National Crime Prevention and Privacy Compact
Compact Council Meeting
Tampa, Florida
November 6-7, 2013

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 6, 2013, in Tampa, Florida.

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:

- Mr. Wyatt Pettengill, North Carolina State Bureau of Investigation
  Proxy for Ms. Wendy L. Brinkley
- 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
- Major 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:

- Mr. David LeNoir, Georgia Department of Behavioral Health and Developmental Disabilities

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. James W. Buckley, Jr., Department of Homeland Security
  Proxy for Mr. Steven W. Cooper

Advisory Policy Board Representative:

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

Federal Bureau of Investigation:

- Mr. David Cuthbertson, FBI CJIS Division

Mr. David Cuthbertson introduced Special Agent in Charge (SAC) of the Tampa Field Office, Mr. Paul Wysopal. SAC Wysopal welcomed the Council to Tampa, Florida.

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, 2015, the new members include: Ms. Donna M. Uzzell, Florida Department of Law Enforcement (FDLE); Ms. Terry Gibbons, Georgia Bureau of Investigation; Ms. Dawn A. Peck, Idaho State Police; Mr. Jeffrey R. Kellett, New Hampshire State Police; and, Major Timothy P. McGrail, Missouri State Highway Patrol. The new Council members with terms expiring on September 30, 2016, include: Captain Thomas W. Turner, the State/Local Criminal Justice Agency representative, from the Virginia State Police; Mr. David LeNoir, Georgia Department of Behavioral Health and Developmental Disabilities, as the State/Local Noncriminal Justice Agency representative; and Mr. Steven W. Cooper, Department of Homeland Security (DHS), representing a Federal Criminal Justice Agency. Chairman Moriyama advised that Mr. Cooper will be retiring from government service and a new representative will be appointment by the Attorney General (AG) of the United States.

Chairman Moriyama expressed her appreciation to proxies that were in attendance. The proxies included: Mr. Wyatt Pettengill, North Carolina State Bureau of Investigation and Mr. James W. Buckley, Jr., DHS. She also announced that New York became a Compact state in March 2013 and recognized Mr. Joseph Morrissey as the new State Compact Officer (SCO). In addition to Mr. Morrissey, she recognized several new SCOs which included Ms. Rickeya Franklin of Ohio and Ms. Mindy McKay, Nevada.

Next, Chairman Moriyama welcomed the non-party state representatives attending the Council meeting. She acknowledged Ms. Judy Volk, North Dakota Office of the Attorney General; Ms. Judy Singh, Nebraska State Police; and Ms. Tammi Kestel, Illinois State Police. Chairman Moriyama advised that Ms. Kestel will present to the Council during Topic #11, the Council's Identity Verification Guide.

Chairman Moriyama announced that Iowa became the 18th National Fingerprint File (NFF) participating state in June 2013. She congratulated Mr. Dave Jobes and his

staff in their efforts. She also mentioned that during the September 2013 Standards and Policy (S&P) Committee meeting, the CJIS Division advised that the Next Generation Identification (NGI) is at a critical stage with the upcoming implementation of Increment 4 in the summer of 2014 and no new software changes may be made to the current Integrated Automated Fingerprint Identification System (IAFIS). As such, states desiring NFF participation will need to wait until after the implementation of Increment 4. Currently, four states have expressed interest in participating in the NFF program, the FBI CJIS Division's Compact Team will continue to work with the states in their efforts towards NFF participation.

Lastly, Chairman Moriyama reported that due to the term expiration for the Chair and Vice Chair, the Council will be electing a new Chairman and Vice Chairman on November 7, 2013. The newly elected officers will serve a two-year term. Chairman Moriyama turned the meeting over to Mr. Gary S. Barron, FBI Compact Officer, to announce additional meeting details.

Mr. Barron reported that several topics on the agenda will be presented via video teleconferencing (VTC) from the CJIS Division. He also noted that several topics were provided as information only and were included in the meeting registration packets; however, they will not be presented at the meeting. These topics include the Increase in Processing Time for Follow-up Paperwork for Delete Record SID (DRS) Messages, the NFF Quarterly Statistics, and the IAFIS Status report. Mr. Barron advised the NFF SCOs to review the NFF statistical reports and address any questions to Ms. Paula A. Barron, FBI CJIS Division staff.

Next, Mr. Barron announced that the deadline for topic paper requests for the spring Committee meetings is November 26, 2013. In addition, he noted that the S&P Committee and the Planning and Outreach (P&O) Committee meetings are tentatively scheduled for March 18-20, 2014. The meeting location has yet to be determined.

The Council then finalized the draft minutes from the May 2013 meeting, approving them with no changes.

> ***Compact Council Action:*** **Captain Thomas W. Turner moved to approve the May 2013 minutes. Seconded by Ms. Dawn A. Peck. Motion carried.**

Agenda topics were then discussed.

On November 7, 2013, the Council held an election of a new Council Chairman and Vice Chairman, due to the expiration of terms for both positions. To conduct the election for the position of Chairman, Mr. David Cuthbertson, FBI CJIS Division, reviewed the applicable portions of the Council's Bylaws, and then opened the floor for

nominations. Mr. Jeffrey R. Kellett nominated Ms. Dawn A. Peck and the nomination was seconded by Captain Thomas W. Turner. No other nominations were made for Chairman.

> ***Compact Council Action:*** **Captain Thomas W. Turner moved to close the nominations for Chairman. The motion was seconded by Ms. Julie A. LeTourneau Lackner. Ms. Peck won the Chairman election by acclamation.**

Next, newly elected Chairman Peck reviewed the relevant portions of the Bylaws to conduct the election for the position of Vice Chairman and then opened the floor for nominations. Ms. Donna M. Uzzell nominated Major Timothy P. McGrail and the nomination was seconded by Ms. Terry Gibbons. No other nominations were made for this position.

> ***Compact Council Action:*** **Ms. Donna M. Uzzell moved to close the nominations for Chairman. The motion was seconded by Captain Thomas W. Turner. Major McGrail won the Vice Chairman election by acclamation.**

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

Chairman Moriyama moved to the podium to provide her final report as Council Chairman. She opened her presentation with telling a witty story about trying to convince Assistant Director (AD) Cuthbertson to have the Council meeting in Hawaii. She further articulated that since she was unsuccessful she decided to bring a little bit of Hawaii to the meeting. She displayed several Hawaiian words on the overhead screen and explained the meaning of each throughout her presentation.

After describing various Hawaiian words and how they related to the Council, Chairman Moriyama provided a few statistics that were of interest to the Council. She announced that 30 states have ratified the Compact and 18 of those states participate in the NFF program. Further, an additional four states are anticipating NFF participation within the next year which will be a significant achievement.

As has been the theme throughout her chairmanship, Chairman Moriyama again recognized the power of partnership. She pointed out the Hawaiian word "kokua" means working together. She acknowledged that we all understand the bigger mission and that through partnerships significant accomplishments can emerge. She explained that the achievements over the last four years were captured in a list that was sent to the Council members prior to the meeting and she was astonished by the number of accomplishments.

In closing, Chairman Moriyama provided the meaning for "mahalo." She explained that the word means more than thanks. She emphasized that mahalo also

means admiration and she wanted to express her admiration to all of the attendees for their willingness to work together on important issues. She concluded her final Council Chairman's Report by thanking everyone for their efforts and commitment to the Council.

(Attachment 2)

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

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

Mr. David Cuthbertson, FBI CJIS Division AD, provided an overview of the CJIS Division's current initiatives, successes, and challenges. He opened his presentation by recognizing and thanking Chairman Moriyama and Vice Chairman Kellett for their four years of service and leadership. He acknowledged the CJIS Division staff participating in the Council meeting via the video teleconference. Next, he noted some changes in the CJIS Division's senior executive staff.

Mr. Cuthbertson discussed the status of the Biometric Technology Center (BTC). He announced that it is anticipated that the BTC will be completed by September 2014, and occupied by CJIS employees by the end of 2014. Next, he provided updates on various information sharing programs at CJIS, such as the National Criminal Information Center (NCIC), the National Instant Criminal Background Check System (NICS), the Law Enforcement National Data Exchange (N-DEx) program, and the Law Enforcement Enterprise Portal (LEEP/LEO). He explained that the NCIC Third Generation (N3G) is a major initiative and CJIS is partnering with stakeholders to explore the NCIC needs for the future. He further explained that the last significant update of the NCIC was in 1999. He noted that the CJIS Advisory Policy Board (APB) has vetted all of the updates since that time and pointed out that several APB members also play a role on the Council. Regarding next steps, Mr. Cuthbertson informed the Council that the CJIS Division will be reaching out to the stakeholders for input and then eventually recommendations will be presented to the APB for consideration.

Mr. Cuthbertson noted that the CJIS Division had faced some challenges. Due to sequestration, all meetings, including travel and training, have been restricted to the most mission critical. He explained that the government shutdown affected departmental order checks, where citizens send in their own fingerprints, get their FBI record and challenge those records. Since these checks were not done during the shutdown, the service time went from thirty days to approximately 45 days.

Next, he advised that the Biometrics Support Section (BSS) is working on automating the departmental order checks, which are currently manual. He explained that the CJIS Division is modernizing the manual process and working toward the

electronic departmental order checks, where users can submit fingerprints and request their record electronically. The CJIS Division is developing a full Concept of Operations and requirements and hopes to have online payment capability by fiscal year 2015. The Division plans to offer the ability to challenge records electronically by fiscal year 2016.

While the CJIS Division faced challenges, there were also successes. The Voice over Internet Protocol (VOIP) Private Branch Exchange (PBX), which is a computer switchboard, was installed at the Division. In addition, the Advanced Fingerprint Identification Technology (AFIT) came with NGI's Increment 1, allowing fingerprints to be searched faster and more accurately. The NGI's Increment 2 implemented the Repository for Individuals of Special Concern (RISC), which allows a mobile fingerprint identification to go from the local office to the street, to the state repositories, to the CJIS Division, and back to the street. With the implementation of the NGI's Increment 3, the mobile submissions are being cascaded against the Unsolved Latent File (ULF). Mr. Cuthbertson announced that NGI's Increment 4 will be deployed in the summer of 2014, and will institute a nationwide Rap Back system, which provides continuous vetting of persons in positions of trust or under criminal justice supervision.

Lastly, Mr. Cuthbertson discussed the on-going initiatives with N-DEx and the LEEP. He explained that there has been an increase in participation in N-DEx with the incarceration and the corrections community putting records into the system. In addition, he noted that the LEEP connects people to the federated identity management system and provides LEO as a service.

(Attachment 3)

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 provided an overview of items supported by the APB at its June 2013 meeting, as they relate to the Council. Included in these recommendations were motions to approve the Electronic Biometric Transmission Specification (EBTS) 10.0, to endorse the Rap Back Criminal Justice Policy and Implementation Guide, and to permit the Department of Defense to access the National Sex Offender Registry. In addition, the APB moved for a CJIS Security Policy (CSP) change to the definition of a secure location to include a police vehicle; to endorse the regulation change proposal to allow the use of NICS when hiring a law enforcement officer who will carry a firearm; and, the modification of the Hate Crime to include all self-identified religions in the United States as listed in the Pew Research Center's Pew Form on Religion and Public Life (2008) and the Statistical Abstract (2012) approved by the U.S. Census Bureau.

In closing, Captain Turner provided a list of upcoming topics that will be presented during the December 2013 meeting. Topics include the DNA indicator; a proposal to expand the UK-VISA program; a definition of cyberspace for the UCR; domestic violence in the UCR; the security policy for mobile devices; and, the CSP Advanced Authentication (AA) requirement exemption for indirect access to Criminal Justice Information (CJI). Captain Turner also announced that the fall 2013 APB meeting will be held from December 3-5, 2013, in Atlanta, Georgia, the spring 2014 Working Group meetings are tentatively scheduled for March 4-6 with the location to be determined, the Subcommittees will tentatively meet on April 22-24, 2014, with the location to be determined, and the spring APB meeting is tentatively scheduled for June 3-5, 2014.

(Attachment 4)

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

Topic #4 Bureau of Justice Statistics (BJS) Update

Dr. Gerard F. Ramker, BJS, provided a brief update on the Criminal History Record Information Sharing (CHRIS) Project and introduced a recent research initiative. As background, Dr. Ramker explained that the CHRIS Project partnered the BJS with the states, Nlets and the FBI CJIS Division to create an automated and secure process that provided the BJS access to criminal history data for recidivism research purposes and to evaluate the grant programs that support states in improving criminal history records. He further explained that the project is winding down and the BJS is a few months away from delivering a national portrait of recidivism. In addition, he said that states that supplied records for the research will receive some analytical tools which may be valuable to assess data quality at the state level.

In order to make statistical use of the rap sheets that BJS received to form the basis of the recidivism research, Dr. Ramker explained that the BJS partnered with Nlets to develop software to interpret the unique structure of individual state rap sheets and extract key data elements into a database with a uniform record layout. In addition, he noted that another software system was developed to convert the various unique state-specific codes and the literal fields found in the criminal history data into a common national coding structure. The software then organizes these standardized fields into a structured database that the BJS can analyze to answer a wide range of research questions on recidivism.

Next, Dr. Ramker announced another research effort that is underway. This initiative is designed to assess the recidivism of federal probationers. He briefly discussed the project and noted that the BJS anticipates publishing initial recidivism research findings from the first study later this year. The results will be shared with the

Council, the state repositories, and the CJIS APB. Dr. Ramker explained that these reports will examine the rearrest, reconviction and re-incarceration of the releasees and the factors associated with differential recidivism rates. In the meantime, Dr. Ramker stated that the BJS is seeking the Council's input in two areas: 1) the specific data quality research questions that the state would like the BJS to pursue with the data; and, 2) the types of informational products or tools that a state would feel would be most useful for the state in continuing efforts to improve record quality and completeness. Subsequently, Dr. Ramker presented the BJS' proposed data quality analysis plan which involved discussing various research questions.

At the conclusion of Dr. Ramker's presentation, Chairman Moriyama recommended to the new Council Chairman that the BJS remain engaged with the S&P Committee at its March 2014 meeting due to the significance to all of the states, as the project moves forward.

(Attachment 5)

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

Topic #5 **(A) SEARCH UPDATE**
(B) SEARCH Update on the Proposed Amendments to Public Law 92-544
(C) 2012 Biennial State Repository Survey Findings That Are Relevant to Noncriminal Justice Background Checks

Mr. Scott Came, Executive Director of The National Consortium for Justice Information and Statistics (SEARCH), updated the Council on the proposed amendments to Public Law (Pub. L.) 92-544 and recent SEARCH initiatives. Relating to Pub. L. 92-544, he explained that there has been no significant development since May 2013. As background, Mr. Came explained that SEARCH's membership supported an initiative to amend Pub. L. 92-544. The basic framework for Pub. L. 92-544 would remain in place including the AG's authority to review state statutes. However, Mr. Came further explained that the amendment gets into specifics about the purposes for which the background checks may be conducted; for example, licensing, adoption, and facility access to vulnerable populations. In addition, the amendment further refines the AG's authority to approve state statutes. Mr. Came noted one of the biggest proposed changes to the legislation is that the record would be returned to the end user. He emphasized that this is one of the core tenets that the SEARCH membership would like to see move forward. In addition, Mr. Came said that SEARCH continues to seek a sponsor for the bill. He stressed that SEARCH has consulted with the FBI CJIS Division and the Office of the General Counsel (OGC) as they have pursued this initiative and view them as an important partner in this effort.

Next, Mr. Came discussed additional legislation which may be of interest to the Council including the appropriation bills. Regarding the appropriation bills, he specifically spoke about the National Criminal History Improvement Program (NCHIP) and NICS Act Record Improvement Program (NARIP) grants. He recalled that in 2013 both were funded at a total of 12 million and in the current House version of the appropriations that number is 55 million and in the Senate version it is 62 million which is a significant increase.

Mr. Came identified a number of legislative initiatives related to background checks. In particular, SEACH is watching House Resolution (H.R.) 2864 and H.R. 2999. He explained that the intent of these two pieces of legislation is to improve the accuracy and completeness of records used to conduct background checks for employment.

Lastly, Mr. Came mentioned that SEARCH has for many years advocated including in a resolution of the membership for the creation and operation funding of a task force to do a wholesale look at the justice system and identify potential areas of reform. He advised that if the current CJS appropriations bill passes then the task force would likely move forward.

Mr. Came turned the presentation over to Mr. Owen Greenspan to discuss the preliminary results of the 2012 Survey of State Criminal History Information Systems.

(Attachment 6)

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

Topic #6 Compact Council Strategic Plan Update

Ms. Anissa C. Drabish, FBI CJIS staff, presented the Council's Strategic Plan Update. She opened her presentation with a brief recap of the P&O Committee and Council's efforts toward streamlining and refining the Council's Strategic Plan. Next, she provided a high-level overview of the Scorecard and the Status Report. She advised that the Status Report compliments the Scorecard by providing detailed information relating to the goals, objectives, strategic actions, the performance measures, review periods, responsible party, and the taskings.

Ms. Drabish reported that during its September 2013 meeting, the P&O Committee reviewed the Status Report for each of the goals, objectives, and strategic actions. Since the P&O Committee conducted a thorough review, the Council would only review the Scorecard. The Scorecard is designed to provide a quick visual indication of the status of each of the strategic actions.

After reviewing the setup of the Scorecard, Ms. Drabish reviewed each of the objectives, discussed the color assigned to each strategic action and presented several accomplishments that supported each of the strategic actions. Some of the successes included the addition of Missouri and Iowa to the NFF program, CJIS hosted a civil image quality discussion in which S&P Committee members, third-party fingerprinting vendors, and FBI subject matter experts participated in the discussion, New York became the 30th Compact signatory state, and eight non-party states participated in an MOU outreach luncheon.

After receiving the update, there was a motion that the Council endorse the P&O Committee's recommendations made during its September 2013 Committee meeting.

(Attachment 7)

> ***Compact Council Action:*** **Ms. Dawn A. Peck moved that the Council endorse the P&O Committee's recommendations made during its September 2013 Committee meeting. Seconded by Captain Thomas W. Turner. Motion carried.**

Topic #7 **Biometric Interoperability Update**

Ms. Charity A. Harris, FBI CJIS staff, presented the biometric interoperability update which provides the NGI users with information regarding the implementation of biometric-based interoperability between the FBI CJIS Division and other federal agencies. She specifically spoke about the interoperability initiatives between the NGI and the Department of Homeland Security (DHS) 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 announced that in February 2013, the CJIS Division and the Royal Canadian Mounted Police (RCMP) successfully implemented the capability to allow select CJIS Division units to send searches to the RCMP's Real Time Identification (RTID) System. The long-term goal is for the RCMP to increase the number of transactions their system can accept from the FBI. She further explained that as the volume limit increases, the service will then be provided to authorized users having a need to search the RCMP's RTID.

Regarding next steps, Ms. Harris noted that Increment 4 of the NGI includes a number of interoperability processing and requirements; for example, record linking and the Name of Designated Repository (NDR) field. She advised that the CJIS Division will continue to extend interoperability to additional users until the NGI Increment 4 delivers

the enhanced functionality to all CJIS stakeholders submitting criminal justice transactions.

In addition, Ms. Harris reported that days after the May 2013 Council meeting, the CJIS Division received the signed memorandum from the DHS authorizing all criminal justice users access for criminal justice purposes to IDENT. The CJIS Division will work with the Office of Biometric Identity Management (OBIM) to incrementally roll out the access to the criminal justice users that are authorized to search IDENT.

Lastly, Ms. Harris discussed the on-going effort to identify identification security gaps. As she noted at the September 2013 S&P Committee meeting, Ms. Harris explained that the Interoperability Initiatives Unit was assigned a topic paper for the spring 2014 round of committee meetings to review the CPI messages. She provided the Council with a few cursory statistics and emphasized that the research was still in the early stages. However, the results of research will be presented to the S&P Committee at an upcoming meeting.

(Attachment 8)

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

Topic #8 IDENT Searches

To inform authorized stakeholders of upcoming NGI Increment 4 changes with regard to biometric searches of the DHS IDENT via IDENT/NGI Interoperability, Ms. Charity A. Harris, FBI CJIS staff, presented the information to the Council. Ms. Harris explained that in NGI Increment 4, day-one-forward Record Linking between the NGI and IDENT will be implemented. The Record Linking capability will establish a unique, person-centric identifier from each system to link records common to both the IDENT and the NGI. The Record Linking functionality will provide added benefit to both systems by decreasing the number of one-to-many searches between the two systems.

Ms. Harris added that another part of the change for the record linking is the order in which the stakeholder's biometric submissions will be searched. The submissions will be searched in the NGI before a search of the IDENT is initiated.

Next, Ms. Harris spoke about the Name of the Designated Repository (NDR) Electronic Biometric Specification Transmission (EBTS) field to request the IDENT response be returned to the authorized contributor. To facilitate searches of the DHS IDENT, the EBTS 10.0 will offer the following optional field values for the NDR: 1) NDR "9" for IDENT only searches and 2) NDR "10" for IDENT and DHS Immigration and Customs Enforcement Law Enforcement Support Center searches.

Ms. Harris further explained that the authorized contributors should be aware of the following stipulations: 1) all criminal submissions will search the IDENT if no record link exists between the NGI and the IDENT and 2) authorized contributors will be required to populate the NDR field to indicate they want to receive the IDENT response. These actions will generate either a one-to-many search if no record link exists or a one-to-one information retrieval if a record link exists.

The next change that Ms. Harris discussed was the rejected submissions. With NGI Increment 4, submissions failing to meet the NGI quality standards will not be sent to the external system for a search of that repository. This change is significantly different than in the current process in that all interoperability submissions, regardless of rejection by the CJIS Division, are transmitted to the IDENT for a search. During the September 2013 S&P Committee meeting, several members voiced concern over this change and asked Ms. Harris to review previous submission data and determine the rate of those that were rejected in the NGI that went onto IDENT and actually "hit" in IDENT. Ms. Harris provided the Council members with preliminary data from the requested information.

In conclusion, Ms. Harris noted that she spoke with Mr. Brian Edgell, NGI Program Office, and both agreed that a working group should be established to assess the data pertaining to the rejected submissions.

(Attachment 9)

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

Topic #9 **IDENT Searches by Partner Countries**

Mr. Brian Pittack, the DHS OBIM, presented the IDENT Searches by Partner Countries. His presentation provided a brief background of the OBIM, the automated biometric identification system, an update on the UK-Visa Program, and then he requested input from the Council regarding the sharing of limited criminal information with the Five Country Conference partner countries for immigration purposes. The Council moved to approve the DHS OBIM sharing the same type of CJIS-provided information as approved for UK Visas (KSTs/Wants and Warrants/Criminal Information where DHS is the owner of the record) with the UK, Australia, New Zealand, and Canada, provided there is reciprocal sharing of authorized information from partner countries. This is with the understanding that DHS is moving to enhance data sharing with domestic partners.

Next, Chairman Moriyama inquired about information contained in a packet provided by Mr. Steven Cooper, DHS. She specifically asked about the difference

between the Five Country Conference and the Five Country Ministerial. As this was not Mr. Pittack's area, he turned the discussion over to Mr. James Buckley, DHS. Mr. Buckley described the difference and further explained that two countries had inquired about the potential sharing of criminal history record information for noncriminal justice purposes. He informed the Council that a working group was formed to review the request which included representatives from the State Department, the Department of Justice, the FBI CJIS Division, and entities within the DHS. In addition, it was noted that the working group is in its early stages and there are several areas that will need to be addressed before moving forward with any recommendations. Finally, in closing, Chairman Moriyama recognized the importance of partnership in this endeavor.

(Attachment 10)

> ***Compact Council Action:*** **Ms. Donna M. Uzzell moved to accept the S&P Committee's recommendation as noted below:**
>
> **Approve DHS [Office of Biometric Identity Management] OBIM sharing the same type of CJIS-provided information as approved for UK Visas (KSTs/Wants and Warrants/Criminal Information where DHS is the owner of the record) with the UK, Australia, New Zealand, and Canada, provided there is reciprocal sharing of authorized information from partner countries. This is with the understanding that DHS is moving to enhance data sharing with domestic partners. Seconded by Mr. Michael C. Lesko. Motion carried.**

Topic #10 **National Criminal History Record Information Audit Guide**

Mr. Randall Wickline, CJIS Audit Unit (CAU), provided the Council with a brief background of the National Criminal History Record Information Audit Guide for Noncriminal Justice Agencies (Audit Guide). He reminded the audience that the Audit Guide was approved by the Council in November 2008, as a resource for the states' reference and use in development and deployment of noncriminal justice audit methodologies.

Further, Mr. Wickline explained, in support of the Compact Council's Strategic Plan Objective 2.1, to ensure compliance with privacy and security standards for the handling of criminal history record information for noncriminal justice purposes, the Audit Guide was recently reviewed by the Compact Team and CAU staff. Based on the review, he noted that since changes in both policy requirements and the FBI audit processes have occurred since the Audit Guide was last updated in 2009, it was an excellent opportunity to revise and refocus the Audit Guide.

Next, Mr. Wickline presented the concept for the revised Audit Guide. He mentioned that the updated edition will have an increased focus on specific considerations for audit development and provided the Council with an outline based on the new concept. He also noted that some of the detailed policy requirement information contained in the current edition of the Audit Guide will be migrated to the Noncriminal Justice Online Policy Resource located on the Council's Law Enforcement Online Special Interest Group. Lastly, the Council discussed the outline and approved the concept. In addition, the Council supported the P&O Committee's recommendation to place a notation on the current online Audit Guide to advise that it is under revision.

> ***Compact Council Action:*** **Ms. Dawn A. Peck moved to endorse the P&O Committee's motion to move forward with the proposed concept and changes to the Audit Guide and to place a notation on the current online guide that it is under revision. Seconded by Mr. David LeNoir. Motion carried.**

Topic #11 **The Planning and Outreach Committee Report on the Council's Identity Verification Guide**

Ms. Melody K. Ferrell, FBI CJIS staff, presented the P&O Committee's Report on the Council's Identity Verification Guide. She provided a brief history regarding the evolution of the topic and introduced her co-presenter Ms. Tammi Kestel from the Illinois State Police Bureau of Identification.

Ms. Kestel discussed the policies and procedures that are in place to reduce fingerprint fraud in Illinois. In addition, she shared with the Council an incident that occurred resulting in fingerprint fraud and she discussed the follow up actions taken to help reduce fingerprint fraud.

After Ms. Kestel's presentation, Ms. Ferrell presented the red-lined version of the proposed changes to the Identity Verification Guide. Ms. Ferrell discussed each of the recommendations and received feedback from the Council members. Based on the feedback, the Council recommended that the Identity Verification Guide be returned to the P&O Committee for further refinement and a revised guide be presented at the spring 2014 P&O Committee meeting.

(Attachment 11)

> ***Compact Council Action:*** **With the understanding that the guide will be presented again at the spring 2014 P&O Committee meeting, Mr. Michael C. Lesko moved to accept the proposed changes to the Council's Identity Verification Guide as presented and further**

amended during the discussion. Seconded by Ms. Donna M. Uzzell. Motion did not pass.

Compact Council Action: **Ms. Dawn A. Peck moved that the Council's Identity Verification Guide return to the P&O Committee during its spring 2014 meeting for further discussion and revision. Seconded by Captain Thomas W. Turner. Motion carried.**

Topic #12 Changes in Dissemination of Information to CJIS Customers

Via the VTC, Mr. Michael Barnette, FBI CJIS staff, discussed the changes in dissemination of information to CJIS customers. As background, as part of a "Green" initiative to decrease the use of paper and associated U.S. Taxpayer expenses, the decision was made to cease dissemination of hard copy CJIS Information Letters. Since implementation of the "Green" initiative, the CJIS Division now electronically disseminates CJIS Information Letters through a LEO website. However, only approximately half of the CJIS customers have access to LEO, thus limiting the "potential" customer base for this method of dissemination.

The purpose of the presentation was to brainstorm alternative methods for disseminating the CJIS Information Letters. Some of the suggestions from the Council included 1) developing a list serve to electronically send the information to the list subscribers; 2) posting the information to a public website such as fbi.gov; and 3) emailing the CJIS Information Letter to the SIBs, CSOs, SCOs, and Council members. Mr. Barnette advised that he would obtain a list of the SCOs and Council members and would email the next CJIS Information Letter.

(Attachment 12)

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

Topic #13 Update on the CJIS Security Policy's Impact on Noncriminal Justice Agencies

Mr. Charlie Schaeffer, FDLE and Council representative on the APB Security and Access (SA) Subcommittee, provided the Council with an update on the CSP impact on noncriminal justice agencies. Mr. Schaeffer briefly discussed the activities that occurred since the May 2013 Council meeting. He explained that the APB and the Council formed a joint task force to review Appendix J in the CSP and any topic that directly or indirectly impacted noncriminal justice agencies. Since the last update, two topic papers were drafted based on an ad-hoc discussion at the APB SA Subcommittee in the spring of 2013 and reviewed by the Joint Task Force. The two topics include Encryption Standards for Data at Rest and Advanced Authentication Requirement Exemption for Indirect Access

to CJI. The Joint Task Force participated in two teleconference meetings along with numerous email exchanges to discuss changes to both topic papers which resulted in a unanimous agreement among the Joint Task Force members.

Next, Mr. Schaeffer briefly discussed the two concepts that were identified – the difference between data at rest and data in motion. The next issue that was relevant at the time was the difference between a passphrase and a password. The final concept that Mr. Schaeffer discussed was the indirect access.

He advised that the topic papers were provided to the APB Working Groups, the APB SA Subcommittee, and the S&P Committee and were well received by all of the groups.

In conclusion, Mr. Schaeffer recommended to the Council to continue the Joint Task Force as new issues may arise.

(Attachment 13)

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

Topic #14 **Advanced Authentication (AA) Requirement Exemption for Indirect Access to Criminal Justice Information (CJI)**

Mr. George White, FBI CJIS ISO, presented the advanced authentication requirement exemption for indirect access to CJI. He explained that the purpose of this topic was to modify CSP language to define indirect access and permit indirect access to CJI without requiring AA.

Mr. White began by providing a brief history of the development of the topic. During the spring 2013 SA Subcommittee meeting, an ad hoc discussion ensued concerning whether or not AA should be required for access to CJI stored on a system that does not have direct access to the CJIS Systems Agency (CSA), SIB, or national repositories. Currently, the determination of whether or not AA is required for access to CJI is based upon physical, personnel, and technical security controls associated with a user's location. If authorized personnel are accessing CJI from within a physically secure location in accordance with section 5.9.1 of the CSP, there is no need to challenge the user with AA. If however, authorized personnel are accessing CJI from outside the physically secure location or if the location of the requestor is unknown, AA is required. Furthermore, there are some agencies that maintain CJI but may lack the need or capability to conduct transactional activities on state and national systems or "direct access" as currently defined in the CSP. By introducing indirect access parameters and defining indirect access within the CSP, agencies would have the opportunity to make a risk-based determination on whether AA is required. Mr. White provided several

examples of "indirect" access. One example would be a police department, a CJA, scanning/copying CHRI into a records management system (RMS) without the ability to run transactions through the state or national systems from the RMS.

After going through a summary of the topic paper, Mr. White included the recommended changes to modify the current CSP language in Appendix A regarding direct and indirect access. Once the Council voted on the motion, Mr. White advised the Channelers that this motion did not apply to them.

Lastly, Mr. White reminded the Council of their May 2013 motion to indefinitely delay the audits for the new requirements of the CSP Appendix J with regards to noncriminal justice agencies until the issues with the new requirements are addressed by the Compact Council and the APB. With both of the issues addressed, Mr. White recommended that the Council move to endorse the APB's recent motion to resume the audit of noncriminal justice agencies in coordination with the release of the CSP version 5.3.

Compact Council Action: **Ms. Donna M. Uzzell moved to modify the current CJIS Security Policy language in Appendix A: Terms and Definitions and Section 5.6.2.2.1 with the proposed changes as detailed below (*changes/additions are in bold italics*):**

A. APPENDIX A TERMS AND DEFINITIONS
Indirect Access — Having the authority to access systems containing CJI without providing the user the ability to conduct transactional activities (the capability to query or update) on state and national systems (e.g., CJIS Systems Agency (CSA), State Identification Bureau (SIB), or national repositories).

B. 5.6.2.2.1 Advanced Authentication Policy and Rationale
The requirement to use or not use AA is dependent upon the physical, personnel and technical security controls associated with the user location ***and whether CJI is accessed directly or indirectly***. For example, AA shall not be required for users requesting access to CJI from within the perimeter of a physically secure location (Section 5.9), when the technical security controls have been met (Sections 5.5 and 5.10)***, or when the user has no ability to conduct transactional activities on state and national repositories, applications, or services (i.e. indirect access).*** Conversely, if the technical security controls have not been met AA shall be required even if the request for CJI originates from within a physically secure location. Section 5.6.2.2.2 provides agencies with a decision tree to help guide AA decisions.

Seconded by Major Timothy P. McGrail. Motion carried.

<u>Compact Council Action:</u> **Ms. Donna M. Uzzell moved to endorse the Advisory Policy Board's (APB) motion to resume the audit of noncriminal justice agencies (NCJAs) in coordination with the release of the CJIS Security Policy Version 5.3, upon the FBI Director's approval of the APB motion. Seconded by Major Timothy P. McGrail. Motion carried.**

<u>Topic #15</u> Encryption Standards for Criminal Justice Information at Rest

Mr. George White, FBI CJIS ISO, presented the encryption standards for CJI at rest. As background, the purpose of this topic was to add language within the CSP permitting the ability to securely store electronic documents containing CJI using encryption methods that are Federal Information Processing Standard (FIPS) 197 certified, 256 bit as described on the National Security Agency (NSA) Suite B Cryptography list of approved algorithms.

Mr. White noted that currently, the CSP requires CJI stored electronically outside of a physically secure location to be encrypted using FIPS 140-2 certified encryption methods. There are some agencies (e.g., NCJAs) that may lack the need or capability to establish physically secure locations and therefore must comply with FIPS 140-2 encryption standards at all times. These agencies often report how difficult it is to acquire the necessary resources to implement compliant cryptographic controls. Amending the CSP to allow the use of FIPS 197 certified encryption methods would allow these agencies to utilize more cost effective software solutions to store CJI securely outside of a physically secure location while still protecting the data at rest. In addition to a modified cryptographic standard, the paper also establishes standards required to decrypt stored CJI using a "passphrase."

<u>Compact Council Action:</u> **Ms. Donna M. Uzzell moved to approve the following changes to the CJIS Security Policy (*changes in bold italics*):**

Add the following language to paragraphs 3 and 4 of Section 5.10.1.2 Encryption:

Section 5.10.1.2 Encryption
Commonly available encryption tools often use a key to unlock the cipher to allow data access; this key is called a passphrase. While similar to a password, a passphrase is not used for user authentication. Additionally, the passphrase contains stringent character requirements making it more secure and thus providing a higher level of confidence that the passphrase will not be compromised.

3. When CJI is as rest (i.e. stored electronically) outside the boundary of the physically secure location, the data shall be protected via cryptographic mechanisms (encryption).
   a. When agencies implement encryption on CJI at rest, the passphrase used to unlock the cipher shall meet the following requirements:
      i. Be at least 10 characters.
      ii. Not be a dictionary word.
      iii. Include at least one (1) upper case letter, one (1) lower case letter, one (1) number, and one (1) special character.
      iv. Be changed when previously authorized personnel no longer require access.
   b. ***Multiple files maintained in the same unencrypted folder shall have separate and distinct passphrases. A single passphrase may be used to encrypt an entire folder or disk containing multiple files. All audit requirements found in Section 5.4.1 Auditable Events and Content (Information Systems) shall be applied.***

4. When encryption is employed, the cryptographic module used shall be certified to meet FIPS 140-2 standards.
   a. Note 1: Subsequent versions of approved cryptographic modules that are under current review for FIPS 140-2 compliancy can be used in the interim until certification is complete.
   b. Note 2: While FIPS 197 (Advanced Encryption Standard) certification is desirable, a FIPS 197 certification alone is insufficient as the certification is for the algorithm only vs. the FIPS 140-2 standard which certifies the packaging of an implementation.

EXCEPTION: When encryption is used for CJI at rest, agencies may use encryption methods that are FIPS 197 certified, 256 bit as described on the NSA Suite B Cryptography list of approved algorithms.

Seconded by Major Timothy P. McGrail. Motion carried.

<u>Topic #16</u> NGI Program Status Update

Mr. Brian L. Edgell, FBI CJIS staff, provided an overview of the NGI Program and status updates on the incremental deployment and changes to the system. He presented a high-level depiction of the specific milestones with the NGI Program. Mr. Edgell reported that Increment 2 was deployed in August 2011. This increment included the RISC and initial NGI infrastructure. Increment 3 was deployed in May

2013. This increment included the national palm print system implementation, latent enhancements, and rapid response. Increments 4, 5, and 6 are in progress.

In relation to Increment 4, Mr. Edgell announced that deployment is targeted for the summer 2014. This increment will contain Rap Back, facial recognition, and text based scars, marks, and tattoo searches. He also discussed the NGI baseline freeze and transitioning Compact states to NFF participation. He said that the NGI Program Office would work with Ms. Paula Barron, FBI CJIS staff, to determine what needs to be done to move states into NFF participation once the baseline freeze is lifted. Mr. Edgell also spoke about the facial recognition pilot and lessons learned from the experience.

In closing, Mr. Edgell discussed the iris pilot which will be delivered in Increment 5. He noted that the Iris Executive Concept of Operations was completed along with the Technical Specification Document and MOU's for pilot participation and bulk iris submissions. In addition, the CJIS Division is working with potential pilot participants.

(Attachment 14)

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

Topic #17 Rap Back Focus Group Update

(A) Operational Details of Monthly Validation/Expiration Lists

(B) Implementation of Privacy Risk Mitigation (Privacy Strategy) #5: Subscription Synchronization Through Automated or Formalized Procedures

(C) Implementation of Category Based Subscription Management

Mr. David Gavin presented the Rap Back Focus Group Update. He explained that with the first topic, Operational Details of Monthly Validation/Expiration Lists, he wanted to provide the Council with a few thoughts to consider as leaders. He noted that validation is one of the items that is key to the privacy strategies. Next, the submitters can opt-out of receiving the monthly Validation/Expiration Lists provided by the NGI. The last item on the slide – CJIS will work with Submitters who want to implement alternative validation/expiration processes.

Moving on to the second topic, Mr. Gavin discussed privacy risk mitigation strategy #5. He noted that originally when the Council approved this strategy, it was an example and not written as a requirement. The recommendation is that the examples be transformed into requirements so that the submitters can use the information for implementation. The Council discussed the recommendation listed in the staff paper and amended a few of the proposed requirements.

Regarding the final topic, implementation of category based subscription management, Mr. Gavin presented the proposed changes from the staff paper for the Council's consideration.

(Attachment 15)

<u>Compact Council Action:</u> **Ms. Donna M. Uzzell moved to endorse the S&P Committee's motion to approve the requirements for implementation of Rap Back Privacy Risk Mitigation Strategy #5, with the following conditions as amended during the discussion (*changes in bold italics*):**

- That the Subscriber and Submitter must create these processes or processes that are functionally equivalent to these requirements.

- The Submitter must verify that the controls are in place at the Subscribing Entity.

- If there is any question regarding the sufficiency of a set of processes, the Submitter must consult CJIS.

- CJIS can individually review and ***enable*** implementation situations that are not directly addressed in these stated situations and requirements. The mandate to CJIS in that instance would be to ensure that controls at least as protective as those stated here are equally maintained in any other proposed processes prior to their being approved.

- These requirements are described as being implemented through automated processing, but Submitters can agree to allow some of these functions to be performed manually with Subscribers.

Seconded by Ms. Terry Gibbons. Motion carried.

<u>Compact Council Action:</u> **Ms. Donna M. Uzzell moved to approve the On-Going Processing Requirements outlined on page 6 of the staff paper (Topic #17B) for implementation of Rap Back Privacy Risk Mitigation Strategy #5, with the following amendments (*changes in bold italics*):**

3.b. The Submitter will transform those files from the Subscriber into appropriate EBTS transactions and send them to update NGI ***as soon as practicable and no longer than 30 days***.

Seconded by Mr. Jeffrey R. Kellett. Motion carried.

Compact Council Action: **Ms. Donna M. Uzzell moved to endorse the S&P Committee's motion to accept the alternative recommendations as presented and detailed below:**

A. That the above requirements and Best Practices be approved as modified by the Compact Council for NGI's Rap Back implementation by Submitters choosing the Category Based approach; and,

B. That Submitters choosing the Category Based Approach be required to have documented processes and controls in place to follow these requirements and Best Practices or Alternate Practices; and,

C. That CJIS and the Submitter will use the required Submitter's Checklist process to discuss, document, and validate the Submitter's plan for fulfilling the requirements of Category Based Subscription Management, with the following considerations.

    1. CJIS can enable use of Category Based Subscription Management contingent upon necessary improvements being verified as in place prior to the Submitter using Category Based Subscription Management for their participation in NGI's Rap Back Service.

    2. Submitter must discuss with CJIS any changes in the enabled processes. CJIS must document those changes to the Submitter's existing Rap Back plan.

    3. Approximately one-year after a Submitter begins participating in Category Based Subscription Management, CJIS will validate that the Submitter's documented processes are still in place and are resulting in the Submitter's compliance with the requirements for Category Based Subscription Management. The CJIS Audit Unit may conduct this one-year review on site or remotely. The CJIS Audit Unit may schedule this approximate one-year review in a manner that fits into the Unit's existing audit activities.

    4. In order to ensure Privacy Risk Mitigation Strategies and other system processes are being followed, the regular CJIS audits will have a special emphasis on validating the processes described to CJIS at start-up remain in place, or have been modified only after discussions with CJIS, and that they remain effective.

5. Upon request, the Submitter must be able to provide CJIS with appropriate reports including, but not necessarily limited to:

    a. All state/agency-maintained subscriptions for the Category Based Subscriptions in NGI, along with the associated Privacy Risk Mitigation Strategies being employed for those subscriptions;

    b. All state/agency-maintained subscriptions for named Subscribers and the associated Privacy Risk Mitigation Strategies being employed for those Subscribers;

    c. Other available information that will assist CJIS in validating the processes being employed by the Submitter

Seconded by Mr. Jeffrey R. Kellett. Motion carried.

Topic #18 **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 5, 2013, and reviewed responses to the Sanctions' letters that were disseminated based on the review of audit findings during the May 2013 meeting. The Sanctions Committee reviewed the responses to the Sanctions letters and determined that four states would be sent letters of closure.

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

The Sanctions Committee reviewed audit findings from three MOU states 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 made the following recommendations: two states were recommended to receive letters of concern and closure and one state receive a letter of recommendation.

The Sanctions Committee reviewed audit findings from five 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: it was recommended that one state receive a letter of commendation and closure, one state receive a letter of concern and closure and three states receive letters of recommendation.

The Sanctions Committee reviewed audit findings from eleven federally regulated agencies for appropriate action. The Sanctions Committee also reviewed the corrective action plans implemented by the agencies. The recommendations were based on the following criteria: violations of articles of the Compact to include the III misuse and Compact rules. Based on these requirements, the Sanctions Committee made the following recommendations: it was recommended that three agencies receive letters of commendation and closure and eight agencies receive letters of concern and closure.

The Sanctions Committee reviewed audit findings from two federally regulated agencies that were approved by the FBI Compact Officer to outsource noncriminal justice administrative functions to a third party for appropriate action. The Sanctions Committee also reviewed the corrective action plans implemented by these agencies. Recommendations were based upon the requirements outlined in the Outsourcing Rule and the Security and Management Control Outsourcing Standard. Based on the criteria, the Sanctions Committee recommended that both agencies receive letters of concern and closure.

The Sanctions Committee reviewed audit findings from one FBI-approved channeler for appropriate action. The Sanctions Committee also reviewed the corrective action plans implemented by this agency. Recommendations were based upon the requirements outlined in the Outsourcing Rule and the Outsourcing Standard. Based on the criteria, the Sanctions Committee recommended that the agency receive a letter of commendation and closure.

Compact Council Action: **Ms. Julie A. Lackner moved that the Council accept the Sanctions Committee report. Seconded by Mr. Michael C. Lesko. Motion carried.**

Topic #19 **Centers for Medicare and Medicaid Services' (CMS) Long Term Care (LTC) Criminal Conviction Work Group Report**

Ms. Rebecca Ward and Mr. Martin Kennedy, CMS, joined the Council via telephone and provided an update regarding the CMS' LTC Criminal Conviction Work Group Report (Report). Ms. Ward provided the background for Section 6201 of the Patient Protection and Affordable Care Act (PPACA), Pub. L. 111-148. She explained

that the PPACA requires the Secretary of the United States 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. Further, states and territories must apply to become a program participant and obtain federal matching grant funding.

Ms. Ward announced that grants have been awarded to 25 states and territories. In addition, the CMS has now released 10 solicitations to apply for federal funds for a multi-year program to all states and U.S. territories. At this time, there are plans for the 10th solicitation to remain open indefinitely.

As background, following an update from the CMS on its National Background Check Program Long Term Care Criminal Convictions Work Group Report (Work Group Report) during the May 2013 Council meeting, the Council sent a letter formalizing the concerns of its membership with several of the Work Group Report's recommendations. During the November 2013 Council meeting, Ms. Ward discussed various comments received from the Council and other interested parties in response to the recommendations and advised that the CMS is continuing to process comments. Mr. Kennedy affirmed Ms. Ward's remarks and noted that no decisions on next steps had yet been made.

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

Topic #20 Legislative Update

Mr. Thomas G. Aldridge, FBI, OGC, Access Integrity Unity (AIU), provided an overview of legislation introduced in the 113th Congress that may significantly affect the noncriminal justice use of the III and the noncriminal justice user community. First, he discussed Senate 1362, the Child Protection Improvements and Electronic Life and Safety Security Systems Act of 2013. This bill requires the AG to establish a criminal history review program within one year of enactment.

Next, he briefed the Council on H.R. 3299, the Security Before Access Act of 2013. This bill amends the Public Health Service Act and requires that any individual having access to personally identifiable information that assists any consumer seeking coverage through the health insurance exchanges must undergo, within 60 days of providing assistance, a criminal and fingerprint background check. He noted this bill does not provide specifics on how the check will be conducted.

Mr. Aldridge also discussed H.R. 2930, the Transition-To-Success Mentoring Act. This requires that local educational agencies that receive grants, under this bill, from the Secretary of Education use the funds to establish a mentoring program in all middle schools served by the agency, under which an eligible student is assigned a success

coach. Success coaches must undergo a screening by a local educational entity that includes appropriate job reference checks, child and domestic abuse record checks, and a criminal background check. The bill does not specify how the criminal background check will be conducted.

Lastly, Mr. Aldridge briefed the Council on H.R. 2999, the Accurate Background Check Act of 2013, which amends Title 28, United States Code, Section 534 by adding subsection (g). This requires the AG to establish rules to ensure records exchanged for employment with the federal government or as a federal contractor is as accurate and complete as possible.

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

Topic #21 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 DO, in that the criminal history record may be used for the benefit of potential employers and other noncriminal justice entities.

In a continued effort to address the concern raised by the Council, Ms. Paula J. Zirkle, FBI CJIS staff, provided a brief update on the ongoing efforts to modify the DO fingerprint processing procedures. She highlighted several successes over the past 18 months to include multiple changes to the DO website hosted at www.fbi.gov, the addition of a caveat on the Non-Ident and Ident response letters indicating that the CHRI is not provided for the purposes of licensing or employment or any other purpose enumerated in 28 CFR 20.33, and the monthly outreach efforts to states regarding entities that may be misusing the DO and possibly bypassing the state's Pub. L. 92-544 statutes. As a result of these information-sharing efforts, Ms. Zirkle announced that third-party dissemination was reduced by 9.5 percent in the last year.

During its May 2013 meeting, the Council requested that the FBI and the DOJ pursue publishing the intent to cease third party dissemination for DOs within a specified time period (i.e., 2 years or 3 years). This time period would provide states with an opportunity to enact the necessary legislation for national fingerprint-based background checks for licensing and employment. Ms. Zirkle advised that the CJIS Division is working through the process to have the intent published in the Federal Register. However, as a precursor the CJIS Division is drafting a letter that will be sent to all SIBs to provide background information regarding changes to the DO process and explain that the intent to cease third-party dissemination will be published in the Federal Register. Ms. Zirkle also noted that once the intent is published the public would have an opportunity to comment on the information.

Next, Ms. Zirkle discussed the goals for the upcoming year which includes the notification to all SIBs regarding the intent to cease third party dissemination, continuing to work toward publishing the intent in the Federal Register, and drilling down to the top 20 agencies for third-party dissemination and working with them to find other solutions. In addition, Ms. Zirkle briefed the Council on the Electronic Departmental Order (eDO). She advised that within the next two weeks many of the Council members and SCOs would be contacted as part of the case study to provide input.

Chairman Moriyama thanked Ms. Zirkle for her efforts and acknowledged the collaboration between the Council, states, and the FBI. In addition, a member of the Council noted that the monthly outreach emails enabled the state to change the umbrella statute to add a population that they did not realize was not originally included in the statute.

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

Topic #22 **Integrated Automated Fingerprint Identification System (IAFIS) Response**

Ms. Janice Stout, FBI CJIS staff, provided the Council with a brief history of the IAFIS response times and work in process (WIP) since its inception in 1999. She provided several graphs which visually depicted the IAFIS monthly WIP, the IAFIS receipt milestones, the criminal response times and receipt totals, and the civil response times and receipt totals.

She reviewed each of the graphs and provided the Council with statistical information. For example, she explained that the highest number of WIP occurred with the implementation of the IAFIS in August 1999. Since that time, due to ongoing system enhancements, the WIP has continued to trend downward. Ms. Stout also discussed the IAFIS receipt milestones beginning with August 1999 through May 2013. She noted that since 1999, ten-print submission have grown exponentially. Ms. Stout explained that it took six years to process 100 million transactions through the system and the 200 millionth transaction occurred less than three years later. Currently, the IAFIS is processing an additional 100 million every two years.

Ms. Stout concluded her presentation by reviewing the criminal and civil response times and receipt totals. In addition, she offered the assistance of the Statistical, Trending, Analysis and Report (STAR) Group in the event a state may need IAFIS performance data and provided the Customer Service Group's telephone number.

(Attachment 16)

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

<u>Topic #23</u> **Processing Civil Submissions for Fingerprint Checks**

Ms. Janice Stout, FBI CJIS staff, briefly provided information pertaining to the processing of civil submission for fingerprint checks. She noted that currently nearly 50 percent of the ten-print processing business line are civil submissions. However, that number has changed significantly over the years. She informed the Council that in 1997 over 80 percent of the ten-print submissions were for law enforcement purposes; whereas, in October 2012 the percentage was down to only 54 percent.

Next, Ms. Stout discussed the civil ident rate over time. Specifically, she explained that within the last12 months the ident rate was trending downward but still lies above eight percent. In addition, analysis was performed on the civil ident data from June 2012 through May 2013. The reason-fingerprinted field was reviewed and categories were developed for consistency. Ms. Stout provided a table which listed eleven categories that are important to public safety. She shared that the largest category for civil submissions was childcare. She further explained that these are positions to adopt a child, be a foster parent, teacher, or community volunteer.

Lastly, Ms. Stout provided a random snapshot of the type of arrests that were found to be associated with the eleven categories.

(Attachment 17)

<u>Compact Council Action:</u> **This topic was accepted for information only.**

<u>Topic #24</u> **Issues That Delay Fingerprint Card Submissions**

Ms. Janice Stout, FBI CJIS staff, highlighted issues that delay ten-print submissions. She explained that if requested by the state, the STAR Group would provide the state with monthly statistical reports that may be used to identify issues that delay ten-print submissions; thus, improving the submission quality and decreasing the reject rate. She pointed out that the focus of the analysis is the mean or average time from the date the applicant was fingerprinted to the date the submission was processed at the CJIS Division. One of the most common examples that may delay processing includes entering the date of birth in the date of arrest or the date fingerprinted field. During her presentation, Ms. Stout presented a numeric listing of states along with the corresponding mean times for criminal and civil submissions. She explained how the data could be used to identify issues that delay the ten-print submission. In addition, it was noted that the data did not take into consideration research work. For example, some states use grant money to research missing arrests when the disposition is in the system. Even though the state had the information, the arrest card or fingerprint was not in the state AFIS so the state would obtain the ten-print from microfilm or digital fingerprints and submit the information. This may generate a large number of days from the date the applicant was fingerprinted to the date the submission was processed at the CJIS

Division. The Council members believed that it was important to recognize that these types of situations exist.

Ms. Stout concluded her presentation by emphasizing that the STAR Group is available to assist states with obtaining statistical reports and, if necessary, the reports may be tailored to the specific needs of the state. States with questions pertaining to ten-print submissions should contact the STAR Group or their Customer Service Group representative.

(Attachment 18)

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

Topic #25 **Increase in Processing Time for Follow-up Paperwork for Delete Record SID (DRS) Messages**

Staff paper provided for information only; not presented.

Topic #26 **National Fingerprint File Quarterly Statistics**

Handouts provided for information only; not presented.

Topic #27 **IAFIS Status Report**

Staff paper provided for information only, not presented.

National Crime Prevention and Privacy Compact
Compact Council Meeting
Tampa, Florida
November 6-7, 2013

List of Attachments

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List of meeting attendees

Attachment (2)
Handout #1 – Council Chairman's Report presentation

Attachment (3)
Handout #1 – FBI's CJIS Division Update presentation

Attachment (4)
Handout #1 – Advisory Policy Board Update presentation

Attachment (5)
Handout #1 – BJS Memorandum regarding input on BJS' criminal history records research

Attachment (6)
Handout #1 – State Repository Quality Assurance Program Guide/Checklist and A Methodology for Determining Costs Associated with Noncriminal Justice Purpose Background Checks

Attachment (7)
Handout #1 – Council Strategic Plan Update presentation

Attachment (8)
Handout #1 – Biometric Interoperability Update presentation

Attachment (9)
Handout #1 – IDENT Searches presentation

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Handout #1 – IDENT Searches by Partner Countries

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Handout #1 – The Council's Identity Verification Guide presentation

Attachment (12)
Handout #1 – Changes in Dissemination of Information to CJIS Customers presentation

Attachment (13)
Handout #1 – Update on the CJIS Security Policy's Impact on Noncriminal Justice Agencies presentation

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Attachment (16)
Handout #1 – Integrated Automated Fingerprint Identification System (IAFIS) Response Time presentation

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Attachment (18)
Handout #1 – Issues that Delay Fingerprint Card Submissions presentation