



**National Crime Prevention and Privacy Compact**  
**COMPACT COUNCIL MEETING**  
**LAS VEGAS, NEVADA**  
**NOVEMBER 7-8, 2007**

Ms. Donna Uzzell, Chairman, National Crime Prevention and Privacy Compact Council (Council), called the Council meeting to order at 9:00 a.m. on November 7, 2007, in the Renaissance Ballroom of the Renaissance Las Vegas Hotel, Las Vegas, Nevada

Mr. Todd C. Commodore, FBI's Compact Officer, conducted roll call of the Council members. The following Council members, or their proxies, were in attendance.

**State Compact Officers:**

- Mr. Paul C. Heppner, Georgia Bureau of Investigation
- Mr. Jeffrey R. Kellett, New Hampshire State Police
- Mrs. Julie Lackner, Minnesota Department of Public Safety
- Captain Timothy P. McGrail, Missouri State Highway Patrol
- Ms. Liane Moriyama, Hawaii Criminal Justice Data Center
- Lt. John H. O'Brien, New Jersey Division of State Police
- Ms. Dawn Peck, Idaho State Police
- Mr. David G. Sim, Kansas Bureau of Investigation
- Ms. Donna Uzzell, Florida Department of Law Enforcement

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

- Mr. Robert M. Finlayson III, Georgia Department of Human Resources

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

- Captain Thomas W. Turner, Virginia State Police

**Federal Noncriminal Justice Agency Representative:**

- Ms. Kathy Dillaman, Office of Personnel Management

**Federal Criminal Justice Agency Representative:**

- Mr. Jonathan Frenkel, Department of Homeland Security

**Advisory Policy Board Representative:**

- Mr. William Casey, Boston Police Department

**Federal Bureau of Investigation:**

- Mr. David Cuthbertson, FBI CJIS Division  
**Proxy for Mr. Thomas E. Bush, III**

Chairman Uzzell recognized new State Compact Officers and state repository representatives. Other meeting attendees introduced themselves and the agency they represented. (**Attachment 1**)

Captain P.K. O'Neill, Nevada Department of Public Safety, provided welcoming remarks.

Mr. David Cuthbertson, FBI staff, reviewed the applicable portions of the Council's Bylaws in order to conduct the election for the position of Chairman and then opened the floor for nominations. Mr. David Sim nominated Ms. Donna Uzzell and the nomination was seconded by Ms. Liane Moriyama. No other nominations were made for Chairman.

**Compact Council Action: Mr. William Casey moved to close the nominations for Chairman. The motion was seconded by Mr. Paul Heppner. Ms. Uzzell won the election by acclamation.**

Chairman Uzzell then reviewed the portions of the Bylaws applicable to conduct the election for the position of Vice-Chairman and then opened the floor for nominations. Ms. Liane Moriyama nominated Mr. David Sim and the nomination was seconded by Mr. Jeffrey Kellett. No other nominations were made for this position.

**Compact Council Action: Mr. William Casey moved to close the nominations for Vice-Chairman. The motion was seconded by Captain Thomas Turner. Mr. David Sim won the election by acclamation.**

Chairman Uzzell reported that as a result of the nonparty state seminar last May there has been considerable movement by some nonparty states to work toward ratification. The states of Kentucky and Washington plan to ratify the Compact during their next legislative sessions. Virginia was the 11th state to execute the Council's Memorandum of Understanding.

The State of Georgia became the 10th NFF participant in August. As a result, 25% of the state records maintained in the Interstate Identification Index (III) are now maintained by NFF states.

Based on a Council recommendation from May, the first teleconference with the Transportation Security Administration (TSA) and various state repositories was conducted. Topics discussed were the TSA HazMat Program and new recommendations the states may have for TSA.

At the last meeting, representatives from the security guard industry addressed the Council requesting assistance in their ability to conduct security guard checks in states without an approved 92-544 statute. The Council provided input at that time and has offered assistance, as needed.

New State Compact officers were officially recognized: Ms. Nancy Bloom, Montana;

Mr. Kevin Smith, Wyoming; and Mr. Phil Halibozek, Connecticut, a former Compact Officer. Additionally, Mr. Paul Heppner, Mr. Jeffrey Kellett, Captain Tim McGrail, Mr. Robert Finlayson, Mr. Jonathan Frenkel, Ms. Dawn Peck, Captain Thomas Turner and Chairman Uzzell have all been appointed for terms effective this month and those appointments have already gone through the Attorney General.

Chairman Uzzell noted that Mr. Dan Foro is now a member of the Policy & Planning Committee. In accordance with 5.3 of the Council Bylaws, Mr. Foro has also been appointed as an alternate to the state/local agency representative to the Compact Council.

An update on available funding programs and resources through the Bureau of Justice Statistics (BJS) was requested.

Chairman Uzzell noted that there has been considerable interest around the country with our outsourcing regulation and we always knew that management control standards would be fluid. The FBI will bring a couple of new issues for our consideration.

The Council in May approved a recommendation to the APB proposing a change to the *CJIS Security Policy* that would include a requirement for states to audit their noncriminal justice agencies.

Based on the Council's recommendations, the FBI has worked with the Department of Justice (DOJ) on the departmental order process.

At the request of Chairman Uzzell, Mr. Commodore provided information on the newly formed Site Security Task Force, composed of representatives of the Compact Council and the Advisory Policy Board (APB). The group will meet prior to the December 2007 APB and consider the following issues: site security and the criminal justice uses of III and defining critical infrastructure.

Next, the Council approved the minutes from the May 2007 meeting.

***Compact Council Action:* Ms. Dawn Peck moved to approve the May 2007 minutes. Seconded by Ms. Liane Moriyama. The motion carried.**

Agenda topics were discussed.

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

Mr. David Cuthbertson, serving as proxy for Mr. Thomas E. Bush, provided an update on the CJIS Division. (**Attachment 2**) Mr. Cuthbertson provided updates on the Integrated Automated Fingerprint Identification System (IAFIS), the National Crime Information Center (NCIC), the National Instant Criminal Background Check System (NICS), Law Enforcement Online (LEO), the National Dental Image Repository, Uniform Crime Reporting (UCR), Next

Generation Identification (NGI) and the Law Enforcement National Data Exchange (N-DEx) programs. He also provided information on the international information sharing of biometrics; the transnational criminal print initiative; interoperability between the IAFIS, the Department of Homeland Security's IDENT (interim data sharing model), and the Department of State; and the FBI Center of Excellence for Biometrics.

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

## **Topic #2 Proposed Amendments to the Bylaws**

Mr. Allen Nash, FBI staff, presented five proposed amendments to the Council's Bylaws. Pursuant to Section 14 of the Compact Council Bylaws, Amendment to Bylaws:

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

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

### 5.0 END-OF-TERM APPOINTMENT PROCESS

"Prior to the end of a Compact Council member's term, the nomination process described in Section 3 and in this Section shall be followed to obtain an appointment for the next term. ~~By August 1st, the Attorney General shall be given n~~Nominations for the new term **shall be submitted to the Attorney General by August 1st.**"

**Compact Council Action: Captain Thomas Turner moved to accept the change as proposed. Seconded by Mr. William Casey. The motion carried.**

### 8.11 MINUTES AND RECORDS OF THE COMPACT COUNCIL

"Minutes, records, transcripts, and other documents of the Compact Council shall be administered by the FBI. The Compact Council shall make available for public inspection and copying at the Compact Council office within the FBI, and shall publish in the Federal Register, any rules, procedures, or standards established by the Compact Council."

"The FBI shall distribute draft minutes to the Compact Council members ~~with sixty at least~~ **thirty** days ~~after a prior to the next~~ Compact Council meeting. The draft minutes shall be considered for approval at the next Compact Council meeting. The final approved minutes of

meetings shall be available to the public upon request. Minutes of the Compact Council meetings shall be kept and maintained at the: Compact Council Office, FBI, CJIS Division, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306-01458."

***Compact Council Action:* Captain Thomas Turner moved to accept the change as proposed. Seconded by Mr. William Casey. The motion carried.**

#### 9.0 PROMULGATION OF RULES, PROCEDURES, AND STANDARDS

"The Compact Council shall promulgate rules, procedures, and standards upon a majority vote of its members at a scheduled public meeting except in cases in which the Compact Council determines that exigent circumstances require immediate action. In the latter cases, the Compact Council may approve a rule, procedure or standard by telephone conference call or by other available means of communication, provided that such a rule, procedure or standard shall expire unless adopted by the Compact Council at **a the next** scheduled public **Compact Council** meeting ~~within 90 days after the emergency action.~~"

***Compact Council Action:* Ms. Dawn Peck moved to accept the change as proposed. Seconded by Mr. William Casey. The motion carried.**

#### 12.0 COMMITTEES

"The **Compact Council** Chairman may establish Committees as necessary to carry out the National Crime Prevention and Privacy Compact and may prescribe their membership, responsibilities, and duration. Committees may be composed of both Compact Council members and individuals who are subject matter specialists but are not Compact Council members."

"Compact Council committee meetings are closed to the public. Attendance is limited to Committee members, Federal and State Government employees acting in an official capacity, and others by specific invitation of the Committee ~~chairperson~~ **Chairman.**"

"Due to the unique working knowledge of Compact Council members who shall be appointed to serve on Compact Council Committees, the members are expected to attend Committee meetings whenever possible. If it becomes necessary to send a proxy, the committee member should ensure that the proxy has the appropriate subject matter expertise."

"An FBI representative shall attend all Committee meetings and provide ~~administrative support~~ **reasonable assistance to the Committee as requested by the Committee Chairman.**"

***Compact Council Action:* Ms. Dawn Peck moved to accept the change as proposed. Seconded by Mr. William Casey. The motion carried.**

#### 13.0 DISCRIMINATION PROHIBITED

"With regard to all Compact Council and Compact Council Committee matters, there shall be no

discrimination on the basis, of race, color, national origin, religion, age, sex, **sexual orientation**, or disability."

**Compact Council Action: Captain Thomas Turner moved to accept the change as proposed. Seconded by Mr. William Casey. The motion carried.**

**Topic #3      The Standards Committee Report on the Update on the Modification to the CJIS Security Policy to Include a State Requirement to Audit Noncriminal Justice Agencies with Indirect Access to the Interstate Identification Index (III) System Information**

Ms. Paula Barron, FBI staff, explained that the proposal was presented at the May 2007 Compact Council meeting and the Council endorsed the Standards Committee recommendation to add language to the *CJIS Security Policy* as follows:

The appropriate authorized state official which may be the CSO, the state compact officer, or the state repository director, shall periodically conduct audits of the state noncriminal justice agencies with indirect access to III information for the submission of fingerprints.

The CJIS Working Groups reviewed the proposal and four of the five groups endorsed the change. Additionally, the Security Access Subcommittee considered the change and proposed a minor edit to the language, as follows:

The CSO or an appropriate authorized state official, which may be the state compact officer or the state repository director, shall periodically conduct audits of the state's noncriminal justice agencies with indirect access to information through the submission of fingerprints. The APB will consider this language at the December 2007 meeting.

**Compact Council Action: Mr. William Casey moved to accept the topic for information only. Seconded by Ms. Dawn Peck. Motion carried.**

**Topic #4      The Policy & Planning Committee Report on the Suggested Auditing Guidelines for the Integrated Automated Fingerprint Identification System (IAFIS) Audit for Noncriminal Justice Use of Criminal History Information**

Mr. Timothy Neal, FBI staff, noted that the auditing guidelines were presented to the Policy & Planning Committee at the last meeting. He added that CJIS Audit Unit staff reviewed current audit methodology for noncriminal justice use of criminal history information audits and added sections of specific areas which are checked during that audit. The Policy & Planning Committee recommendations will be incorporated and presented during the spring round of

meetings. Additionally, audit findings (from a general standpoint), examples of situations, and the policy pertaining to them will be presented as part of the paper in the spring.

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

**Topic #5 Update on the CJIS Division Departmental Order (DO) 556-73  
Fingerprint Processing**

Mr. Frank Campbell, DOJ, and Mr. Danny Moye, FBI staff, provided the Council with an update on the CJIS Division DO 556-73 Fingerprint Processing.

Mr. Moye explained that based upon the willingness and receptiveness of the DOJ, the FBI's Access Integrity Unit drafted language wherein an individual may request his records by providing biographic and biometric information to the FBI (as they currently do) and the records go back to the subject, to the subject's attorney of record, or to the subject's personal representative. If those are the categories, the FBI will reach out to the NFF states to get the full criminal history record to provide to those entities. If the subject wants the results to go to a third party (one that is not a personal representative or an attorney of record), that individual must go through the Freedom of Information Act (FOIA) process. Therefore, it will not go to our NFF partners.

Mr. Campbell, DOJ, explained that the language is clear; that the purpose of the access provided to individuals is for review and correction of the records as opposed to a FOIA type request. Mr. Campbell noted that the DOJ will review the draft to ensure the purpose of the clarification and the distinction between a noncriminal justice check and a FOIA check is explained. He added that everybody seems to think that the FBI has all the records, but in fact a lot of the records are at the state level. The draft will go through departmental circulation and review and must be approved by the Deputy Attorney General's office for submission to the review process.

**Compact Council Action: Mr. William Casey moved to accept this topic for information only. Seconded by Mr. David Sim. Motion carried.**

**Topic #6 Update on the National Fingerprint File (NFF) Implementation**

Ms. Paula Barron, FBI staff provided the Non-NFF Compact States Matrix Summary. She noted that the Standards Committee asked the FBI to survey the non-NFF Compact states twice a year for a status on NFF participation. Ms. Barron reported that 8 to 9 states estimate participation in 2008 and another 2 to 3 in 2009.

The FBI conducted two NFF onsite visits since the May Council meeting - the Hawaii Criminal Justice Data Center and the Arkansas State Police and Arkansas Criminal Investigative

Center. FBI staff will visit the Maryland Department of Public Safety in December to conduct an NFF onsite assessment and New Hampshire estimates an early 2008 onsite assessment.

Ms. Barron also provided information on current NFF states implementation of the Fingerprint Image Submission (FIS) IAFIS Type of Transaction (TOT). This is the transaction that NFF states use to provide the FBI the opportunity to update the IAFIS database when the NFF state processes a subsequent arrest print from an individual whose record is indexed in IAFIS and the NFF state determines the print is a better quality. Currently four NFF states - Colorado, Georgia, Kansas, and Oklahoma submit these transactions and several other states are testing the FIS TOT.

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

**Topic #7 FBI Consideration of the National Fingerprint File (NFF) Program Requirements as Related to the Next Generation Identification (NGI) Initiatives**

Mr. Nick Megna, FBI staff, provided an update regarding the relationship of the NGI capabilities in the NFF program. He also elicited input regarding the development of a new TOT in support of updating multiple biometric modalities. Mr. Megna provided a description of each NGI capability and the consideration given to the NFF architecture.

**Compact Council Action: Mr. David Sim moved that the FBI explore the possibility of a single TOT that would include the Fingerprint Image Submission transaction, but not displace it for the purpose of submitting the new biometrics. Seconded by Mr. Paul Heppner. The motion carried.**

**Topic #8 The Standards Committee Report on the National Fingerprint File (NFF) Qualification Requirement Regarding the State's Response Time**

Ms. Paula Barron, FBI staff, provided an update on the NFF qualification requirement regarding the state's response times. FBI staff recently surveyed eight NFF state participants. The states were asked if there were any system changes made at the state level when the state moved from III to NFF participation. The III minimum requirement is an immediate response to a criminal history record request. The eight states advised that they had

made no change even though the NFF requirement is ten minutes, they had not gone in and adjusted their systems to hold up on any responses when a III record request message came in.

Ms. Barron noted that although the sampling of the NFF states was admittedly small, the results showed that the NFF states responses less than ten minutes and far less than three minutes as previously estimated. The response times ranged from 1.6 seconds (Idaho) to 10.2 seconds

(Oklahoma).

***Compact Council Action:*** Mr. David Sim moved to change the 10-minute response time to criminal history record requests [State NFF Qualification Requirement III (A)] to a mean response time of 15 seconds. Seconded by Ms. Liane Moriyama. The motion carried.

**Topic #9      Table Outlining the Security and Management Control Outsourcing Standard (Standard) Responsibilities**

Ms. Barbara Wiles, FBI staff, provided an overview of the outsourcing rule and standard that the Council promulgated. The outsourcing rule permits a third party to include private contractors or nongovernmental agencies or other governmental agencies to perform noncriminal justice functions on behalf of an authorized recipient, pursuant to an outsourcing standard and a contract. The outsourcing standard identifies the duties and responsibilities with respect to adequate internal controls so that the security of the III system is not compromised.

Ms. Wiles also provided a status on channelers. In late 2006, the FBI selected 19 entities to serve as channelers. Two of the selected channelers have withdrawn and several are in the testing phase.

It was noted that FBI Compact Officer Todd Commodore approved several requests from financial institutions to outsource noncriminal justice administrative functions and one from a federal agency as well. Mr. Commodore also obtained three requests from state agencies interested in outsourcing some noncriminal justice administrative functions.

Ms. Wiles explained that an ongoing request of the FBI staff is to outline specific responsibilities of those parties subject to the outsourcing standard. At the request of the Council's Standards Committee, FBI staff developed the table provided to the Council and additional State Compact Officers that outlines those parties' responsibilities pursuant to each section of the standard.

***Compact Council Action:*** Mr. Paul Heppner moved that the FBI implement training on technical security audits into the next cycle of ISO and STARS meetings, that the Council Chairman work with SEARCH on technical security audit education and training, and that the FBI put together a booklet of existing documents (to include the table) and information on Outsourcing for the review of the Standards Committee at a future Committee meeting. Seconded by Ms. Liane Moriyama. The motion carried.

**Topic #9A      Section 2 of the Security and Management Control Outsourcing Standard (Standard) Regarding Compliance Review Requirements of Authorized**

## Recipients

Mr. Commodore, presented a staff paper that provided proposed language changes to Section 2 of the Outsourcing Standard as shown in bold font:

2.05 The Authorized Recipient is responsible for the actions of the Contractor and shall monitor the Contractor's compliance to the terms and conditions of the Outsourcing Standard. The Authorized Recipient shall certify to the Compact Officer/Chief Administrator that a compliance review was conducted with the Contractor within 90 days of the date the Contractor first receives CHRI under the terms of the contract. **Such 90-day compliance review and certification is not applicable to an Authorized Recipient contracting with an FBI-approved Channeler solely for the purpose of electronically transmitting noncriminal justice fingerprints to the FBI and receiving the results for the fingerprint checks for prompt transmittal to the Authorized Recipient. Instead, the 90-day compliance reviews of FBI-approved Channelers shall be performed by the FBI.**

***Compact Council Action:* Ms. Dawn Peck moved to accept the change as recommended. Seconded by Mr. Jeffrey Kellett. The motion carried.**

### **Topic 9B      Application of the Security and Management Control Outsourcing Standard (Standard) to IT Personnel With Access to Criminal History Record Information (CHRI)**

Mr. Commodore explained that the Council is requested to consider if any changes are necessary to a national control standard that will accommodate IT personnel with limited access to CHRI for noncriminal justice purposes.

By way of background, a State Compact Officer received a request from a governmental agency to allow access to CHRI to a private contractor for the purpose of developing and implementing a computer system. During the development and testing phase of the contract, CHRI is "cleansed" by the state prior to providing it to the Contractor. During the implementation phase of the contract, the Contractor's Information Technology (IT) personnel will have access to CHRI to analyze and fix system problems. The IT individual may have access to CHRI, but will not be handling the CHRI for any direct noncriminal justice administrative function. In this case, IT personnel are building and providing maintenance to a computer system inside the confines of the firewall and therefore "may" be able to see the CHRI. The system, and its data, are housed at the state agency's facility. The Contractor will also be working with the governmental agency's personnel during all testing, conversion, and maintenance efforts on the system that resides in the State's facility.

The Standard was written for Channelers and Contractor's performing the "Administration of Noncriminal Justice Functions" as defined. The State Compact Officer

believes this request is subject to the Council's Outsourcing Rule, but questions what sections of the Standard are applicable in this scenario. The State Compact Officer requested that the applicable sections (for IT personnel) be identified.

**Compact Council Action: Mr. David Sim moved that CJIS staff draft a proposal for the Standards Committee to review on this issue. Seconded by Ms. Dawn Peck. The motion carried.**

## **Topic #10     Policy and Planning Committee Report**

Mr. Allen Nash, FBI staff, noted that the Policy & Planning Committee met September 2007, in Buffalo, New York. In addition to working on the strategic plan and monitoring and reviewing the bylaws, the committee reviewed the results of the party state and nonparty state surveys and comments received from the nonparty state seminar held in Kentucky in May 2007. The committee also received a status report on the effort of nonparty states to ratify the Compact. Many of the actions needed to be taken were rolled into the strategic plan, but included creating teams to make onsite visits to nonparty states and providing reference materials for nonparty states.

The committee also discussed the evaluation and action items from the noncriminal justice audit training and the National Child Protection Act/Volunteers for Children Act Implementation Conference held in Florida January 2007. The conference was deemed successful and the committee discussed ways to assist states with creating guidelines to perform audits of noncriminal justice agencies. They discussed dissemination of criminal history record information to related agencies. The committee also discussed several cases that illustrated valid and invalid secondary dissemination of criminal history record information to related agencies. A copy of the cases was provided to the meeting attendees.

Additionally, the committee discussed the best method for soliciting topics for consideration of the Compact Council and the committee. Mr. Nash noted that FBI staff drafted a request for a topic paper form, patterned after the form used to submit CJIS Advisory Policy Board topics. He encouraged members to use the form if they have topics they want to discuss. Mr. David Sim proposed an Action Item that FBI staff include case scenarios as provided in

Handout #2 (Dissemination of Criminal History Records Information to a Related Agency) as an agenda item at future Compact Council meetings.

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

## **Topic #11     The Policy & Planning Committee Report of the Guide - Frequently Asked Questions Regarding the National Crime Prevention and Privacy Compact Act of 1998**

Ms. Barbara Wiles, FBI staff, noted that as a result of the Council's nonparty state seminar on the ratification of the Compact, the Council requested that FBI staff put together a guide regarding the myths and misconceptions of ratifying the Compact. The Council's intent was to create a document that could be disseminated to states considering ratification to negate the most common Compact ratification myths. Ms. Wiles explained that the guide is an all encompassing overview of the Compact, the Council, III, and NFF and is in a question/answer format. The Policy & Planning Committee recommended the inclusion of reference documents and provided other suggestions as the guide was drafted. They also recommended that the guide be placed on the Council's Website and distributed, as recommended, by the CJIS staff. The revised guide will be presented at the next Committee meeting.

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

**Topic #12 SEARCH's Report on the Civil Print Retention Survey**

Mr. Owen Greenspan, National Consortium for Justice Information and Statistics (SEARCH), provided a report on the civil print retention survey. The primary reason for the survey was to create a focus group to look at issues associated with the retention of civil fingerprints by state repositories. Forty-four responses were received from forty-two states plus the District of Columbia and Guam. Thirty-five states said they are retaining fingerprints, but not necessarily all prints. Sixteen states said they retain almost all civil prints. Eight states retained only law enforcement prints. Mr. Greenspan explained that generally, states do not retain civil prints because they believe they do not have statutory authority, and that often civil retention is based on a counsel, administrator, manager or director's interpretation of what may be retained. Some state's legislation has clearly defined civil retention.

Mr. Greenspan also informed the group that SEARCH recently completed a focus group report on background checks in the aftermath of Hurricane Katrina. The report is available on the SEARCH Website and has been forwarded to the Chairmen of the APB and the Compact Council for review and comment. The Council requested Mr. Moye provide the Council a copy of the verbiage that will be included on the revised applicant fingerprint card. The Council will work with SEARCH to update the User Fee Survey last conducted in 2005.

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

**Topic #13 The Policy & Planning Committee Report on the National Crime Prevention and Privacy Compact Council's (Compact Council's) Strategic Plan**

Mr. David Sim provided to the Council a brief synopsis of the Council's Strategic Plan. He reported that the strategic plan has a total of four goals. Within each of those four goals are several objectives. Also included are performance measurements and an action plan. The Policy & Planning Committee presented to the Council for approval the complete

Strategic Plan. Mr. Sim commented that the next time the Council would review the plan, they would be adding and subtracting from it. The Strategic Plan will be a living document and will never be finalized. Mr. Frank Campbell, DOJ, suggested merging Sections 4.2.3 and 4.2.4 so that the wording would suggest educating Compact Officers who may have contact with congressional representatives instead of encouraging someone to contact Congress directly.

**Compact Council Action: Ms. Dawn Peck made a motion to approve the draft Strategic Plan, as a living document, anticipating changes to Objective 4.2. Seconded by Mr. Jeffrey Kellett. The motion carried.**

#### **Topic #14      Status of NCHIP Grants**

Ms. Stephanie Burroughs, Bureau of Justice Statistics, provided an update of the 2007 NCHIP program and also provided information about the 2008 program that will be forthcoming.

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

#### **Topic #15      Advisory Policy Board Update**

Mr. William Casey presented the Advisory Policy Board Update. He briefed the Council on current APB initiatives such as: U.S. Marshall's Service, Flagging of CHRI, Transition of NIEM, Next Generation Identification - Rap Back, IAFIS Latent, Definition of NCIC Terminal Operator, and Identity Theft File. (**Attachment 3**)

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

#### **Topic #16      Sanctions Committee Report**

Ms. Julie Lackner reported that the Sanctions Committee met on Tuesday, November 6, 2007, to discuss three topics. The first was a summary of the responses to the Sanctions Committee recommendations from the fall 2006 meeting. The Sanctions Committee reviewed responses to the sanctions letters that were sent out following the review of the audit findings at the fall 2006 meeting. The Sanctions Committee reviewed the responses to the letters and determined that no follow up was required. The second topic was a summary of recently conducted IAFIS audits. The Sanctions Committee reviewed audit findings from 11 states for appropriate sanctions based on the Council's Sanctions Rule, Title 28, Code of Federal Regulations, Part 905. None of the states reviewed had any violations requiring action. The third topic was general findings from noncriminal justice use of criminal history information audits. In addition to those three topics, there was a discussion regarding observations of III misuse within the states. The Sanctions Committee recommended that the FBI CJIS staff look into possible ways of educating agencies on the proper use of the III for all purpose codes.

**Compact Council Action: Ms. Julie Lackner made a motion that the Council accept the Sanctions Committee report. Seconded by Mr. Bill Casey. The motion carried.**

**Topic #17    Legislative Update**

Mr. Danny Moye, Office of the General Counsel, provided the legislative update and addressed significant changes that have occurred since the last meeting. The Infant Protection and Baby Switching Prevention Act of 2007 would require hospitals that are reimbursed under the Medicare system to establish security procedures for infant patients that include identification records, such as a footprint or fingerprint, in order to reduce the likelihood of infant abduction and baby switching. Section 403 of The Federal Railroad Safety Accountability and Improvement Bill would authorize the Federal Railroad Administration (FRA) administrator to access criminal history information for civil and administrative purposes to protect the safety and security of railroad operations, in compliance with the Compact. Section 1056 of The National Defense Authorization Act for Fiscal Year 2008 would authorize background investigations of unescorted civilians or civilian employees of a contractor or vendor who access military installations or facilities. The background investigation would be conducted by the Department of Defense through the NCIC. In conclusion, Ms. Kim Smith, FBI CJIS staff, reported on the Medicare Prescription Drug, Improvement, & Modernization Act of 2003. Section 4 of the bill requires states to develop "rap back" capability. Section 5 also requires the FBI to develop "rap back" capability by January 1, 2011.

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

**Topic #18    Update on Adam Walsh Protection and Safety Act**

Mr. Jim Gray, FBI staff, presented this topic. The Adam Walsh Child Protection and Safety Act was enacted into law on July 27, 2006. By letter to all CJIS Systems Officers and State Identification Bureau Representatives dated October 31, 2006, the CJIS Division provided guidance for states implementing the access made available under the Act. Section 151 of the Act requires the Attorney General to ensure access to FBI criminal history record information which includes direct terminal access to the NCIC and the III, by the National Center for Missing and Exploited Children and governmental social services agencies with child protection responsibilities. Section 153 of the Act is entitled School Safety Requiring a Faculty Excellence Act of 2006. This Section provides that the Attorney General shall upon request of a state's chief executive officer, conduct fingerprint-based criminal history checks pursuant to request by a child welfare agency or a private or public elementary or secondary school or a state or local educational agency. Informal inquiries relating to Section 151 or 153 may be directed to FBI Compact Officer Todd Commodore or Ms. Julia Wilson. Formal requests for access under Sections 151 or 153 should be directed to Mr. Robert J. Casey, Section Chief of the Liaison, Advisory, Training, and Statistics Section. To date, 16 formal requests have been received.

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

**Topic #19 Transportation Security Administration Working Group Update**

Ms. Paula Barron provided an update on a TSA working group meeting that was held as a result of a recommendation at the May 2007 Council meeting. During the May 2007 Council meeting, questions arose regarding TSA's use, of state data forwarded to TSA on applicants for hazmat endorsements on CDLs. Ms. Barron reported that fingerprint results for TSA hazmat background checks are forwarded to TSA by two means, electronically from the FBI's IAFIS and electronically via the CJIS Wide Area Network from FDLE. TSA now processes approximately 25,000 background checks for hazmat endorsements on a monthly basis. Thirty-five states and Washington, DC submit fingerprints and applications electronically to TSA through TSA's vendor. Fifteen states have opted to utilize existing state infrastructures to submit fingerprints to the FBI. The FBI has implemented system changes to send results of the fingerprint submissions back to the state, and also forward those same results to TSA. TSA expressed that they are unable to process manual search results. Their system is based on electronic receipt of information. The TSA hazmat program is fee based, not funded through appropriations so they don't have funds available to make major changes to their processing. As a result of this working group, the states agreed to work with TSA to develop ways to get the information to TSA in an electronic format. (**Attachment 4**)

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

**Topic #20 Request to Add Name Check Caveat to the Integrated Automated Fingerprint Identification System (IAFIS) Reject Messages L0116, L0117, L0118**

This topic was presented by Ms. Cindy Estep, FBI staff. The purpose of the topic was to add a name check caveat to IAFIS Reject Messages L0116, L0117, and L0118 to indicate when name check candidates are found in the same way the caveat was added to the L0008 reject message. Several agencies suggested the caveat indicating when candidates were found be added to additional image quality rejects, specifically, L0116, L0117, L0118, when applicable.

The three reject messages are as follows:

L0116 - "Fingerprint Pattern(s) not discernible"  
L0117 - "Insufficient pattern area(s) recorded for identification purposes"  
L0118 - "Erroneous or incomplete fingerprint(s) on images; fingers or hands out of sequence; printed twice; missing and no reason given".

When candidates are identified during the name check portion of the search, each reject message will have the caveat, "Possible candidates were found. Please submit a new set of fingerprints for comparison to the candidate(s)". Adding this to the reject messages will reiterate

to the contributor that an improved set of fingerprints needs to be resubmitted to the CJIS Division for processing via the IAFIS. Adding these three reject messages would make a total of four reject messages that would identify possible name check candidates found.

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

**Topic #21**      **Development of a New Interstate Identification Index Message Key (MKE) to Support the Electronic Submission of Disposition Data**

Mr. Nicky Megna, FBI staff, presented this topic outlining the development of the new III Message Key to enable electronic disposition reporting. There are three primary methods to submit dispositions to the CJIS Division: by mail, by machine-readable data, and by including the disposition information with the initial fingerprint submission. In August 2004, the CJIS APB recommended the development of a new III Message Key. This change would help support the FBI's mission and also provide pertinent information needed by local, state, and federal criminal justice agencies in their missions to uphold the law and protect the public. The delivery of the Message Key is tentatively scheduled for April 2008, pending APB approval.

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

**Topic #22**      **The Next Generation Identification (NGI) Enhanced IAFIS Repository (EIR) Rap Back Service**

Mr. Megna discussed the enhanced IAFIS repository Rap Back services. Rap Back services will provide the functionality for users to enroll a subject in the Rap Back in order to receive subsequent notifications of activity on that individual's arrest record. During its May meeting, the Council asked the NGI Program Office staff to discuss policy and operational issues regarding Rap Back services at the October 2007 IIETF meeting. NGI staff also presented to the Standards Committee in September 2007 and Mr. Megna presented to the Council the recommendations from the IIETF meeting for their review. (**Attachment 5**)

**Compact Council Action:** Mr. William Casey made a motion to endorse the recommendations of the Interface Evaluation Task Force (IIETF). Seconded by Mr. Paul Heppner. The motion carried.

**Topic #23**      **Access to Department of Homeland Security (DHS) Information by Federal, State, and Local Criminal Justice, Intelligence, and Authorized Noncriminal Justice Agencies: Update on the Progress to Interoperability**

Ms. Cindy Estep, FBI CJIS staff, provided an update on the IDENT IAFIS interoperability project (**Attachment 6**). The Interim Data Sharing Model (iDSM), as an interim

step, provides increased data-sharing capabilities until the full interoperability solution can be implemented. Ms. Estep provided iDSM statistics and reported that the site selection process is currently still being reviewed by the Department of Homeland Security.

**Compact Council Action: Mr. William Casey made a motion to accept the topic for information only. Seconded by Ms. Dawn Peck. The motion carried.**

### **Additional Items**

#### **Nevada's Request to Consider Use of Purpose Code X for Background Checks of Relatives of Children Following Placement in an Emergency Shelter**

Mr. Commodore commented that this was a walk-on topic and the Council was asked to review the definition of exigent circumstances to determine if it would include the placement of a child with a family member after the initial transfer of the child away from their primary home. The Council discussed the difference between "emergency" and "exigent" circumstances and considered exigent more a condition of urgency than life or death.

The Council also discussed appropriate audit guidelines for the use of Purpose Code X in exigent circumstances and that justification for the use of Purpose Code X should not entirely be left to opinion. Mr. Cuthbertson commented that the use of Purpose Code X should be well documented by agencies to include the situation and reasoning behind the exigent circumstance to assist with any audit processes. Captain O'Neill reiterated the importance of documentation to demonstrate the exigent circumstance. Also discussed was that the definition of exigent circumstance in relation to the use of Purpose Code X be based more on the specific circumstance rather than a period of time.

Mr. Finlayson was asked by Chairman Uzzell to draft new language regarding exigent circumstances and welcomed assistance from other Council Members in this process. Chairman Uzzell inquired whether this topic would require a motion to allow the use of Purpose Code X for the circumstance provided by Nevada. Mr. Moyer advised that no motion was necessary and that as long as the exigent circumstance lies within the purview of the intended use of Purpose Code X per this discussion, it could be justified. The Council did not object to Nevada's request to continue to use Purpose Code X for background checks of relatives of children following placement in an emergency shelter.

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

#### **National Infrastructure Advisory Committee (NIAC) Report**

Mr. Frank Campbell advised the Council of a report being developed by a presidential advisory committee under the Federal Advisory Committee Act. The advisory committee is called the National Infrastructure Advisory Committee (NIAC), and all of its members are

appointed by the President. In January 2006, the NIAC published a report relating to public and private sector intelligence coordination. One item indicated in that report was a need to clarify the legal issues surrounding the conflict between privacy laws and some of the federal counter terrorism programs, and expressed desire by critical infrastructure owners and operators to be able to operate in a clear legal environment.

The NIAC study group is reviewing the kind of employment screening that can take place. Identifying potential issues and consequences associated with screening employees, identification of legal policy and procedural aspects of the issue as well as any potential obstacles from perspectives of owners and operators, and drafting recommendations on potential remedies up to and including potential legislation. Mr. Campbell stated that the NIAC has contacted him about the issue of criminal history background checks. Mr. Campbell made them aware of the Attorney General's Report on Criminal History Background Checks and they were pleased to see that there was a lot of work already done on this issue and that a fairly comprehensive report had been developed by DOJ in consultation with the Compact Council. The NIAC study group plans to submit its report to the President in January of 2008. Mr. Campbell advised that Chairman Uzzell will be contacted to provide the Council's views on the Attorney General's report on criminal history background checks.

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

In conclusion, Chairman Uzzell announced the upcoming meeting dates for the Standards Committee and Policy and Planning Committee meetings on February 20-21, 2008 at a location to be determined. The next Compact Council meeting will be May 6-8, 2008.

The meeting adjourned.