an update on the state (or local) noncriminal justice agency representative vacancy. She announced that she submitted the nomination to the U.S. Attorney General (AG) for consideration. She also acknowledged the eastern seaboard states that were devastated and still recovering from Hurricane Sandy. She reminded those states to reach out to the State Compact Officers and Council if needed.

In closing, Chairman Moriyama acknowledged the power of partnership. She explained that partnership is essential in reaching consensus on tough and challenging issues that agencies continue to face in the burgeoning applicant processing arena. She addressed the various partners in attendance, whether criminal justice or noncriminal justice; government, federal, state, or local, or private vendors; she noted that we are all

in this effort together and expressed her appreciation for their willingness to participate and partner with the Council. She concluded the Council Chairman's Report by thanking everyone for their efforts and commitment to the Council and the Compact process.

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

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

Mr. David C. Cuthbertson, FBI CJIS Assistant Director, provided an update on the state of the CJIS Division. The presentation included updates on the CJIS services and initiatives. More specifically, Mr. Cuthbertson provided information on the National Criminal Information Center (NCIC), the National Instant Criminal Background Check System (NICS), the Law Enforcement National Data Exchange program, the Law Enforcement Online (LEO), and the Uniform Crime Reporting (UCR).

Mr. Cuthbertson also discussed the addition of the NCIC Violent Person File (VPF) which became operational in August 2012, the NICS system rebuild that will allow for 24-hour processing and expanded use, the Next Generation Identification (NGI) and its future capabilities to enhance identification services, the availability of the LEO Enterprise Portal, the Biometric Center of Excellence and its continuing efforts in the research of various biometric avenues to assist law enforcement officers on the street, the opening of the FBI Public Access Line as the central intake point through which the public may provide tip information about potential or ongoing crimes, and the construction status of the Biometric Technology Center.

(Attachment 2)

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

Topic #3 Advisory Policy Board (APB) Update

Captain Thomas W. Turner presented the APB update and gave an overview of items supported by the APB at its June 2012 meeting, as they relate to the Council. He briefly discussed the creation of the VPF in the NCIC. In addition, he noted that the APB moved to support the concept to allow a single Originating Agency Identifier (ORI) the capability to enter multiple warrants for the same project.

Next, Captain Turner discussed the APB's recommendation to permit downsampling of images captured at 1000 ppi to 500 ppi. Regarding the United Kingdom (UK) Visa program, he noted that the APB approved the extension of the project to include individuals fingerprinted in Jamaica and the APB moved to request the Department of Homeland Security (DHS) to formalize a presentation that will be provided to the APB Working Groups and the Council explaining the path forward

beyond the UK VISA project. Captain Turner also explained the recommendation relating to the electronic submission of the UCR data.

In closing, Captain Turner provided a list of upcoming topics that will be presented during the December meeting. Topics include the visitor log requirements for Physically Secure Locations; the definition of "Criminal Justice Information;" the issuance of criminal justice ORIs to entities whose sole function is providing data processing, information transmission, software developments and similar support services related to criminal history information; a presentation by the Bureau of Justice Statistics (BJS) on the National Crime Statistics Exchange Project; and the seating of new members and the election of officers. Captain Turner also announced that the fall APB meeting will be held from December 5-6, 2012, in Jacksonville, Florida, the spring 2013 Working Group meetings are tentatively scheduled for March 5-7 with the location to be determined, the Subcommittees will tentatively meet on April 23-25, 2013, in Clarksburg, West Virginia, and the spring APB meeting is tentatively scheduled for June 4-6, 2013.

(Attachment 3)

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

Topic #4 Compact Council Strategic Plan Update

As a result of the recommendations from the March 2012, P&O Committee meeting, the FBI CJIS Division staff, in consultation with several P&O Committee members, developed a draft Strategic Plan based on a review of the 2007-2012 goals and objectives. The draft Strategic Plan was presented at the September 2012 Committee meeting. During the meeting, the P&O Committee members discussed various changes to the goals and objectives.

Ms. Anissa C. Drabish, FBI CJIS staff, presented to the Council the proposed goals and objectives for the 2013-2018 Strategic Plan. In addition, she provided a high-level overview of the scorecard approach for tracking actions related to the goals and objectives and a brief synopsis of the Strategic Plan Status Report which is intended to provide a comprehensive status of each goal, objective, and strategic action.

The Council reviewed the draft and made a motion to accept the goals and objectives as presented with the understanding that the Strategic Plan is a living document and may change based on the direction and needs of the Council. In addition, the Council moved to endorse the direction of the Strategic Plan which included the P&O Committee's review and assessment of the strategic actions prior to the March 2013 Committee meeting and the Scorecard and Status Report approach for reviewing and tracking the Council's progress.

(Attachment 4 and 5)

<u>Compact Council Action:</u> Ms. Dawn A. Peck moved to endorse the Planning and Outreach (P&O) Committee's motion which is to accept the goals and objectives as presented with the understanding that the Strategic Plan is a living document and may change based on the direction and needs of the Council. Additionally, to endorse the direction of the Strategic Plan which includes the P&O Committee's review and assessment of the strategic actions prior to the March 2013 Committee meeting and the Scorecard and Status Report approach for reviewing and tracking the Council's progress. Seconded by Ms. Donna Uzzell. Motion carried.

Topic #5 NGI Program Status Update

Mr. Brian Edgell, FBI CJIS staff, provided an overview of the NGI Program and status updates on the incremental deployments, disposition improvements, and Rap Back implementation. He presented a high-level depiction of the specific milestones within the NGI Program. Mr. Edgell reported that the program is about midway through development. Increments 0 through 2 have been completed. Increment 3 is slated for deployment in early April 2013. This Increment will include the national palm print system implementation, latent enhancements, and rapid response. Increments 4 and 5 are in progress. Mr. Edgell explained that Increment 4 will contain Rap Back, facial recognition, and text based scars, marks, and tattoo searches.

Next, Mr. Edgell briefly discussed the NGI requirement for disposition improvements. He mentioned that there are currently several options for states to report dispositions which include the implementation of the Interstate Identification Index (III) message key and MRD conversion to CD format.

Mr. Edgell provided an update on Rap Back implementation, reporting that the Focus Group and the S&P Committee made significant progress with merging the Concept of Operations document and the privacy mitigation strategies into a Rap Back Implementation Guide. He noted that the Rap Back Pilot is ready for interested federal partners to begin participating in the pilot program. Lastly, he mentioned that the NGI Program Office (PO) continues to make progress with the NGI Interstate Photo System Facial Recognition Pilot project. The CJIS Division has executed a Memorandum of Understanding (MOU) with five states. Regarding the Iris Recognition Pilot, the NGI PO is developing a Concept of Operations and working with potential pilot participants.

(Attachment 6)

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

Topic #6 Rap Back Focus Group Implementation Recommendations

Mr. Jeffrey Kellett, the Rap Back Focus Group (Focus Group) Chair, laid the foundation for the rap back discussion by explaining the progress that has been made to date. As background, he noted that the Focus Group met in August 2012 to discuss the implementation recommendations and had numerous teleconferences with respect to the issues. In September 2012, the implementation recommendations were presented at the S&P Committee for discussion. He expressed his appreciation to the Focus Group members, the S&P Committee, the FBI, and the NGI Program Office staff for their continued contributions to the rap back discussions.

Next, Mr. David Gavin provided an update of the Focus Group's recent activities. More specifically, Mr. Gavin presented the thirteen motions that were recommended to the Council by the S&P Committee relating to the Rap Back implementation. The Council discussed each recommendation in detail and endorsed the motions as presented.

<u>Compact Council Action:</u> Ms. Donna Uzzell moved to endorse the S&P Committee's motion in relation to the <u>Rap Back Category Field</u> as presented below:

A valid entry in the *Category* field should be required to establish an NGI Rap Back Subscription with both the tenprint *Search and Subscribe* transaction and the *Subsequent Subscription* transaction.

Seconded by Ms. Wendy Brinkley. Motion carried.

<u>Compact Council Action:</u> Ms. Dawn A. Peck moved to endorse the S&P Committee's motion in relation to the <u>Rap Back Category Field</u> as presented below:

NGI should investigate the feasibility of creating a configurable sub Category field to allow the Compact Council and the APB to decide later:

- 1. Whether to use the field at all
- 2. The appropriate sub Categories if it is used
- 3. Whether sub Categories would be mandatory if it is used

Seconded by Ms. Terry Gibbons. Motion carried.

<u>Compact Council Action:</u> Ms. Donna Uzzell moved to endorse the S&P Committee's motion in relation to the <u>Subscription Management</u>

<u>Approaches and Use of Designated Recipients Fields</u> as presented below:

The Event-Based and Category-Based Subscription Management Approaches are both acceptable approaches for Submitters to use in implementing NGI Rap Back Services. Submitters choosing the Category-Based approach must agree to follow all NGI requirements in their in-state handling of NGI related information and transactions.

When creating *Rap Back Activity Notifications* or other transactions for subscriptions containing Designated Recipients, NGI should place the Designated Recipients in the *Send Copy To* (SCO) field of the transactions. NGI should send just one copy of the transaction to the Submitter, who will generate separate transactions to each Designated Recipient in the *SCO* field, as appropriate.

Seconded by Ms. Wendy Brinkley. Motion carried.

<u>Compact Council Action:</u> Ms. Donna Uzzell moved to endorse the S&P Committee's motion in relation to the question <u>Can Mandatory</u>

<u>Expiration Date Fulfill Validation for Rap Back?</u> as presented below:

The Validation function for NGI Rap Back should be accomplished through use of mandatory expiration dates.

For non-criminal justice Rap Back Subscription request transactions:

- 1. The expiration date field should be mandatory, and should not default to a predetermined period.
- 2. The subscription request transaction should be rejected if the expiration date is not present.
- 3. The maximum allowable term of the subscription should be five years.

Seconded by Captain Thomas Turner. Motion carried.

<u>Compact Council Action:</u> Ms. Donna Uzzell moved to endorse the S&P Committee's motion in relation to <u>Processing Expiration Notifications</u> and <u>Renewals</u> as presented below:

NGI should implement a monthly cycle for processing expiration/renewal transactions that includes the following elements:

- In the middle of each month, NGI will send each Submitter a list of all their Subscribers' subscriptions that will expire during the month occurring 45 days in the future (in June process the records expiring in August; in July process the records expiring in September, etc.).
- The Submitters then distribute those lists to their Subscribers, as appropriate.
- The Subscribers review their lists and send the Submitters notice to extend the expiration date of all those that should be renewed. Those notices are in the format and communications methodology established by the Submitters. The subscriptions that they want to expire they delete or just leave alone.
- Ten days prior to the expiration of each subscription that was not renewed, NGI sends an EBTS transaction reminding the Submitter. For example, on August 21 an EBTS transaction goes to the Submitter for the subscriptions expiring on August 31. The Submitter forwards those notices to the Subscribers, as agreed upon between them.
- After the end of the expiration month, NGI sends the Submitter a list of all the subscriptions that were deleted for the month's expiration processing.

Seconded by Ms. Wendy Brinkley. Motion carried.

<u>Compact Council Action:</u> Ms. Donna Uzzell moved to endorse the S&P Committee's motion in relation to <u>Processing Expiration Notifications</u> and Renewals as presented below:

On a related issue, NGI should include the ability to re-establish an erroneously deleted subscription, whether that is from a missed renewal notice that caused a subscription to expire or from an administrative or technical error that caused a subscription to be erroneously deleted. The Subscriber should be able to re-establish a canceled or expired subscription for up

to 60 days following the subscription removal. A subscription that is re-established during this timeframe will result in the Submitter automatically receiving a new Identity History Summary so that the Subscriber can ensure that no new events have been added to the Identity during the expired period.

Seconded by Captain Thomas Turner. Motion carried.

<u>Compact Council Action:</u> Mr. Michael Lesko moved to endorse the S&P Committee's motion in relation to <u>Processing Expiration</u>

<u>Notifications and Renewals</u> as presented below:

The states should have an opt-out provision for expiration notifications and renewals as discussed in the previous motion [noted below].

On a related issue, NGI should include the ability to re-establish an erroneously deleted subscription, whether that is from a missed renewal notice that caused a subscription to expire or from an administrative or technical error that caused a subscription to be erroneously deleted. The Subscriber should be able to re-establish a canceled or expired subscription for up to 60 days following the subscription removal. A subscription that is re-established during this timeframe will result in the Submitter automatically receiving a new Identity History Summary so that the Subscriber can ensure that no new events have been added to the Identity during the expired period.

Seconded by Ms. Wendy Brinkley. Motion carried.

<u>Compact Council Action:</u> Ms. Donna Uzzell moved to endorse the S&P Committee's motion in relation to <u>Subscription Ownership and the Need</u> for Fingerprint Submission as presented below:

NGI's Rap Back service should require fingerprints with all Rap Back Subscription request transactions. The only exception should be when a Subsequent Subscription transaction is being used for a civil event that was previously submitted with a *Search and Retain* tenprint transaction (NFUF, MAP, FAUF, etc.). The Civil Event Identifier for that event must be included

with the Subsequent Subscription transaction along with the UCN, but no fingerprints are required in that instance.

Subsequent Subscription transactions will not incur a fingerprint search fee.

Seconded by Ms. Wendy Brinkley. Motion carried.

<u>Compact Council Action:</u> Ms. Donna Uzzell moved to endorse the S&P Committee's motion in relation to the <u>Bulk Submission Summary Report</u> as presented below:

The Summary Reports provided in response to NGI Rap Back bulk and individual transaction submissions should include listings in the following categories. Each response should be identified by at least the FNU/UCN and other identifying fields determined by CJIS:

- The transactions that completed successfully
- The transactions that failed
- The transactions that completed, but had some portion fail (such as one out of three triggers not being accepted), including an indication of the failed portion

Additionally, NGI should investigate the possibility of providing the response files in XML format.

Seconded by Ms. Terry Gibbons. Motion carried.

<u>Compact Council Action:</u> Ms. Donna Uzzell moved to endorse the S&P Committee's motion in relation to the <u>Subscription List Request Filters</u> as presented below:

NGI's Rap Back should provide the following filters for Subscribers and Submitters to use in requesting Subscription List reports:

- Subscription ID
- Subscription Owner
- Rap Back Recipients
- Expiration Date Range

Additionally, NGI should investigate the possibility of providing the response files in XML format.

Seconded by Ms. Wendy Brinkley. Motion carried.

<u>Compact Council Action:</u> Ms. Wendy Brinkley moved to endorse the S&P Committee's motion in relation to the <u>Use of TCN, OCA, and SID</u> <u>in Subscriptions</u> as presented below:

The State Defined fields each be 100 characters in length.

Seconded by Captain Thomas Turner. Motion carried.

<u>Compact Council Action:</u> Ms. Donna Uzzell moved to endorse the S&P Committee's motion in relation to the <u>Identity History Summary Requests</u> as presented below:

There is no time limit for Subscribing Entities to generate *Identity History Summary Requests* following receipt of *Rap Back Activity Notifications*, and there is no limit on the number of times the Identity History Summary may be requested.

Seconded by Captain Thomas Turner. Motion carried.

<u>Compact Council Action:</u> Captain Thomas Turner moved to endorse the S&P Committee's motion in relation to the <u>Rap Back Notification</u> <u>Format to be set at Subscription Level</u> as presented below:

The Rap Back Activity Notification Format field be mandatory and that subscription request transaction be rejected if it is not included.

Seconded by Ms. Donna Uzzell. Motion carried.

<u>Compact Council Action:</u> Ms. Donna Uzzell moved to endorse the S&P Committee's motion in relation to the <u>NGI will allow for more detail in</u> the Sex Offender Registry Maintenance Trigger as presented below:

The Trigger Event selection for Wanted Persons include the ability to select one or more of the following actions against the NCIC Wanted Persons file:

• Adds

- Deletes
- Modifies

Seconded by Ms. Wendy Brinkley. Motion carried.

<u>Compact Council Action:</u> Ms. Donna Uzzell moved to endorse the S&P Committee's motion in relation to the <u>Follow Up on Rap Back Pre-Notifications</u> as presented below:

NGI create audit reports of how often individual Subscribers do not take action after pre-notification *Rap Back Activity*Notifications and make those available to the CJIS Audit staff and Submitters for use as appropriate.

Seconded by Ms. Dawn A. Peck. Motion carried.

In closing, Chairman Moriyama reiterated Mr. Kellett's prior statements relating to the time invested by the Focus Group and the S&P Committee and their efforts in working through the implementation recommendations.

(Attachment 7)

Topic #7 The Planning and Outreach Committee Report on the Best Practices Guide: The Outsourcing of Noncriminal Justice Administrative Functions

Ms. Anissa C. Drabish, FBI CJIS staff, presented the P&O Committee Report on the Best Practices Guide: The Outsourcing of Noncriminal Justice Administrative Functions (Guide). She explained that the Guide, as presented, focused on state agencies that may engage in or approve an outsourcing request; however, a guide for federal agencies or regulatory authorities that would request approval from the FBI Compact Officer to outsource noncriminal justice administrative functions is in development. She further explained that the Guide was designed to provide resources and best practices to states. The states were encouraged to use the information to enhance their noncriminal justice programs.

Next, Ms. Drabish described the contents of the Guide. Information ranged from sample letters to audit checklists. In addition, she noted that as the Security and Management Control Outsourcing Standards (Outsourcing Standards) and the *CJIS Security Policy* are revised, the Guide will be amended to reflect the changes, as applicable.

After much discussion regarding the contents of the Guide, the Outsourcing Standards, and the *CJIS Security Policy*, the Council requested that the S&P Committee review the Outsourcing Standards at a future Committee meeting along with Appendix J of the *CJIS Security Policy*. In addition, the Council recommended that the term "Best Practices" be removed from the Guide, as the document serves as a resource to the states when implementing Outsourcing. With that change, the Council moved to adopt the Guide and to place it on the Council's website.

(Attachment 8 and 9)

<u>Compact Council Action:</u> Ms. Dawn A. Peck moved to adopt The Best Practices Guide for the Outsourcing of Noncriminal Justice Administrative Functions and to place the Guide on the Council's website. Seconded by Mr. Steven Cooper. After further discussion by the Council, Ms. Peck amended her motion to strike the term "Best Practices" from the document title and to place the Guide on the Council's website. Mr. Cooper agreed with the changes. Motion carried.

Topic #8 The Standards and Policy Committee Report on the Proposed Procedures to Implement Background Checks Authorized by the Violence Against Women Reauthorization Act of 2005

Ms. Melody K. Ferrell, FBI CJIS staff, presented the S&P Committee Report on the Proposed Procedures to Implement Background Checks Authorized by the Violence Against Women Reauthorization Act of 2005 (VAWA). She provided a brief recap of the topic explaining that Section 112(d) of the VAWA authorized state and local Court Appointed Special Advocate (CASA) programs to request fingerprint-based background checks from the FBI for prospective volunteers; however, the statute did not establish procedures for conducting the background checks.

Ms. Ferrell further explained that the topic was presented at the spring 2012 S&P Committee meeting and the May 2012 Council meeting and both groups provided input regarding the proposed recommendations for conducting background checks on the CASA prospective volunteers to the FBI for consideration. Based on the meeting discussions, the FBI considered the recommendations and drafted a plan to implement procedures to conduct background checks of the CASA individuals performed under Section 112 of the VAWA.

During the November 2012 Council meeting, Ms. Ferrell presented the proposed procedures. She noted that both a state and FBI fingerprint-based check will be required and fingerprints will be submitted through the state central repository. In addition, the

FBI criminal history record information (CHRI) may only be disseminated to a governmental entity. Since the law does not specify the criteria for a check, it will be at the governmental entity's discretion to establish the fitness criteria. The Council moved to support the FBI's procedures as described above. The CJIS Division will provide the details of implementing this VAWA provision via a CJIS Systems Officer (CSO)/State Identification Bureau (SIB) letter.

(Attachment 10)

<u>Compact Council Action:</u> Ms. Donna Uzzell moved that the Council support the FBI procedures presented in the staff paper which include the following:

- Both a state and FBI fingerprint-based check will be required.
- FBI CHRI may only be disseminated to a governmental entity.
- The governmental entity receiving the criminal history information will establish the fitness criteria.

Seconded by Ms. Wendy Brinkley. Motion carried.

Topic #9 The Planning and Outreach Committee Report on the Nonparty State Ratification Obstacles

In a continued effort to increase Compact ratification as directed in the Council's Strategic Plan, the FBI CJIS Division's Compact Team gathered information from the nonparty and MOU signatory states to identify obstacles that are faced when trying to attain Compact ratification. Ms. Paula A. Barron, FBI CJIS staff, presented the results of the assessment. She noted that eleven assessments were disseminated to nonparty MOU states and four responses were received. Regarding the nonparty states, fifteen assessments were distributed and seven were received. Ms. Barron provided a high-level analysis of the responses and feedback received from the states.

At the conclusion of Ms. Barron's presentation, Chairman Moriyama asked the Council to discuss next steps. The members discussed several options including inviting nonparty states to attend meetings; taking copies of the MOU, which is viewed as a precursor to Compact ratification, to the SEARCH meetings; following up with states that expressed interest in having an in-state presentation provided by the Compact Team; and, having members of the Council and additional State Compact Officers reach out to states and provide information. Based on the discussion, the Council requested that the P&O Committee develop a strategy or approach to encourage the nonparty and MOU signatory states to ratify the Compact.

(Attachment 11)

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

Topic #10 Sharing Information on Lessons Learned during National Fingerprint File (NFF) Implementation

On October 9, 2011, Minnesota (MN) became the fifteenth state to participate in the NFF program. Ms. Julie LeTourneau Lackner, MN Bureau of Criminal Apprehension (BCA) and the State Compact Officer, shared with the Council lessons learned during the NFF implementation. She opened the presentation with general information relating to MN's Compact ratification, the state's on-site review, the Automated Fingerprint Identification System upgrade, and the development of a workflow manager software. In addition, she noted that the state requested and received a grant from the National Criminal History Improvement Program (NCHIP) in 2010 to assist with funding. Allowable costs under the NCHIP included paying for reasonable costs associated with the development and implementation of procedures (including purchase of equipment and development of software) necessary to facilitate operations pursuant to Compact protocols including those relating to participation in the NFF.

Ms. LeTourneau Lackner discussed some of the obstacles that the MN BCA overcame during the process including the unexpected departure of critical personnel, a state government furlough, and limited resources. She further explained that with the challenges MN experienced during the process, the state took advantage of the phased-in approach to NFF participation. As background, in November 2010, the Council approved a motion to support the phased-in approach for NFF program participation. This approach allowed the MN BCA to first focus on the implementation of processing criminal submissions via NFF.

In addition, Ms. LeTourneau Lackner elaborated on lessons learned during the implementation. She emphasized the importance of communication, both internally and externally, and recommended that states completely document current processes to ensure that all of the requirements are captured in the new processes. Lastly, Chairman Moriyama mentioned that based on feedback received during the presentation at the fall 2012 Committee meetings, the P&O Committee is evaluating options for delivering a Lessons Learned presentation or a panel discussion to non-NFF states.

(Attachment 12)

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

Topic #11 The International Justice and Public Safety Network (Nlets)

Ms. Cathy Plummer, Nlets staff, provided an overview of current initiatives at Nlets and an update on the Criminal History Information Exchange Format (CHIEF)

project. She opened the presentation with a snapshot of the Nlets system and network statistics. In addition, she discussed the role Nlets plays in providing funding assistance to states and federal members. Ms. Plummer discussed the Brodie Assistance Fund and the Nlets grant process. She also explained the various projects that Nlets has been involved with such as the Interstate Image Exchange, the Targeted Interstate Photo Sharing, and the Law Enforcement Sharing Initiative.

Ms. Plummer concluded her presentation with an update on the CHIEF project. As background, she 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 4.1 conformant with the National Information Exchange Model which was published in December 2011. Lastly, she announced that the 2013 State Training and Audit Resources Conference will be held from April 30, 2013 through May 1, 2013, in St. Louis, Missouri. Tentative agenda items include noncriminal justice agency issues and the FBI *CJIS Security Policy*.

(Attachment 13)

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

Topic #12 Departmental Order (DO) Update

As background, the DO was established in 1973 and permits a subject to request a copy of his/her own criminal history from the FBI for review and/or correction. Over the years, the Council has expressed concern relating to the possible misuse of the order, in that the criminal history record may be used for the benefit of potential employers and other noncriminal justice entities. As a result, language was drafted to modify the DO regulation; however, during the review of the draft language, unintended consequences emerged within the process which changed the course of the proposed DO regulation modification.

In a continued effort to address the concern raised by the Council, the CJIS Division conducted an in-depth analysis of the processes, procedures, and framework for supporting the processing of DO requests over the past year. Ms. Paula J. Zirkle, FBI CJIS staff, presented the results of the analysis and provided an update on the ongoing efforts to modify the DO fingerprint processing procedures. She explained that multiple internal FBI procedures were modified to assist in addressing the issue. In addition, she noted that the analysis revealed other areas of concern; as such, the regulation will require some modification to the language.

The Council had a lengthy discussion regarding the current status of the proposed amended DO regulation, the progress to date, and potential solutions for addressing the third-party dissemination concern. As a result of the discussion, the Council requested that the FBI continue to provide status updates at future Council meetings. In addition, it was recommended that an informal work group be established to thoroughly discuss the concerns and attempt to identify potential solutions which may be presented at the spring 2013 S&P Committee meeting.

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

Topic #13 Update on US-VISIT Transition

Mr. Steven W. Cooper, DHS staff, provided an update on the United States Visitor and Immigrant Status Indicator Technology (US-VISIT) program transition. He explained that the President's fiscal year 2013 budget proposed the transfer of US-VISIT from the National Protection & Programs Directorate to the U.S. Customs and Border Protection (CBP) and the U.S. Immigration and Customs Enforcement (ICE). Mr. Cooper further explained that the ICE, CBP, and US-VISIT support the transition and believe that it will be beneficial to all stakeholders as the arrangement aligns common functionality, consolidates resources, and leverages subject matter expertise.

Next, Mr. Cooper discussed the transition status including activities completed to date and the path forward. He provided a high-level notional breakdown of the US-VISIT staff placement within the CBP and ICE. In addition, Mr. Cooper stressed the importance, as it related to the transition, that the CBP and ICE, in concert with the US-VISIT is very focused on their responsibilities of making this as smooth of a transition as possible, while still maintaining the level of service that the US-VISIT has historically provided as well as advancing future capabilities, not only with their internal partners, but also their external partners.

In closing, Mr. Cooper reiterated that in support of the President's proposal, the objectives are to enhance biographic and biometric identity management for the DHS, advance their capabilities, streamline operations, and build in better efficiencies for how the DHS manages those activities.

(Attachment 14)

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

Topic #14 Biometric Interoperability Update

Ms. Charity A. Harris, FBI CJIS staff, presented the biometric interoperability update which provides the IAFIS users with information regarding the implementation of biometric-based interoperability between the FBI CJIS Division and other federal

agencies. She specifically spoke about the interoperability initiatives between the IAFIS and the DHS/US-VISIT Program's Automated Biometric Identification System (IDENT). She announced that the DHS' IDENT system was deployed to state and local law enforcement within the 50 states, the District of Columbia, and four U.S. territories. The IDENT response received through interoperability provides these agencies the ability to develop comprehensive histories for investigations.

Ms. Harris informed the Council that the DHS US-VISIT approved the CJIS Division's request to allow federal law enforcement agency Criminal Answer Required transactions to process through IDENT/IAFIS Interoperability. The capability was deployed in September 2012.

Next, Ms. Harris provided an update on new participation in IDENT/IAFIS Interoperability. She noted that the CJIS Division and the DHS are working with the Florida Department of Law Enforcement to deploy a pilot program for the Region IV Domestic Security Task Force. Pending final approval, it is anticipated that the pilot will be deployed in January 2013.

Ms. Harris discussed the continued collaboration between the CJIS Division, DHS US-VISIT, and the Texas Department of Public Safety (TX-DPS) on developing a pilot program for latent print interoperability. In addition, she announced that the FBI CJIS Division, the Department of Defense (DoD), and the TX-DPS started the Latent Interoperability Pilot which provides the option of searching the DoD's Automated Biometric Identification System.

In regards to NGI functionality, Ms. Harris explained that enhancements are being developed and delivered incrementally and the CJIS Division is working to address any impacts to biometric interoperability participants as the transition to NGI occurs.

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

Topic #15 Legislative Update

Mr. Thomas G. Aldridge, FBI Office of the General Counsel (OGC) Access Integrity Unity (AIU), provided an overview of legislation introduced in the 112th Congress that may significantly affect the noncriminal justice use of the III and the noncriminal justice user community. He opened his presentation by highlighting the enactment of the Federal Aviation Administration (FAA) Modernization and Reform Act of 2012. He noted that the law authorizes the FAA to establish a process to conduct state and FBI fingerprint-based criminal history background checks of airmen in compliance with the National Crime Prevention and Privacy Compact Act of 1998.

Next, he discussed Public Law (Pub. L.) 112-106, the Jumpstart our Business Startups Act. Formerly House Resolution (H.R.) 3606, section 302 of this bill is entitled the "Capital Raising Online While Deterring Fraud and Unethical Nondisclosure Act of 2012" or the "CROWFUND Act." This section requires the Securities and Exchange Commission to take measures to reduce the risk of fraud by requiring the Commission to promulgate a rule that includes obtaining a background and securities enforcement regulatory history check on each officer, director, and person holding more than 20 percent equity of each issuer whose securities are offered by such person. He noted, this bill does not specifically indicate if this will include an FBI fingerprint check.

Mr. Aldridge also discussed Senate (S.) Bill 645, the Child Protection Improvements Act of 2011. He specifically spoke to Section 3 of the bill as it requires the AG to establish a criminal history review program to conduct national criminal history background checks for child-serving organizations; however, as amended, it omits provisions for a state check. The bill also requires the FBI to destroy any fingerprints or the CHRI obtained under the Act unless the individual signs a release permitting the retention for specific purposes. Mr. Aldridge further explained that the bill requires the AG or criminal history review designee to make determinations whether the CHRI bears upon the individual's suitability to provide care to children. Next, he discussed Section 4 of the bill. He noted that among other requirements, this section requires the AG to establish a method to permit employers in the electronic life safety and security systems installation and monitoring industry to request a fitness determination by a governmental entity based on a state and federal fingerprint-based check.

Next, Mr. Aldridge briefed the Council on H.R. 5948, the Veterans Fiduciary Reform Act of 2012, which requires the Secretary of Veterans Affairs to conduct a background check of a proposed fiduciary to determine whether the individual has been convicted of a crime. Lastly, he mentioned the Guardian Accountability and Senior Protection Act, S. 1744. This bill requires the AG to establish a pilot program to conduct state and national background checks on prospective guardians and conservators.

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

Topic #16 A. SEARCH Update

B. SEARCH Resolution Regarding the Amendment of Public Law 92-544

Mr. Ronald P. Hawley updated the Council on the recent SEARCH initiatives and introduced the SEARCH resolution regarding the amendment of Pub. L. 92-544. He opened his presentation talking about "change." He described the evolution of SEARCH over the last ten years and the impact that it has made to the Council, the CJIS Division, and in the information sharing arena.

Next, Mr. Hawley discussed SEARCH's involvement in the advocacy and legislation arenas. He briefly mentioned current legislation that may be of interest to the Council. In addition, he highlighted a proposed resolution that was recently discussed by the SEARCH membership to amend Pub. L. 92-544. He noted that the SEARCH membership supported the ability for states to make their own policy decisions regarding record checks without further approval being required, the CHRI would be returned to the requestor, and the procedures and safeguards for providing the CHRI would be established by the Council.

During the discussion, Mr. Thomas A. Aldridge, FBI OGC AIU, expressed appreciation to SEARCH for its contribution to the background check arena and requested that as the discussions with the SEARCH membership mature that they consider the impact of removing the AG's review of the Pub. L. 92-544 statutes. As delegated by the AG, the FBI, more specifically the OGC AIU, reviews Pub. L. 92-544 statutes to ensure that they meet specific criteria. In addition, he asked that the SEARCH members consider the impact of disseminating CHRI to nongovernmental entities to use in employment fitness determinations. Mr. Eric Gormsen, DOJ, OLP, echoed AIU's comments regarding the proposed amendments and the benefit of the AG's review. In conclusion, Mr. Hawley reiterated that SEARCH welcomes the input from the Council and the FBI.

In recognition of his final Council meeting as a representative of SEARCH, Chairman Moriyama presented Mr. Hawley with a certificate of appreciation for his contributions to the Compact Council. On behalf of the Council, she wished him success in his new endeavors.

(Attachment 15)

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

Topic #17 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 November 13, 2012, and reviewed responses to the Sanctions' letters that were disseminated based on the review of audit findings during the spring 2012 meeting. The Sanctions Committee reviewed the responses to the Sanctions letters and determined that two states and an FBI-approved Channeler would be sent letters of closure. One state and a federal agency would receive follow-up letters. In addition, the Sanctions Committee requested that the CAU contact one state to determine the status of a pending issue. If completed, the CAU was directed to send a letter of closure. However, if the issue was not completed, then a follow-up letter would be sent to the state.

The Sanctions Committee reviewed a summary of recently conducted audits from six states for appropriate action. Recommendations were based on the following criteria: violations of articles of the Compact to include the 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 made the following recommendations: five states were recommended to receive letters of recommendation and it was recommended that one state receive a letter of concern and closure.

The Sanctions Committee reviewed audit findings from one MOU state for appropriate actions. The recommendations were based on the following criteria: violations of articles of the Compact to include the III misuse and the Compact rules. Based on these requirements, the Sanctions Committee recommended a letter of concern and closure.

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

The Sanctions Committee reviewed audit findings from one federally regulated agency for appropriate action. The Sanctions Committee also reviewed the corrective action plans implemented by this agency. The 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 the agency receive a letter of concern and closure.

The Sanctions Committee reviewed audit findings from three FBI-approved channelers for appropriate action. The Sanctions Committee also reviewed the corrective action plans implemented by these agencies. Recommendations were based upon the requirements outlined in the Outsourcing Rule and the Outsourcing Standard. Based on

the criteria, the Sanctions Committee made the following recommendations: it was recommended that three channelers receive a letter of concern and closure.

<u>Compact Council Action:</u> Ms. Julie A. Lackner moved that the Council accept the Sanctions Committee report. Seconded by Ms. Wendy Brinkley. Motion carried.

Topic #18 Update on the Implementation of the Centers for Medicare and Medicaid Services' (CMS) National Background Check Program

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

As background, Mr. Kennedy explained that Section 6201 of the PPACA, Pub. L. 111-148, requires the Secretary of the U.S. Department of Health and Human Services to establish a program for long-term care facilities and providers to conduct nationwide background checks on prospective direct patient access employees. He noted that to become a program participant, states and territories must apply and obtain federal matching grant funding. He announced that grants have been awarded to 16 states and the District of Columbia. Five proposals are under review from responses to the sixth and seventh solicitations. Mr. Kennedy noted that the CMS will publish an eighth solicitation which will be posted on grants.gov. States and territories were encouraged to apply by the early 2013 deadline.

Mr. Kennedy explained that as part of the grant program, the CMS hosts periodic training conferences for grantee states and also invites applicant states and other states that are interested in applying for the grant. Mr. Kennedy informed the Council that CMS will host its fourth National Conference in Baltimore, Maryland, from May 14-16, 2013 (tentative dates).

Mr. Kennedy turned the presentation over to Mr. Gritz who highlighted some experiences and perceptions received from grantee state agencies. He discussed the impact that the NBCP has on the SIB in most states, the role the SIB plays in the program, and the grant resources that are available to the SIBs through the NBCP. He also touched upon the perception that there is a variation in the interpretation of the *CJIS Security Policy* requirements across grantee agencies.

Mr. Gritz took the opportunity to present a few suggestions that were received from grantee state agencies.

(Attachment 16)

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

Topic #19 Criminal Justice Information Services Division's Process for Review and Validation of Transaction Type Selections by Contributing Agencies for Civil Purposes

Ms. Denene L. Satterfield, FBI CJIS staff, presented the CJIS Division's process for review and validation of transaction type selections by contributing agencies for civil purposes. Her presentation included an overview of the process involved in conducting a review of noncriminal justice submissions to ensure local agencies, state repositories, and federal entities are in compliance with applicable laws, policies, and regulations.

Ms. Satterfield advised that the CJIS Division conducts a monthly review of Miscellaneous Applicant Print, Federal Applicant No Charge, and Volunteer submissions to validate support for the type of transaction selected by the agency. She further explained that the goal of the effort was to verify compliance and to proactively work with agencies to resolve noncompliance issues. She described the methods in which contributing agencies may be notified by the FBI of the discrepancies, the review process to confirm the misclassifications, and, if necessary, any billing adjustments.

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

Topic #20 Debt Collection – Improvement Act Briefing

In a continued effort to provide information to the Council on activities within the FBI's Fee Programs Unit (FPU), Ms. Denene L. Satterfield, FBI CJIS staff, provided a briefing on the Debt Collection Improvement Act (DCIA) of 1996 and the relevant provisions within the FBI's Debt Collection Policy. As background, she explained that in 1996, Congress passed the DCIA in response to the non-tax delinquent debt owed to the U.S. She further explained that to ensure compliance with the DCIA and the Federal Claims Collection Standards, the FBI enacted a policy, in April 2012, which includes the referral of delinquent debt over 180 days to the U.S. Treasury for collection.

Ms. Satterfield advised that the FPU is proactive in contacting an affected agency by either emailing or placing a courtesy call to the point of contact when the account is 45 days delinquent.

During the discussion, several Council members reported receiving notices from the FBI Headquarters regarding invoices from previous years. Ms. Satterfield advised that for older debts existing prior to fiscal year 2009, the FBI Finance Division is in the process of reviewing the debts. In addition, she offered to provide points of contact within the Finance Division to those states that expressed interest.

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

Topic #21 New Time Period for User Fee Transaction Data Billing Adjustments

Mr. David M. Sturm, FBI CJIS staff, briefed the Council on a recent change to the time frame for user fee transaction data billing adjustments. He advised on October 1, 2012, the CJIS Division revised the time period in which an agency can submit a user fee billing adjustment request to six months from the transaction completion date. He explained that an in-depth analysis of the historical billing data revealed there were no billing adjustments during the past two years that exceeded the six month time frame.

(Attachment 17)

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

Topic #22 FBI CJIS Division's Operational Status of the Office of Personnel Management's (OPM) Disposition Integration Project

Ms. Paula J. Zirkle, FBI CJIS staff, provided an update on the OPM's disposition project that was approved by the CJIS APB. As background, she explained that the CJIS APB recognized the disposition research effort conducted by the OPM as part of their applicant background check process and asked the FBI CJIS Division to identify a means to potentially leverage their research. Ms. Zirkle advised that the OPM provided the data to the FBI. Currently, the FBI is evaluating the information to determine the most appropriate method to format the data.

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

Topic #23 Update on Advisory Policy Board (APB) Disposition Task Force (DTF)

Ms. Paula J. Zirkle, FBI CJIS staff, presented a brief update on the progress of the APB DTF. She reported that the DTF met on August 13, 2012, in Atlanta, Georgia. Topics of discussion included defining the term "disposition" and identifying trends that may affect the disposition rate. She noted that the Warrant and Disposition Management Focus Group provided an update from its July 2012 meeting. She briefly described a demonstration that was conducted during the DTF meeting on the National Center for State Courts survey tool and the potential for its use by the DTF. Regarding the NGI, Ms. Zirkle explained that a member of the NGI Program Office provided an overview of the project. Lastly, she commented on action items taken from the DTF meeting. Some examples included SEARCH and BJS will review past criminal history surveys to identify the trends in disposition reporting and the FBI CJIS Division will apply the new "disposition" definition to determine if the disposition rate changes.

(Attachment 18)

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

Topic #24 The Report on the Operational Analysis System Integrity Support (OASIS) Group's Study of Fingerprint Image System (FIS) Enhancement Procedures

As background, the NFF Qualification (Quals) Requirements were revised in June 2010, to reflect the FIS requirement with an added statement that prior to submitting FIS transactions to the FBI for second and/or subsequent arrests, the NFF state must coordinate with the CJIS Division's staff to ensure that sufficient technical and operational resources are available to handle the increased FIS processing. Currently, only NFF states utilize the FIS Type of Transactions (TOTs); however, this will change with the deployment of Increments 3 and 4 of the NGI system which will add new biometric capabilities. During the September 2011 S&P Committee meeting, the Committee requested the CJIS Division study the post-enhancement FIS statistics and address the capacity to allow any NFF state to begin sending all FIS submissions without prior coordination. Mr. James R. McDonald, Jr., FBI CJIS staff, provided the Council with the results of a study conducted by the OASIS Group.

Mr. McDonald provided the Council with a copy of the statistics that were used to conduct the analysis and discussed the results. He reported that the analysis indicated that the FIS enhancement was performing as expected; however, with the deployment of the NGI Increments 3 and 4 FIS volumes are expected to increase as the FIS TOT will be utilized for new biometric capabilities. He further explained that in order to avoid negative impacts to the workload and system resources with increased FIS volumes, the CJIS Division recommends that NFF states continue to coordinate prior to submitting FIS transactions.

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

Topic #25 Criminal Image Quality Rejects

Mr. James R. McDonald, Jr., FBI CJIS staff, provided the Council with the results of a study conducted by the OASIS Group regarding criminal image quality rejects. As background, Mr. McDonald explained that during its March 2012 meeting, the S&P Committee discussed the FBI's IAFIS rejects due to low image quality characteristics. As a result of the discussion, the S&P Committee requested the CJIS Division to review the criminal image quality rejects, provide reject rates for all states, explain factors determining immediate rejections, and address whether L0008 rejects can be routed to a Fingerprint Examiner for review.

Mr. McDonald presented the results of the analysis. He noted that the reject rates for all states were included in the staff paper. The staff paper also identified factors that could affect image quality. Mr. McDonald revealed that as a result of the review, the "all

states combined" criminal reject rate for March 2012 through June 2012 was 0.32 percent which is lower than the 0.5 percent NFF Qual. He explained that while some states fall above or below the average criminal L0008 reject rate, the overall rate of 0.32 percent does not indicate a high volume of L0008 rejects.

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

Topic #26 Image Quality Requirements for Civil Fingerprint Submissions

Mr. James R. McDonald, Jr., FBI CJIS staff, presented information on image quality for civil fingerprint submissions. He briefly reviewed the civil image reject reports for all states and federal agencies. In addition, he introduced a few examples provided by states which may be used to reduce the reject rate. Such examples included providing training to the individuals capturing the fingerprints and recalibrating equipment. As a result of the presentation, the Council directed the S&P Committee to continue the civil image quality requirements discussion at its spring 2013 meeting.

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

Topic #27 CJIS Systems Officer (CSO) Latitude for Accepting Background Checks Previously Conducted in CSO's Jurisdiction

Mr. George A. White, FBI CJIS staff, presented the topic, CSO Latitude for Accepting Background Checks Previously Conducted in CSO's Jurisdiction, to the Council for consideration. As background, he explained that the topic was previously presented to the S&P Committee and the APB's Security and Access (S&A) Subcommittee for their input. He further explained that the purpose of the topic was for the Council to consider whether the CSO has the latitude to accept fingerprint-based background checks conducted previously by other agencies within the CSO's jurisdiction. If it was determined that establishing a time period was appropriate, then it would be memorialized in the next release of the *CJIS Security Policy*.

Mr. White informed the Council that both the S&P Committee and the S&A Subcommittee recommended no changes to the *CJIS Security Policy* regarding this topic. As such, the Council endorsed the S&P Committee's motion.

(Attachment 19)

<u>Compact Council Action:</u> Ms. Donna Uzzell endorsed the S&P Committee's motion that no changes should be made to the *CJIS Security Policy* regarding the CSO latitude for accepting fingerprint-based background checks previously conducted in CSO's jurisdiction. Seconded by Ms. Wendy Brinkley. Motion carried.

Topic #28 Non-Criminal Justice Agency (NCJA) User Agreements and the CJIS Security Policy

In an effort to provide consistency between the *CJIS Security Policy* and the Outsourcing Standards as it relates to the NCJA community, Mr. George A. White, FBI CJIS staff, presented the proposed changes to the *CJIS Security Policy*. He noted that the topic was presented to the spring 2012 S&A Subcommittee and the fall 2012 APB Working Groups and the S&P Committee for their input.

During the presentation, Mr. White reviewed each of the proposed changes. The Council moved to accept the S&P Committee's motion to endorse the changes to the current *CJIS Security Policy* language regarding the NCJA user agreements with the proposed changes as detailed in the S&P Committee's motion from the staff paper.

(Attachment 19)

<u>Compact Council Action:</u> Ms. Donna Uzzell moved to accept the S&P Committee's motion to endorse the changes to the current *CJIS Security Policy* language regarding NCJA user agreements with the proposed changes as detailed below in a, b, c, d, e, and f (changes are in bold italics):

<u>a.</u>5.1.1.7 Outsourcing Standard for Channelers

Channelers designated to request civil fingerprint-based background checks on behalf of a NCJA (public) or NCJA (private) for noncriminal justice functions shall be eligible for access to CJI. Access shall be permitted when such designation is authorized pursuant to federal law or state statute approved by the U.S. Attorney General. All Channelers accessing CJI shall be subject to the terms and conditions described in the Compact Council Outsourcing Standard for Channelers. Each Channeler that directly accesses CJI shall also allow the FBI to conduct periodic penetration testing.

Channelers leveraging CJI to perform civil functions on behalf of an Authorized Recipient shall meet the same training and certification criteria required by governmental agencies performing a similar function, and shall be subject to the same extent of audit review as are local user agencies.

5.1.1.8 Outsourcing Standard for Non-Channelers

Contractors designated to perform noncriminal justice ancillary functions on behalf of a NCJA (public) or NCJA (private) for noncriminal justice functions shall be eligible for access to CJI. Access shall be permitted when such designation is authorized pursuant to federal law or state statute approved by the U.S. Attorney General. All contractors accessing CJI shall be subject to the terms and conditions described in the Compact Council Outsourcing Standard for Non-Channelers.

Contractors leveraging CJI to perform civil functions on behalf of an Authorized Recipient shall meet the same training and certification criteria required by governmental agencies performing a similar function, and shall be subject to the same extent of audit review as are local user agencies.

<u>b.</u>3.2.11 Repository Manager

The State Identification Bureau (SIB) Chief, i.e. Repository Manager or Chief Administrator, is the designated manager of the agency having oversight responsibility for a state's fingerprint identification services. If both state fingerprint identification services and CJIS systems control are managed within the same state agency, the SIB Chief and CSO may be the same person.

<u>c.</u> APPENDIX A TERMS AND DEFINITIONS

Repository Manager, or Chief Administrator — The designated manager of the agency having oversight responsibility for a CSA's fingerprint identification services. If both state fingerprint identification services and CJIS systems control are managed within the same state agency, the repository manager and CSO may be the same person.

<u>d.</u> 5.1.1.6 Agency User Agreements

A NCJA (public)

A NCJA (private) designated to request civil fingerprint-based background checks, with the full consent of the individual to whom a background check is taking place, for noncriminal justice functions, shall be eligible for access to CJI. Access shall be permitted when such designation is authorized pursuant to federal law or state statute approved by the U.S. Attorney General. A NCJA (private) receiving access to FBI CJIS data shall enter into a signed written agreement with the appropriate signatory authority of the CSA, SIB, or Channeler authorized agency providing the access. An example of a NCJA (private) is a local bank.

All NCJAs accessing.....

<u>e.</u>5.1.2 Monitoring, Review, and Delivery of Services

As specified in the inter-agency agreements, MCAs, and contractual agreements with private contractors, the services, reports and records provided by the service provider shall be regularly monitored and reviewed. The CJA, *authorized agency NCJA*, *or FBI* shall maintain sufficient overall control and visibility into all security aspects to include, but not limited to, identification of vulnerabilities and information security incident reporting/response. The incident reporting/response process used by the service provider shall conform to the incident reporting/response specifications provided in this policy.

<u>f.</u>5.1.2.1 Managing Changes to Service Providers

Any changes to services provided by a service provider shall be managed by the CJA, *authorized agency NCJA*, *or FBI*. This includes provision of services, changes to existing services, and new services. Evaluation of the risks to the agency shall be undertaken based on the criticality of the data, system, and the impact of the change.

Seconded by Ms. Dawn A. Peck. Motion carried.

Topic #29 Criminal History Record Information Sharing (CHRIS) Project Update

Staff paper provided for information only; not presented.

Topic #30 National Fingerprint File Quarterly Statistics

Handout provided for information only; not presented.

Topic #31 Addition of a Caveat to the Integrated Automated Fingerprint Identification System Certified Products List on www.fbibiospecs.org

Staff paper provided for information only, not presented.

Topic #32 IAFIS Status Report

Staff paper provided for information only, not presented.