
**Friday, January 23**

Chair Gerald E. Wethington called the meeting to order at 9:00 a.m. on Friday, January 23, 2004.

**ROLL CALL**

Present at the meeting were the following Members:

- Robert Armstrong
- Francis X. Aumand III
- Curtis Bass
- James Beshada
- Alfred Blumstein
- Kenneth A. Bouche
- Hugh M. Collins
- Steven R. Conlon
- Brendan P. Doherty
- Jimmie Durnil
- Daniel M. Foro
- Paul C. Heppner
- Jennifer Hemenway
- Mark W. Huguley
- Barry J. LaCroix
- Michael Lesko
- Kent Markus
- Roberto Martinez
- John E. Monce, Jr.
- Liane Moriyama
- Wilbur Rehmann
- Daryl Riersgard
- Linda Rosenberg
- Diane Schenker
- Theron A. Schnure
- Charles W. Sexson
- Elizabth E. Shamany
- John J. Shelton
- Diane Sherman
- Robert Taylor
- Richard Thomas
- Delton Tipton
- Thomas W. Turner
- Donna M. Uzzell
- Gordon Wasserman
- Robert Wessels
- Gerald E. Wethington
- James Wilson
- Curtis Wolfe

Alternates in attendance and voting as Members were:

- Thomas Barrick — West Virginia
- Paul Beckley — Washington
- Wendy Brinkley — North Carolina (appointment pending)
Gerry Coleman — Wisconsin
Gary K. Cooper — California
Linda DeArman — Oklahoma
Ken Halford — Alabama
Robert Johnson — Minnesota
Wilson H. Parran — Maryland (appointment pending)
Keith Peercy — Kentucky
Mike Mier — New Mexico
Jackie Theriault — Maine
Michael Timmerman — Arizona
Brad Truitt — Tennessee (appointment pending)

Guests in attendance were: John H. Berry, Transportation Security Administration; Joseph P. Bonino, JPB Consulting Group; Frank Campbell, U.S. Department of Justice; Charles C. Collins, Jr., MTG Management Consultants, LLC; Todd C. Commodore, Federal Bureau of Investigation; Gary R. Cooper, CJIS GROUP; Steven Correll, NLETS; Jan Dempsey, Colorado Bureau of Investigation; Cheryl Doyle, CJIS GROUP; Patrick J. Doyle, CJIS GROUP; Michael Duffy, U.S. Department of Justice; Walter Gaylord, National Center for Missing and Exploited Children; Joseph Heaps, U.S. Department of Justice; Robert Holloran, National Background Data LLC; Lt. John Jesernik, Illinois State Police; Janet Jessup, Northrop Grumman Mission Systems; Mike Kirkpatrick, Federal Bureau of Investigation; Brendan Lewis, Advanced Technologies Systems, Inc.; Kevin Lewis, AAMVA; Dalila Loran-Parker, North Carolina State Bureau of Investigation (retired); Paul Luyendyk, L-3 Communications; Maj. Patrick Manning, Alabama Department of Public Safety; James Martin, Datamaxx Applied Technologies, Inc.; Deborah McKinney, Oklahoma State Bureau of Investigation; Stephani Miller, Datamaxx Applied Technologies, Inc.; Thom Mitney, Computer Projects of Illinois, Inc.; Stewart Mustin, Search Software America; Allen Nash, Federal Bureau of Investigation; Michael Powers, Biometric Information Management; David J. Roberts, Unisys Corporation; Michael Robinson, Office of Rep. Harold Rogers; Greg Rohn, Datamaxx Applied Technologies, Inc.; David Schade, Alaska Department of Public Safety; Louis T. Smith, Appriss, Inc.; Roland Squire, State of Utah; Michael Stephenson, Datamaxx Applied Technologies, Inc.; Pat Stephenson, CJIS GROUP; Cathleen Strabala; NLECTC-Northwest; James L. Threatte, SAIC; George Togliatti, Nevada Department of Public Safety; and Henry Willett, Advanced Technologies Systems, Inc.

Staff in attendance were Sheila J. Barton, Jan Burnaugh, Twyla R. Cunningham, Rose Marie Florita, Owen M. Greenspan, Dale Good, Dan Hawkins, Kelly J. Harris, Ronald P. Hawley, Eric C. Johnson, Terri E. Nyberg, Lawrence P. Webster, and Paul L. Woodard.

SEARCH General Counsel, Mr. Robert R. Belair, Oldaker, Biden & Belair, was also in attendance.
WELCOMING REMARKS

Welcoming remarks were provided by Mr. George Togliatti, Director, Nevada Department of Public Safety.

APPROVAL OF MINUTES

Members reviewed the Corporate minutes of the July 25-27, 2003, Membership Group meeting held in Sacramento, California. It was moved by Mr. Wilbur Rehmann, seconded (Mr. Robert Armstrong), and unanimously carried,

“To approve the July 25-27, 2003, Membership Group meeting minutes, as presented under Tab 1 of the Meeting Packet.”

CONGRESSIONAL PANEL

Mr. Robert Belair, SEARCH General Counsel, reported on criminal justice issues of interest to SEARCH that have been introduced during the first session of the 108th Congress. He introduced Mr. Michael Robinson, Legislative Director, Office of U.S. Representative Harold Rogers (R-KY), who provided input during the discussion.

Mr. Belair discussed criminal justice funding issues, noting that the House Appropriations Committee passed the FY 2004 Commerce, Justice, State Appropriations bill in December 2003. Mr. Belair noted the dollar allocations for the various programs, including the $2 million earmark for SEARCH’s Technical Assistance and Training program. Mr. Belair stated that in November 2003, the Homeland Security appropriation for FY 2004 became law. He outlined the various appropriations that the bill includes.

Mr. Robinson noted that homeland security continues to be an important issue. Much attention will be given to first responders and security at ports, railways, and airports. He noted the President will propose a 9 percent increase in Homeland Security funding in his budget. Mr. Robinson stated that currently the formula program is based on the population of the States to provide a baseline security for each state. He stated that Rep. Christopher Cox (R-CA), Chairman of the Homeland Security Select Committee, has introduced legislation that would change the way first responders are funded. His bill would create one grant that would be entirely based on a threat matrix developed by the Department of Homeland Security (DHS).

The Membership raised questions pertaining to the Transportation Security Administration (TSA) and the funding for hazardous material endorsement checks. Mr. Robinson noted that general provisions have been placed in the bill to allow for the collection of users fees. Future funding issues will need to be addressed and the Congress is waiting to review the President’s budget.

Mr. Belair noted that the funding from the Office of Community Oriented Policing Services (COPS), U.S. Department of Justice (DOJ) has dropped considerably and he expects to see continued erosion of justice assistance monies. Mr. Robinson stated that
justice spending overall has increased, but that spending is going to the Federal Bureau of Investigation (FBI), Drug Enforcement Administration (DEA), and Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) for homeland security efforts. Mr. Belair noted that questions have arisen on the Hill on the effectiveness of unbundling DHS and DOJ because the separation may obstruct coordination and communication instead of promoting the effective use of funds for public safety. Mr. Robinson noted that DHS should oversee and issue funds for terrorism prevention and first responders. Other functions that are purely law enforcement functions are appropriately handled in DOJ.

Mr. Belair reported on Background Check Legislation, including the Medicare Prescription Drug Improvement Act, which requires long-term care facilities to pilot a program of fingerprint-based checks for employees, including criminal history record information. Mr. Belair discussed the U.S. PATRIOT Act, stating that several provisions of the Act will expire in December 2005. Mr. Robinson noted that the President has called for a reauthorization of the key elements of the Act. He noted that the PATRIOT Act most likely will be renewed but more finely tuned.

Mr. Belair discussed the PROTECT Act, noting that two pilot studies and a feasibility study are being conducted related to the reform of the National Child Protection Act (NCPA). He stated that the Attorney General has completed the feasibility study and SEARCH provided assistance and comments on the draft report. Mr. Belair stated that the deadline for completion of the pilot studies is October 2004. He reported that there is some sentiment in Congress to reform NCPA in 2004 based on the feasibility study and interim results of the pilot projects. The reform may provide a template for the conduct of all volunteer and many employee background checks.

The Membership Group asked Mr. Belair to compare the Our Lady of Peace Bill to the NICS Improvement Act. Mr. Belair stated that the NICS Improvement Act is the Our Lady of Peace Bill, updated to 2003. The Bill contains a provision that after 3 years, those states that can meet a 90 percent reporting rate for relevant data over the last 30 years will be able waive the 10 percent match on National Criminal History Improvement Program (NCHIP) funding. For those states that are not able to meet 60 percent, they could lose 3 percent of any of their justice assistance funds. The Membership requested that this issue be discussed further in the Membership Group’s Roundtable discussion and the Law and Policy Program Advisory Committee (PAC). Members expressed concern that the states are being blamed for not reporting mental health and domestic violence information and noted that there are many obstacles beyond the ability of the criminal justice community to address those shortfalls. The Membership also raised concern regarding the definition of “mental health” and noted that there is a risk that some individuals may not meet this definition but are indeed volatile individuals.

The Membership noted that the Congress could improve the National Instant Criminal Background Check System (NICS) checks by funding the state programs that are struggling, but are much more efficient in identifying those individuals who should not have firearms. A suggestion was made that the SEARCH develop a guidance document that details the differences between a name and fingerprint check, the difference between a state and national check, and the importance of fees.
The Membership also expressed concern about not receiving information regarding the background bills being introduced by Congress, and specifically questioned why the Members were not informed when the Medicare Prescription Drug Improvement Act passed Congress.

Mr. Belair and SEARCH Executive Director Ron Hawley noted that it is challenging to rigorously target SEARCH’s lobbying activities because of the enormous number of bills that should be tracked. Mr. Hawley encouraged discussion on how staff and the Members can form a team to provide better communication. He suggested that the Members-only Web site be a conduit for better communication and requested when Members learn of key initiatives to be sure to contact SEARCH staff.

The Membership requested that staff provide information identifying the Congressional members who sit on the key committees that are discussing issues significant to SEARCH. The Membership could then assist staff in contacting their delegation.

Mr. Belair concluded his report by discussing pending biometrics, cybersecurity, and privacy legislation.

FBI CJIS DIVISION UPDATE

Mr. Mike Kirkpatrick, Assistant Director in Charge, Criminal Justice Information Services (CJIS) Division, FBI, discussed the activities of the CJIS Division. He noted the priorities of the Division continue to include the delivery of exceptional customer service, the development new ways to access CJIS information, tracking of dispositions, and homeland security. He noted that the availability of the IAFIS, NCIC, and NICS systems continue to be above 99 percent.

Mr. Kirkpatrick stated that the Division is continually upgrading and refreshing its systems. Recent upgrades include server replacement and upgrades to NCIC, AFIS, COTS, and O/S, and enhancements and fixes to NICS E-Check and the NFF. He stated that the Division continues to look for new ways to access the information, including Internet and remote access. Mr. Kirkpatrick noted that 400 latent IAFIS searches are conducted daily, which is below system capacity. He stated these searches are a tremendous tool involving cold cases and he strongly encouraged states to reach out to their local and county departments and have them forward latent prints to the FBI laboratory to conduct searches.

Mr. Kirkpatrick stated the CJIS Division is placing much emphasis on collecting dispositions, which have increased by 200 percent over fiscal 2002. He noted that some non-NFF states do not submit dispositions, which hampers the Division’s ability to return a complete criminal history.

Mr. Kirkpatrick reported on the IAFIS throughput for fiscal 2003. He stated that much discussion has centered on the NICS program and that a number of states have dropped out as “point of contact” states due to budget issues. He noted that the Omnibus
Appropriations Bill passed by the Congress contains a 24-hour destruction clause for NICS-processed records.

Mr. Kirkpatrick stated that the Division is trying to move the Uniform Crime Reporting (UCR) system into the 21st century and is evaluating new strategies and approaches, including possible national indices and an information-sharing system using incident-based data. He noted that SEARCH Executive Director Hawley Chairs the Project Development Council in the N-DEx project.

Mr. Kirkpatrick discussed NCIC checks, noting that 1.3 billion transactions were conducted in fiscal 2003. He noted that 51 states and territories have upgraded their communications protocol. The Division will soon no longer be able to support BiSync and SNA customers and encouraged states that are still using these communications methods to upgrade their protocols as soon as possible.

Mr. Kirkpatrick reported on the Convicted Sexual Offender Registry (CSOR) and the Protection Order File. He also provided a brief update on the National Crime Prevention and Privacy Compact Council. He noted that two rules that the Council is working on include the privatization of outsourcing functions related to noncriminal justice use of criminal history record information and the sanctions rule.

Mr. Kirkpatrick reported on homeland security activities and stated that a new rule has been issued delaying the implementation of hazardous material background checks. He noted that the President formulated a terrorist screening multiagency center that became operational in December 2003. He noted that NCIC is going to be used as the center’s conduit to provide terrorist watchlist information on individuals to law enforcement. He reported that the FBI has given up ownership of terrorist data records that had been entered into the NCIC file; these records are now the purview of the terrorist screening center. Mr. Kirkpatrick discussed the U.S. Visit system, which checks individuals entering the United States from non-visa waiver countries.

Mr. Kirkpatrick concluded his report by detailing several issues the CJIS Division continues to work on, including the timeliness of electronic fingerprint submissions, increased national submission of dispositions, civil fingerprint retention, XML, the new III rap sheets, and TSA Hazmat checks.

**TRANSPORTATION SECURITY ADMINISTRATION’S HANDLING OF HAZMAT ENDORSEMENTS PANEL**

Mr. Owen M. Greenspan, SEARCH Justice Information Services Specialist, facilitated a panel to discuss the TSA’s handling of hazardous material endorsements for individuals seeking or renewing commercial drivers licenses. Panelists included Mr. John Berry, Program Manager, Hazmat Credentialing, TSA; Mr. Kevin Lewis, Commercial Driver License Safety Director, American Association of Motor Vehicle Administrators (AAMVA); and Mr. Wilbur Rehmann, Manager, Criminal Justice Information Services Project, Montana Department of Justice, representing the National Crime Prevention and Privacy Compact Council.
Mr. Berry noted that the USA PATRIOT Act, which was enacted in October 2001, states that no State may issue a hazmat endorsement unless the Department of Transportation (DOT) determines that the driver does not pose a security threat. The background check must include “relevant criminal history databases”; if the individual is an alien, the individual’s immigration status must be checked, along with relevant international databases. Mr. Berry also noted that the Safe Explosives Act, enacted in November 2002, prohibits transport of explosives by felons, aliens, those with mental defects, those addicted to controlled substances, fugitives from justice, persons dishonorably discharged from the U.S. military, and former U.S. citizens who have renounced their citizenship. Violators are subject to criminal prosecution. ATF is responsible for enforcing the program unless the DOT exercises authority over the subject. Mr. Berry provided a history of the program, noting that in October 2003, TSA obtained authority to levy fees for the cost of conducting background checks. He stated that the May 5, 2003, Interim Final Report was amended on November 7, 2003, to move the November 3, 2003, fingerprinting start date to April 1, 2004, and to allow the states to request extension to begin fingerprinting, but no later than December 1, 2004. Recently, TSA developed a Notice of Proposed Rule Making (PRM) to establish a fee amount, which must undergo review and comment. Mr. Berry noted that fees cannot be imposed until fee regulation is complete.

The Membership noted that there are no procedures for submitting extensions to TSA. Mr. Berry stated that the submissions can be done in the format the state chooses while TSA is working on publishing that information. The amendment also stipulated that there be another release of a PRM dealing with procedures that jurisdictions had to follow when submitting the information for the background checks. The Membership noted they are seeking direction from TSA and questioned with those procedures will be released. Mr. Berry requested that the states provide feedback to TSA regarding processes that should be followed for the submission of background checks.

It was noted that at a Winter 2003 Compact Council meeting, TSA indicated they were interested in working with the Council to develop a memorandum of agreement on a process to handle hazmat-endorsed background checks. TSA agreed that they would present to the Compact Council a plan for how TSA would want those prints gathered and would do that in consultation with the states. Mr. Rehmann questioned when TSA will release the next rule and when a plan will be released on how TSA wants to proceed. It was noted that whatever process is decided for hazmat drivers, that same process should apply to checks for airport employees.

A question was raised regarding why states need to request an extension and whether this implies that it is automatically the state’s responsibility to collect and process the fingerprints for these checks. Mr. Berry noted that past discussions are based on the appropriate state entity being best positioned to acquire and transmit the fingerprints to the FBI for these checks. The extensions were granted for the states to obtain the ability to support the process with regard to resources or any legal impediments that might exist.

Mr. Berry noted that TSA has reallocated current resources to develop a system to make use of the Commercial Drivers License Information System (CDLIS) to acquire data to
conduct checks, gain connectivity through AAMVA for exchange of information, establish a vehicle and a means for adjudicating check results, and handling appeals and waiver requests for a limited period of time. TSA hopes to have the CDLIS online by April 1, 2004.

The Membership Group asked what kind of checks TSA plans to conduct. Mr. Berry noted that TSA will not be using the Interstate Identification Index (III) in the first phase for terrorist-related checks; however, for the second phase for criminal history checks, there is a possibility that TSA will use III.

Mr. Berry was asked if the proposed rule on fees will cover both state and federal fees. He noted that there is a fee paid to the FBI for the fingerprint processing. TSA will impose a fee to support system and adjudication costs, including the appeals and waivers process. He noted that some states can levy fees, but this will need to be determined on a state-by-state basis. States may opt to work with a third-party contractor to collect and transmit the fingerprints. In this case, the third-party contractor would assess a fee.

The Membership expressed concern about contractors approaching the states with proposals to conduct background checks and expressed how difficult it is to respond to these proposals without an understanding of the interim rule and concept of operations from TSA. Mr. Berry noted that TSA has not officially agreed to any of the processes that a contractor or third party might offer at this time and recommended that, until TSA clarifies these processes, the states consider a number of possibilities and begin to become well versed on those potential solutions.

Ms. Donna Uzzell, SEARCH Florida Member, described some of the activities that have been put in place pending some of the rule issues. The Membership encouraged TSA as they develop the operating plan that it not be a “one-size fits all” so the states have options on how to implement this rule. The Membership noted that in order to meet the December 1, 2004, deadline, their processes need to be in place by June 1, 2004, to meet the 180-day notification requirement. Mr. Berry stated that he would be interested in seeing the conditions that TSA needs to meet in order for the states to meet their obligations.

Mr. Berry asked the Membership if the states should adjudicate the results of a criminal history record check. Most of the Members agreed that having the states be responsible for adjudication and appeals would be met with strong resistance. It was felt that the agencies doing the hiring should make the determination. The Membership also noted that most states could not obtain rulemaking authority from the federal statute and the states would need enabling state statutes to adjudicate at the state level.

Chair Wethington requested that the Law and Policy PAC develop a resolution and transmittal correspondence addressing the issues that have been discussed. The resolution would be brought before the Membership Group for approval. Once passed, SEARCH would seek AAMVA’s support on this resolution.
Mr. Berry concluded his remarks noting that TSA’s communication with the key stakeholders is critical to reach the ultimate goal of a safer, more secure transportation system.

**NATIONAL JUSTICE INFORMATION SHARING INITIATIVES PANEL**

Ms. Kelly Harris, SEARCH Deputy Executive Director, facilitated a panel on national justice information sharing initiatives. The panel was held to discuss the initiatives to help the Membership understand the goals and objectives, status, recent developments and how each of these initiatives impacts the states.

Panelists were: Col. Kenneth A. Bouche, Deputy Director, Information and Technology Command Division, Illinois State Police; Mr. Michael Duffy, E-Government Deputy Chief Information Officer, Justice Management Division, U.S. DOJ; Mr. Mike Kirkpatrick, Assistant Director in Charge, CJIS Division, FBI; and Mr. Steven E. Correll, Executive Director, National Law Enforcement Telecommunications System (NLETS).

Mr. Duffy discussed the genesis for the Law Enforcement Information Sharing (LEIS) initiative and the problems it is trying to solve. He noted that the U.S. DOJ was trying to determine its role in information sharing and recognized that information sharing and coordination among DOJ’s components, including the FBI, DEA, ATF, and INS, was very poor. DOJ is working on the ability to exchange information electronically across its components and then also to collaborate with state, local, and tribal law enforcement across the country. DOJ recognizes the agency has information that is of value to its partners in law enforcement and agrees that easy access to this information is a must.

Mr. Kirkpatrick stated that the genesis for the National Data Exchange (N-DEx) project was based on a desire to fix and update the Crime Reporting program. The FBI saw a need in the law enforcement community after September 11, 2001, to share information by unlocking the information that is held in over 19,000 state and local stovepipe records management systems and making that information available across the law enforcement community using a standards-based approach. If successful, the project will update the CJIS Division’s Crime Reporting Program and will spark the acceptance of the National Incident-Based Reporting System (NIBRS) across the country as a replacement for summary-based crime reporting.

Mr. Correll reported on initiatives to improve and enhance NLETS. He stated that NLETS has replaced network hardware, has encrypted data from point to point, and all state and federal members have been upgraded to fractional T1 private lease lines. The Canadian interface has been upgraded to improve the bidirectional sharing of information between the U.S. and Canada in a timely manner. Mr. Correll discussed initiatives involving the inclusion of the GSA federal vehicle license plate registrations and the creation of an NLETS capability providing for the interstate reciprocal activation capability for Amber Alerts. After extensive pilot projects where vendors were allowed, in a strictly controlled environment, to utilize NLETS bandwidth, Datamaxx was allowed to sign an Memorandum of Understanding with NLETS to utilize the NLETS infrastructure to send wireless data over NLETS in order to cut costs at the state. NLETS
has sufficient bandwidth and infrastructure to allow this type of connectivity — ultimately cutting costs to the local justice agency as the core bandwidth need is provided by NLETS, an international telecommunications provider owned and operated by the States. NLETS has fully documented their new technologies (XML, Webservices, etc.) in their new User and Technical Guide. Finally, NLETS has recently completed a robust new NLETS Strategic Plan to guide their movement for the next several years.

Col. Bouche reported on activities that the Global Justice Information Sharing Initiative has been involved in, including developing the Global XML Data Dictionary. The Global Intelligence Sharing Plan is the first large-scale attempt to share information over all the disparate criminal justice networks that exist. Col. Bouche noted that he is Vice Chair of the Intelligence Working Group, which will review systems that are currently in place and how these systems are to be integrated. The Working Group plans to integrate RISS (Regional Information Sharing Systems) and LEO (Law Enforcement Online) and then develop interconnectivity to other systems.

Mr. Correll then discussed the activities of the Systems Security Working Group, noting that the group developed a document titled, *Best Practices for Security and Information Sharing*. This document will be used when reaching out to courts and corrections. The Working Group is now charged with creating security architecture for information sharing. Mr. Correll noted that security is going to be a major barricade to allowing the systems to have access to other databases. The Working Group will work to create a baseline to allow for information sharing across these systems.

The Membership Group questioned if LEIS and N-DEx and the Intelligence Sharing Plan for Global are connected in any way. It was noted that Global is not designed to create a system, but is designed to bring together systems so that information can be shared. These initiatives are an attempt to connect the dots and different initiatives by engaging each other in the projects. The aim is for LEIS to come up with a strategy that leads to an overall environment in which law enforcement agencies can exchange information, i.e., a network of networks. Mr. Duffy noted that N-DEx is part of DOJ’s LEIS strategy, but there is a clear intent to build a capability to exchange data with state and local law enforcement.

The Membership asked the panel if the projects are trying to build a better way for people to get to information that is already available or are they trying to build access to data that no one has. Mr. Duffy noted that the driver for the DOJ LEIS project is to get more wide access to the data that is not accessible today. Mr. Kirkpatrick noted that N-DEx is an effort to try to obtain information beyond criminal history record information that is held by law enforcement agencies that is valuable for investigative and intelligence purposes, and which is not necessarily widely available.

The Membership also asked if there are current discussions at the Office of Justice Programs (OJP) to emphasize funding state projects to bring in some additional incident-based reporting programs. It was noted that the key to the success of the proposed N-DEx project is that the incident-level data needs to be available or the data needs to be in an XML format. OJP has had discussions with the DOJ’s granting entities to emphasize that states and locals need funding.
Col. Bouche questioned Mr. Duffy’s definition of the scope of LEIS. LEIS was described as a way to connect disparate federal systems and to share federal information. Mr. Duffy’s explanation was of an independent, oversight strategy to connect state and local systems. Mr. Duffy stated that DOJ is not trying to design the “mother of all systems” for all law enforcement, but is basically trying to design how DOJ’s different systems interplay with each other and how they will play with the rest of the world.

Mr. Duffy explained that DOJ, and the different components of DOJ, collect information that provide useful intelligence to other law enforcement agencies. One of DOJ’s objectives is to work on making that information available to state, local, and other federal agencies. Also, DOJ believes that ultimately state and local law enforcement agencies have information that would be useful to DOJ. Mr. Duffy noted that states will have an opportunity to comment on the draft strategy and DOJ will try to be specific about any burdens that will be placed on the states to achieve the system’s capabilities.

**PROTECT ACT FEASIBILITY STUDY PANEL**

Mr. Eric Johnson, SEARCH Acting Director of Law and Policy, facilitated a panel on the PROTECT Act Feasibility Study. Panelists included Mr. Allan Nash, Management Analyst, Programs Development Section, CJIS Division, FBI; Mr. Frank Campbell, Deputy Assistant Attorney General, Office of Legal Policy, U.S. Depart of Justice; and Mr. Walter Gaylord, Director, Case Analysis and Support Division, National Center for Missing and Exploited Children (NCMEC).

Mr. Johnson noted that Section 108 of the Act established two 18-month pilot programs to allow volunteer groups to obtain the results of national criminal history background checks. The Boys and Girls Clubs of America, The National Mentoring Partnership and the National Council of Youth Sports were selected to participate in the programs, the first of which allows the organizations to submit volunteers’ fingerprints to repositories in three states — Montana, Tennessee and Virginia — for a state check and then on to the FBI’s Integrated Automated Fingerprint Identification System for a national check. In the second program, the organizations send the fingerprints directly to the FBI; results are routed to the contributing organization through the National Center for Missing and Exploited Children, which makes the suitability determinations. In conjunction with the pilot programs, a provision of the Act requires the Attorney General to conduct a feasibility study to examine the current state of fingerprint capture and processing at the state and local levels, the intent of the States concerning participation in a nationwide system of criminal background checks to provide information to qualified entities, and other items. Based on the findings of the feasibility study, the Attorney General is required to submit to the Congress an interim report, which may include recommendations for a pilot project to develop or improve programs to collect fingerprints and perform background check on individuals who seek to volunteer with organizations that work with children, the elderly, or the disabled. A final report based on the findings of the pilot programs is due in Congress 60 days after their completion.

Mr. Nash stated that the FBI was given the responsibility for establishing the pilot programs, conducting the feasibility study and preparing the interim report. He reported
that the National Mentoring Partnership is serving as a channeling agency for its member organizations and is receiving cards, scanning them into an electronic format, and submitting them to the FBI electronically. The Boys and Girls Clubs are scanning cards through the Office of Personnel Management, which forwards them electronically to the FBI. Mr. Nash noted that the pilot program was launched on July 29, 2003; as of January 15, 2004, the FBI had processed 233 fingerprint submissions. He said the FBI’s Criminal Justice Information Services Division met with representatives of the volunteer organizations, NCMEC, The U.S. Department of Justice and the Bureau of Justice Statistics to discuss methods to increase the number of submissions.

Mr. Nash noted that work on the feasibility study began in May 2003, when surveys were sent to the states, territories, and District of Columbia requesting information about current policies and practices for conducting simple background checks on applicants and volunteers. The FBI conducted telephone surveys, analyzed reports by BJS, SEARCH and the Bureau of Labor Statistics, and analyzed state legislation pertaining to background checks on individuals who provide care to children. Mr. Nash discussed the major findings of the feasibility study, including: the processes for fingerprint capture; system capacity; processing time; fees; participation in the National Child Protection Act (NCPA), as amended by the Volunteers for Children Act (VCA); and the number of volunteers, employees, and other individuals that would require a fingerprint-based background check.

Mr. Gaylord of NCMEC discussed efforts undertaken by his organization to facilitate the background check processes under the Protect Act. He explained the structure and functions of NCMEC’s newly developed Background Check unit, and how the national center developed and utilizes a list of criterion offenses, the violation of which render individuals ineligible for service to the volunteer organizations. Mr. Gaylord stated that NCMEC is responsible for assessing fitness for volunteers of the three youth groups participating in the pilot program. The fitness determination is based on the results of a fingerprint and criminal history check. NCMEC’s Background Check Unit evaluates all results forwarded from the FBI under the Child Safety Pilot Program and from the State of Montana under the State Pilot Program. Mr. Gaylord outlined the five criterion offenses and the red, green, and yellow determinations. Yellow determinations occur when there is no disposition in the crime or there are other situations or circumstances that NCMEC cannot make a determination. These determinations go back to the requesting agency with this information and it is the responsibility of the requesting agency to work out the appeals process at the FBI or state level. Mr. Gaylord reported that NCMEC has processed 192 records to date.

Mr. Campbell noted that it is the responsibility of the Office of Legal Policy to ensure that the interim report fits into the bigger picture for a variety of requirements for the licensing and noncriminal justice checks. He noted that there is an unevenness among the states in how fingerprints are being collected for noncriminal justice background checks, which tends to suggest there is a need to design and build a national infrastructure for capturing and transmitting fingerprints for noncriminal checks. National standards are needed to develop a baseline that would create a certain uniformity and availability for these kinds of checks. He stated there is a need to look at the state of fingerprint capture
technology and to find ways to develop a more applicant-friendly fast capture ten-print device.

Mr. Campbell noted that in order for a national NCPA check system to be feasible, a careful review on how to overcome the barrier of state participation is needed. He suggested that resources and funding are a major issue and seed funding may be required to encourage participation. Mr. Campbell noted that the Congress is very interested in setting a level of what volunteers would have to pay and thought needs to be put into ways to reduce overall costs of processing these checks. It was also noted that states need to create statutes to provide authority for the state to conduct these checks. Mr. Campbell noted that SEARCH did provide comments on the draft report and he encouraged the Membership to provide the Office of Legal Policy with further comments. It was noted that volunteer agencies are requesting that a document be developed containing talking points on why fingerprint-based checks are better than name checks.

The three states that are participating in the pilot project shared their experiences. Mr. Wilbur Rehmann, SEARCH Montana Member, stated that Montana has only processed 59 checks. To encourage more participation, the FBI proposed to eliminate their fee for a short time if the states would eliminate the state fee. He stated that it is clear that costs for the nonprofit is a big factor. He also noted that, in his view, nonprofits at the state and local level do not have that same demand for immediate service that the national nonprofits have.

Mr. Brad Truitt, SEARCH Tennessee Alternate Member, noted that his state has had no submissions to date. He noted that when they do receive a submission, the volunteer agency would receive information on how to contact the state vendor using an 800 number. The volunteer will be directed to a center containing a livescan fingerprint capturing device. Mr. Truitt also noted that funding appears to be a major issue.

Lt. Thomas Turner, SEARCH Virginia Member, noted that the state has not processed any submissions to date. He noted that Virginia currently processes applicant cards for youth sports. Virginia has reduced fees for these purposes and the state makes a yes or no determination, with no exceptions.

It was noted that the issue of expungements should be discussed. A concern was raised that records are being expunged for individuals who should not be working with the youth. The Membership also noted that volunteer agencies want to see the record and make their own fitness determinations and questioned why these agencies should not be allowed to have these records. The Membership expressed concern about the criteria and suitability of fitness determinations, noting that the suitability criteria may not apply to all volunteer organizations. It was also noted that fees have been developed to help pay for the infrastructure of the state systems.

Executive Director Hawley raised concern that the outcome of these pilots and study could result in the states being bypassed for the processing of checks for noncriminal justice purposes. In order to meet the increasing demand for background checks for volunteers and others, he raised the possibility of a national system for collecting fingerprints for noncriminal justice purposes for volunteers being put in place. He asked
Mr. Campbell how SEARCH, the FBI, and DOJ could work together to explore this further. He noted that further dialogue on this issue is needed and should continue in the PAC Meetings and the Membership Group’s Roundtable discussion.

The meeting adjourned at 5:30 p.m.

January 24, 2004

Roundtable Discussion

Chair Wethington opened the floor to discuss issues that were of interest to the Membership Group.

Noncriminal Justice Entities Conducting FBI Record Checks

Mr. Steve Conlon, SEARCH Iowa Member, noted that Iowa is an open records state where, for a fee, individuals can request a criminal record for anyone for any purpose. Mr. Conlon noted that these individuals are now also asking for an FBI record check. Mr. Conlon questioned what the criteria should be for allowing an individual to obtain a national check. Ms. Linda DeArman, SEARCH Oklahoma Alternate Member, noted that in Oklahoma the only agencies that are offered an FBI check in addition to the state check are those involving teachers, security guards, child placements/adoptions, and foster care.

The Membership noted that the public assumes they are getting both state and national checks and do not understand the difference between these checks. A suggestion was made that SEARCH develop a definition for name searches, fingerprint searches, and criminal history checks.

Because of noise disturbance, the meeting adjourned into the PAC meetings at 9:30 a.m.

The Membership Group reconvened at 2:00 p.m.

JIEM Tool Presentation and Discussion

Mr. Lawrence Webster, Manager of SEARCH’s Justice Information Exchange Project, provided the Membership with an overview of the Justice Information Exchange Model (JIEM). He discussed the key components of JIEM and the five dimensions of justice information exchange. He described the system security and permission table features that make the product more professional. Mr. Webster detailed the databases contained in the tool that manage users, reports, code tables, and define variables within the tool. He described and illustrated that JIEM reports that are available that contain graphical as well as narrative information.

Col. Bouche, Chair of the Systems and Technology PAC, stated that the PAC discussed the JIEM tool and the funding that it takes to keep the tool operational. He stated that SEARCH’s grant expires March 31, 2004, and no confirmation has been received that the grant will be renewed. The PAC discussed various options on how to obtain continued
funding for the program. The PAC plans to hold a working group session to discuss these options and long-term solutions. Col. Bouche suggested that the Membership Group may want to pass a resolution supporting the JIEM tool and its continued funding from BJA.

**ROUNDTABLE DISCUSSION (CONT.)**

**Sexual Offender Registry Validations**

Mr. Conlon noted that Iowa is having to increasingly divert resources to handle the sex offender registry (SOR) mandates and validation process. He questioned how the Members are handing these mandates in their states. Mr. Mike Lesko, SEARCH Texas Member, noted that the Texas Department of Public Safety acts as the entering agency on all the records and forwards the records to the FBI for inclusion in CSOR. There was a proposal and an SOR Committee was developed to develop ways to address the validations. One idea included the ability to enter the record the first time, then set up a statewide re-verification policy where the individual would have to report back once every year. These reverifications would be sent to the FBI as changes and would set the future validation date when the individuals would be selected again. Mr. Robert Taylor, SEARCH Idaho Member, noted that this issue is currently being discussed at the FBI’s Advisory Policy Board Working Group.

**PROTECT Act**

Executive Director Hawley noted that the outcome of the feasibility study and interim report is critical to SEARCH Members for these reasons: (1) because of the issues of delays with front-end capture of fingerprints by the states, (2) the interest on Capitol Hill pushing for the implementation of systems contained in the pilot projects, and (3) the conclusion that one of the results of the feasibility study may be the recommendation of a national system that may or may not go through the state repositories. The Membership agreed that the low submissions in the pilot projects do not constitute adequate information to formulate an opinion on the process and felt strongly the Membership should develop a response to what the feasibility study should contain, including the criteria, types of checks that were conducted, and returning the results to the end user.

Executive Director Hawley noted that the U.S. DOJ is working on an interim report that has not been concluded. The actual pilot projects and the rest of the study are to conclude in January 2005. He noted that between now and January 2005, SEARCH has an opportunity to provide input and be engaged. Chair Wethington appointed Maj. Mark Huguley, South Carolina, Lt. Thomas Turner, Virginia, Mr. Brad Truitt, Tennessee, Mr. Wilbur Rehmann, Montana, and Mr. Gary K. Cooper, California, to a committee to work with staff and the Compact Council to develop a document outlining SEARCH issues and recommendations. Maj. Huguley will chair the Committee. Mr. Wethington stated that it is important to secure the input of the corporate sector in this document. He asked the individuals from the corporate agencies to discuss these issues and elect one individual to represent their views on the committee. He also asked the committee to work collaboratively with the Industry Working Group.

**NICS Advocacy**
Chair Wethington asked if SEARCH should advocate for the continuation of the NICS. Mr. Belair noted that the Law and Policy PAC discussed this issue and will be drafting a resolution for the Membership to consider. Mr. Wethington noted that this issue will be discussed further at tomorrow’s meeting.

Congressional Liaison Activities

The Membership expressed an interest on becoming better engaged on activities that are occurring on Capitol Hill. Executive Director Hawley noted that, although resources are limited, SEARCH does an extraordinary job of keeping abreast of issues on the Hill. He noted that a better communication structure may need to be put in place and asked for the Membership’s assistance in alerting staff to any issues they hear. A suggestion was made that the legislative briefings contain a list of the Committee Members of the appropriate Committee that will be hearing a particular bill.

Chair Wethington recommended that Members confirm with their state officials that they have the latitude to meet with congressional members and their governor’s office and to take advantage of these opportunities whenever possible.

BOARD OF DIRECTORS REPORT

Chair Wethington reported on the activities of the Board of Directors meeting that was held on January 22, 2004. He stated that the Executive Director’s report now includes information not only on SEARCH’s past accomplishments, but also on the goals and objectives of the organization for the upcoming three to six months. Chair Wethington referenced the Funding Fact Sheets that were distributed to the Membership, which provide information on the deliverables for each of SEARCH’s grants.

Chair Wethington thanked the Membership Group for participating in the SEARCH survey of Members, conducted in early fall 2003. Staff is working to implement suggestions of the survey, most of which center around timely, clearer communication and the use of electronic means and less paper. In an attempt to inform Members about the changes that occur within the organization, Chair Wethington noted Tab 11 of the meeting packet contains biographies of new Members and staff and an organizational chart.

Chair Wethington noted that the Executive Director will be reviewing the evaluation and compensation policies associated with the organization and will report back to the Board in July 2004. He noted that the Board discussed SEARCH’s election process for the Chair, Vice Chair, and Board of Directors. Staff will be preparing information pertaining to the role and responsibility of the SEARCH Chair, Vice Chair, and Board of Directors, as well as PAC Chairs and Vice Chairs. It is important for the Members to understand the time and resource commitment involved in order to make an informed decision on whether a Member can participate in this capacity.

The Board reviewed and approved two SEARCH audits — the SEARCH Annual Audit performed by Gilbert and Associates and an audit of SEARCH’s Court Information...
Systems Automation and Integration Project grant performed by the Office of the Inspector General, U.S. DOJ. There were no adverse findings in the Annual Audit. Two findings were contained in the Inspector General Audit and both items have been resolved.

The Board discussed At-Large Members appointments, noting that the Chair has the authority to appoint eight Members. Currently there are six At-Large Members serving. The Board discussed the characteristics and disciplines that are needed on the Membership Group and agreed that the Membership Group is lacking expertise in the areas of corrections, prosecution, and homeland security. The Board also agreed that appointees should be “big thinkers” with extensive public policy experience. The Board discussed the impact on the budget if two additional appointments were made and agreed that the budget could support the additional members. The Board suggested that the At-Large Members meet as a group prior to the Membership Group Meetings to discuss broader issues and perspectives that SEARCH should be involved in. This brainstorming and visionary session would be reported back to the Members at the regular Membership Group Meetings.

Chair Wethington reported that the Board passed a resolution recognizing Ms. Debi Garza, Accounting Manager, for her 25 years of dedicated service to SEARCH. The Board also discussed upcoming meeting dates, which include:

- July 22 through 25, 2004 – Chicago Illinois
- January 27-30, 2005 – Denver, Colorado or Tampa, Florida
- January 26-29, 2006 – location to be determined
- July 20-23, 2006 – location to be determined

Chair Wethington noted that earlier the Board rescinded the action of not holding meetings in a non-dues-paying states. The Board discussed weekday meetings versus weekend meetings and it was the consensus of the Board to continue to meet during the weekend due to the difficulty of being out of the office for four or more days. The Membership Group requested that staff look at possible dates where meetings end on a Saturday instead of a Sunday.

Chair Wethington noted that the Board spent ample time in Executive Session reviewing the Finance Committee Report. Materials included an outline of the role and responsibilities of the Finance Committee, Board of Directors, Secretary/Treasurer, and staff. It is clear that the Finance Committee’s role is not to micromanage the organization but to provide an oversight perspective focusing on summary information in order to keep the board properly informed and engaged from a fiduciary perspective. The Finance Committee is working on a final budget prior to the July 2004 meeting, which will result in the Board’s approval prior to the fiscal year’s actual start.

Chair Wethington stated that the Board is recommending no increase to the State Annual Dues. The Board appointed Executive Director Hawley for another year and elected to award the 2004 O.J. Hawkins Award for Innovative Leadership and Outstanding Contributions in Criminal Justice Information Systems, Policy and Statistics in the
United States, to Ms. Carol G. Kaplan, Chief (retired), National Criminal History Improvement Programs, Bureau of Justice Statistics, U.S. DOJ. The 2004 Gary R. Cooper Meritorious Service Award was awarded to Mr. Charles W. Sexson, Assistant Director, Kansas Bureau of Investigation.

**BYLAWS**

SEARCH Secretary/Treasurer Sheila J. Barton referenced a handout of proposed revisions to SEARCH Bylaws (Exhibit A). She noted that the Board conducted an extensive review of the Bylaws and recommends that the Membership Group adopt the proposed revisions.

The Membership Group reviewed the revisions and recommended that the word “problems” in Section 1(b) of the Bylaws be changed to “challenges.” After further discussion, it was moved by Mr. Curtis Bass, seconded (Lt. Thomas Turner), and unanimously carried,

“To adopt the proposed changes to the Bylaws, including changing the word ‘problems’ to ‘challenges’ in Section 1(b).” (A copy of the Bylaws as adopted is attached to these minutes as Exhibit A.)

The meeting adjourned for the day at 5:00 p.m.

January 25, 2004

**PROGRAM ADVISORY COMMITTEE REPORTS**

**Law and Policy PAC**

Mr. Francis X. Aumand III, Chair of the Law and Policy PAC, reported on the activities of the PAC meeting that was held on January 25, 2004. He noted that the PAC discussed the Law Enforcement National Data Exchange, also known as N-DEx. PAC Members reiterated concerns expressed at the previous day’s general Membership Meeting during which Members communicated considerable unease about the use of criminal record data forwarded to the N-DEx system that would then be beyond the control of the contributing agency. Inaccurate or unconfirmed data, such as intelligence information or the contents of police agency record management systems, could negatively impact individuals or communities if used inappropriately or released in the wrong context. They said that N-DEx governance structures, privacy policies, and other data security procedures would have to be well defined before the PAC would feel comfortable contributing record information to the system. The PAC will be further discussing the N-DEx at its July 2004 meeting.

PAC Vice Chair Paul Heppner moderated a discussion on homeland security funding to the states. Concerns have been raised about the lack of guidelines and direction that accompany homeland security funding, which could lead to the development of information systems that mirror the function of criminal justice systems already in place.
Mr. Heppner said there is value in promoting the use of these funds to strengthen and upgrade existing local and state systems rather than using them to create entirely new systems from scratch. The PAC noted that there are certain disciplines, such as intelligence entities, that are not natural constituencies of criminal record managers, but that could be brought together in a workshop format to work on issues of mutual concern. PAC Members further discussed the value of working with their states’ homeland and domestic security entities to identify opportunities for coordinated efforts. They also discussed the value of promoting the message that many homeland security strategies involve basic law enforcement, and that these efforts would benefit from the reinforcement and upgrade of existing agencies and information systems rather than the construction of new redundant services. Staff was directed to include this topic on the agenda of the July 2004 Law and Policy PAC meeting and to explore the possibility of conducting a workshop bringing together state representatives from criminal record repositories and intelligence offices to identify areas of mutual concern and potential opportunities for coordinated efforts.

Mr. Aumand noted that the PAC discussed the NICS Improvement Act of 2003 and also a draft resolution defining SEARCH’s position on this legislation. The PAC discussed the resolution at length and provided several observations, comments, and suggestions to the resolution. Based on the PAC’s discussion, Mr. Belair revised the resolution and distributed a copy to the Membership Group for its consideration.

The Membership Group discussed the resolution and raised issue pertaining to the wording “and other disqualifiers” contained in the fourth resolve clause. The Membership Group agreed that this wording be removed from the fourth resolve clause in the resolution.

A recommendation was made that the resolution contain wording asking the Congress to provide funding to law enforcement, courts, mental health, and other providers of information to NICS to assist in providing and, where necessary, researching, correcting, and updating information and should include a set-aside for technical assistance to support efforts to collect and provide relevant information to NICS.

After further discussion, it was moved by Mr. Francis X. Aumand III, seconded (Lt. Thomas Barrick), and unanimously carried,

“To adopt the resolution regarding NICS improvement legislation.” (A final version of the resolution as adopted is attached to these minutes as Exhibit B.)

Mr. Aumand noted that the adopted resolution was modified in the PAC meeting from the original draft. The original draft had some specificity with regard to incentives. The language from the original resolution stated, “That Congress should provide incentives to those states to report their criminal history records to the NICS according to the following schedule: (a) within 5 years 90 percent of criminal history records recorded by the states and the prior 10 years; and (b) within 10 years 90 percent of criminal records reported by the state in the prior 20 years.”
PAC Members indicated that the reason the wording was eliminated was not concern about the number of years, but concern around the percentage of records that were provided to NICS. The states do not provide records to NICS, but rather to III, and therefore, would never reach the specified goal. The Members also questioned if the 90 percent of criminal records includes every criminal history disposition that states have for that time period, protective order injunctions, or all of those items combined. Mr. Belair noted that it is difficult to define because the underlying law does not make it entirely clear. He suggested that at a minimum, the 90 percent includes felony, misdemeanor domestic violence convictions, and protective orders. Mr. Belair questioned what percentage of SEARCH Members and the states, five years from now, could meet a 90 percent availability test with respect to the 10 years that go back in the future. If this cannot be done at the states, then SEARCH needs to continue to oppose this stipulation.

The Membership made several comments, noting that it is difficult to figure a percentage of the current year because of pending arrests that may not have final dispositions for up to a year or even further. It was suggested that a grace period be factored in for pending cases. The Membership also agreed that 90 percent is too high of a figure and many states would have a hard time determining what that denominator is, especially because the base has not been established and the definitions of “domestic violence,” “mentally defective,” and “adjudication” are unclear. Concern was also expressed about the requirement that NICS calls for the states to conduct research down to the offense report on domestic violence cases. A written requirement in the bill requires states that have an offense of disturbing the peace, battery, assault, or other offenses that were never considered a domestic violence offense, to now flag the offense report and indicate whether it was a domestic offense in the relationship between the offender and victim. The Members suggested that states be given incentive money to program their criminal history databases to flag these records that were not previously considered domestic violence offenses. Mr. Belair noted that SEARCH staff will do its very best to educate and inform individuals on Capitol Hill regarding these important issues.

Mr. Aumand noted that the PAC held a discussion on the creation of a resolution concerning the TSA’s efforts to conduct security threat assessments of commercial drivers’ license (CDL) holders who also hold or seek endorsements to transport hazardous materials (HME), as mandated by the USA PATRIOT Act. During a panel discussion on this issue at the previous day’s general Membership Group meeting, SEARCH Members expressed a willingness to work with TSA to implement the assessment procedures, but also frustration at the administration’s delay in providing the states with guidelines for conducting these security checks. The Law and Policy PAC was assigned the task of creating a resolution expressing the Members’ sentiments.

Mr. Belair referenced a resolution that was distributed to the Membership Group for its consideration. The Membership Group discussed the resolution and provided several comments and suggestions. The Membership requested that the resolution include a statement noting that the HME rule should be applied to the background check process and criteria for screening drivers and other individuals given access to secure areas at airports, seaports, and other sensitive facilities to assure that this screening is robust and consistent with the emerging HME screening process. The Members agreed that more information is needed from TSA regarding the implementation of the amended interim
rule, including addressing privatization issues, the waiver process for disqualified individuals, and the role of the states. The Membership also stressed the importance for TSA to plan for frequent communication with all appropriate state entities, including SEARCH, SEARCH Members, other law enforcement and criminal justice entities, AAMVA and AAMVA members, so that these entities may comment and respond to the TSA and, thereby, fully and effectively assist TSA in TSA’s obligation to conduct HME security threat assessments. Finally, the Membership agreed that TSA should identify the role of private vendors, if any, in the HME background check process, including specifying standards to protect privacy.

The Membership expressed concern with the wording in the resolve clause that states “immediately publish” a proposed background check rule. The concern was if it was too rushed, states may not have time to comment and react to the rule. It was agreed that the wording in the Resolve clause be changed to “TSA should, as soon as practicable and consistent with the sensitivity and complexity of the effort, publish a proposed, comprehensive background check rule addressing the concerns and incorporating the information previously provided to TSA by SEARCH and by the Compact Council.”

The Membership also requested that the items in the Resolve clause be enumerated for easier review.

The cover letter to TSA transmitting the resolution should include a reference and an awareness that states should not be purchasing vendors’ systems until the rule is finalized. The Members agreed that both the cover letter and the resolution should include a reference that SEARCH is fully supportive of TSA, and that the states need ample time to comment back and the opportunity to prepare for the implementation of the rule. The Membership requested that the letter and resolution be communicated to AAMVA prior to their next meeting.

Some concern was expressed about the process that TSA’s review of an individual’s background check may not be a part of the regular criminal history process check. For instance, a military history check and type of discharge is collected at the time of the application, but is not included on a fingerprint card that gets submitted to the FBI. Two different application processes may pose technical issues when combining those records into one to make a determination of an individual.

After further discussion, it was moved by Ms. Donna Uzzell, seconded (Mr. Francis X. Aumand III), and unanimously carried,

“To adopt the resolution regarding state participation in security threat assessments for hazardous materials endorsements.” (A final version of the resolution as adopted is attached to these minutes as Exhibit C.)

Mr. Aumand noted that his report was concluded.

*Research and Statistics PAC*
Mr. Owen Greenspan, Justice Information Services Specialist, provided the Research and Statistics PAC Chair’s report to the Membership Group, on behalf of PAC Chair Maj. Mark Huguley.

Mr. Greenspan noted that Executive Director Hawley discussed the LEIS and N-DEx initiatives with the PAC. Mr. Hawley provided more clarification on these initiatives, noting that N-DEx is fundamentally focused on incident-based data, increasing the elements captured to conduct additional spin-off analysis. The LEIS initiative has been an ongoing effort within the U.S. DOJ. This program has the primary function and purpose to focus on the internal DOJ initiative that supports other justice components relating to standards setting, data exchange cooperation, and networks. Mr. Hawley noted that if N-DEx moves forwards and is successful, this initiative has the potential to be the architectural solution of LEIS. He reported that the Global Justice Information Sharing Initiative continues to be clearly focused on setting standards at the policy level.

Mr. Greenspan reported that Dr. Al Blumstein, SEARCH At Large Member, reported on the Improving Crime Data Project, which is being funded by the Office of Justice Programs and National Institute of Justice. It is a three-year project being conducted by the Statistical Analysis Bureau, Department of Criminal Justice, Georgia State University. The intent of the project is to move toward better crime data that is available in a timely fashion and that is able to be shared across agencies. Dr. Blumstein noted that there is an advisory committee and that former SEARCH Pennsylvania Member, Mr. Phillip J. Renninger, before his retirement from State service last year, represented SEARCH on the advisory committee. Dr. Blumstein suggested having a new SEARCH representative appointed to the committee. Mr. Paul Heppner, SEARCH Georgia Member, noted that he or his staff attend these meetings and would be pleased to provide materials to SEARCH.

Prof. Kent Markus discussed a project that he is involved with in Columbus, Ohio, which focuses on a multifaceted crime reduction strategy. The project will use crime data and other information to identify intervention strategies initially targeted at gun and gang violence. The PAC also discussed SEARCH’s past and planned NIBRS grant activities, including changes being considered to the SEARCH Web site with a shift in emphasis and title from “Uniform Crime Reporting” to “Crime Reporting and Analysis.”

The PAC held a discussion of the potential benefits of linking criminal history record information with incident reports. If this project goes forward, it will likely be a cooperative effort, which will also consider advice from the Director of the State’s Statistical Analysis Center, and may attempt to support an enhanced target prosecution project in the U.S. Attorney’s Office. Mr. Greenspan reported on SEARCH’s intention, with the encouragement of BJS Director Lawrence Greenfeld, to offer assistance to the South Carolina Law Enforcement Division as it explores the feasibility of linking its Incident Based Reporting System (SCIBRS) with criminal history records. He noted that this type of linkage is strongly supported in Mr. Greenfeld’s letter to the Membership Group. There was consensus in the group that this would be a very useful tool for law enforcement.
Mr. Greenspan concluded his remarks by noting that the PAC Members reviewed the results of a survey of Association of State Uniform Crime Reporting Program (ASUCRP) members. The survey results indicated that the data published by the FBI in *Crime in the United States* is frequently at variance with the data reported to the FBI by the state programs. Members exchanged their ideas on possible reasons for the variance. It was suggested that possibly the incidents are reported to state program staff after the data has already been sent to the FBI. There was consensus in the group that SEARCH staff conduct a follow-up survey of ASUCRP members to get further information.

**Systems and Technology PAC**

Col. Kenneth Bouche, Chair of the Systems and Technology PAC, reported on the activity of the PAC meeting held on January 24, 2004. He noted that a large portion of the meeting centered on the JIEM Project. The PAC agreed that the JIEM modeling tool is very important and that the Membership Group pass a motion that supports future funding for the tool. After discussion, it was moved by Col. Kenneth A. Bouche, seconded (Lt. Thomas Barrick), and unanimously carried,

“That the Membership supports the continued funding from the Bureau of Justice Assistance and the Office of Justice Programs for the JIEM tool.”

Mr. Bouche noted that at the last two meetings, the Membership had significant presentations and conversations regarding NASCIO’s Conops report. Col. Bouche stated that the PAC is recommending that SEARCH endorse the report. After further discussion, it was moved by Col. Kenneth Bouche, seconded (Mr. Paul C. Heppner), and unanimously carried,

“That the SEARCH Membership Group send a letter to NASCIO endorsing the Conops Report.”

Col. Bouche stated that the SEARCH 2004 Symposium will be held March 22-24, 2004, in Washington D.C. He encouraged Members to support the Symposium by creating teams at the state level and persuading individuals to attend. He noted that staff will be emailing all Members with supporting information on the Symposium that can be forwarded throughout their state. He also requested that those SEARCH Members who do plan to attend assist in manning the SEARCH booth at the Symposium Techshow.
**FINANCIAL REPORT**

Ms. Barton provided the Membership Group with a brief financial report, referencing material contained under Tab 10 of the meeting packet. She stated that by the close of SEARCH’s current fiscal year, revenue is expected to increase by 7 percent. Staff plans to prepare SEARCH’s next budget in advance in order for the Board to have an opportunity to approve prior to the fiscal year’s actual start. Ms. Barton stated that 46 states have paid their annual dues, including Tennessee, which has not been active in SEARCH for the past several years. Ms. Barton concluded her remarks by stating that the Board of Directors has appointed a Finance Committee that continues to work very closely with finance staff.

**OTHER BUSINESS**

Chair Wethington opened the floor for additional remarks and comments. It was noted that BJS Director Greenfeld’s letter distributed to the Members notes that the NCHIP funding has been reduced by $10 million. The Members noted that if they had had advance notice of this situation, letters could have been forwarded to their congressional delegation seeking support for the NCHIP funds. Executive Director Hawley noted that it became clear that the Senate was only posturing in terms of their NCHIP position and a decision was made not to seek the Membership’s assistance in this matter. Mr. Hawley stated that he has received a clear message that SEARCH must do a better job tracking legislation and communicating issues to the SEARCH Members in a broader and more timely fashion.

Ms. Uzzell requested that the next Membership Group meeting agenda contain a panel to discuss how the states are dealing with the issue of INS placing more information into the hot files into NCIC. This practice raises issues on what the state’s authority is over immigration. The U.S. DOJ has circulated a memorandum saying that states have the authority to hold and detain persons who are overstays, even if there is not a warrant. The states, however, are not allowing this practice until some other kind of legislation is passed.

Chair Wethington noted that several Members have inquired about the value of creating a document that addresses the various issues regarding background checks. The report would compare name checks to fingerprint checks, and the differences of conducting these checks in a state repository, the FBI, or a private-sector firm. The report could also contain fiscal policies, economic factors, and the risks associated with the different checks. It was noted that the document should include some suggested variations on legislative language and to mention the relationship between information on incident reports and information by individuals. Finally, it was suggested that in this new electronic age, there should be an architecture to conduct easier, less costly national fingerprint-supported background checks. Members agreed that this report would be very useful in order to present a consistent message across the states.
Chair Wethington noted that the Board of Directors will hold a teleconference between now and the July 2004 Membership Group Meeting. During this call the Board will be discussing agenda items for the July meeting. He requested that Members forward suggested agenda topics to SEARCH Executive Director Hawley.

**ADJOURNMENT**

There being no further business, the meeting adjourned at 10:00 a.m.

_____________________
GERALD E. WETHINGTON  
CHAIR

_____________________
SHEILA J. BARTON  
SECRETARY/TREASURER
ARTICLE I
PURPOSES AND POWERS

Section 1. Purposes. The primary objectives and purposes of this corporation shall be:

(a) To educate the nation’s criminal justice agencies, practitioners and policymakers on the improvement and quality of the criminal justice system, in particular, through better information management, the effective application of information, identification and communication technologies, and responsible law and policy;

(b) To provide instruction and assistance to identify and help solve the information management challenges of state and local justice agencies confronted with the need to automate and integrate their information systems and exchange information with other local agencies, state agencies, agencies in other states, or with the federal government;

(c) To identify common information management challenges facing state and local criminal justice agencies and to engage the agencies in formulating collective technological and policy solutions to the challenges;

(d) To provide assistance to local, state and federal criminal justice agencies, including the U.S. Department of Justice, on justice information exchange issues; and

(e) To inform and educate with respect to the collection, use, maintenance and dissemination of justice information and statistics.

Section 2. Powers. Subject to the provisions of the California Nonprofit Public Benefit Corporation law and any limitations in the Articles of Incorporation and Bylaws relating to action required or permitted to be taken or approved by this corporation, the activities and affairs of this corporation shall be conducted and all corporate powers shall be exercised by or under the direction of the Board of Directors.

ARTICLE II
MEMBERS

Section 1. Appointment and Term of Office.

(a) The members of the corporation shall consist of one representative of each state, the District of Columbia, the Commonwealth of Puerto Rico and the U.S. Virgin Islands (collectively referred to as “states”), to be appointed by the Chief Executive of the jurisdiction, and eight individuals appointed by the Chairperson, who shall be known as at-large members. No member shall hold more than one membership in the corporation. Except as expressly provided in or authorized by the
Articles of Incorporation or Bylaws of the corporation, all memberships shall have the same rights, privileges, restrictions and conditions.

(b) Each member shall serve until the member's appointment is terminated by the occurrence of one of the following:

(i) the Chief Executive Officer of a jurisdiction rescinds and/or appoints a different member; or
(ii) the member retires, resigns or dies.

(c) All rights of a member in the corporation shall cease upon termination of membership.

Section 2. Group Title. The members of the corporation shall be referred to collectively as the "Membership Group."

Section 3. Annual State Dues. Each state shall be assessed annual dues in an amount prescribed by the Board of Directors and approved by the Membership Group. The manner of assessment and contribution shall be established and approved by the Board of Directors with the consent of the Membership Group.

Section 4. Authority. The Membership Group shall establish the general policy for the regulation of the affairs and business of the corporation and shall exercise all powers necessary and appropriate to that end, including without limitation the following powers:

(a) To issue policy statements on behalf of the corporation;

(b) To determine the scope and extent of the activities of the corporation in furtherance of its purposes and policies;

(c) To elect the Board of Directors as provided in Article IV.

(d) To elect a Chairperson and a Vice Chairperson of the corporation as provided in Article V; and

(e) To establish and dissolve Standing Committees as provided in Article VI.

Section 5. Meetings.

(a) At least two regular meetings of the Membership Group shall be held annually on such dates and at such times and locations as the Board of Directors shall designate. Special meetings may be called by the Chairperson on such dates and at
such times and locations as the Chairperson shall designate. Upon receipt of written petitions signed by 10 or more members requesting a special meeting of the
Membership Group, the Chairperson shall call such meeting. Written notice of all meetings, regular and special, shall be sent to all members at least 10 days prior to the date of the meeting.

(b) Any meeting of the members of this corporation, however called and noticed, shall be as valid as it would have been after regular call and notice if a quorum is present, or if, either before or after the meeting, each of the voting members not present signs a written waiver of notice, or a consent to holding the meeting, or an approval of the minutes of the meeting. All the waivers, consents, or approvals shall be filed with the corporate records and made a part of the minutes of the meeting.

(c) Executive Sessions may be called either by a vote of the members or by the Chairperson.

Section 6. Quorum. A quorum for the transaction of business at any meeting of the Membership Group shall consist of a number of members equal to one-third (1/3) of the total number of states with an appointed member plus the number of at-large appointees. Unless otherwise provided in these Bylaws, meetings will be conducted in accordance with Robert's Rules of Order, as such rules may be revised from time to time, insofar as such rules are not inconsistent with or in conflict with the Articles of Incorporation, these Bylaws or with provisions of law.

Section 7. Voting.

(a) Each state shall have one vote, and each at-large appointee shall have one vote on all matters voted upon by the Membership Group.

(b) Each state member may designate in writing an alternate from the same state to represent the member's state at a Membership Group meeting and to vote in the member's stead. No other proxy voting shall be allowed.

(c) Except as otherwise provided in these Bylaws or in the Articles of Incorporation, action by the Membership Group shall require the affirmative vote of a majority of the members at a meeting at which a quorum is present.

(d) The normal method of voting shall be by simultaneous voice vote or by a show of hands at the Chairperson's discretion. If any Member requests a roll call vote, the Chairperson shall order such vote.

(e) The Chairperson may initiate a vote on any matter by mail, telephone, facsimile, electronic mail or similar means, in which case a deadline for response shall be established and a lack of response within the designated time shall be recorded as "not voting." Action by such means of voting shall require the affirmative vote of a majority of the members, unless otherwise provided in the Bylaws or in the Articles of Incorporation.
Section 8. Liabilities. No member shall be personally liable for any indebtedness or liability of the corporation, and any and all creditors shall look only to the assets of the corporation for payment.

ARTICLE III
MEMBER EMERITUS/EMERITA

Appointment and Membership Distinction

(a) An individual, who has served the Membership Group with distinction and is no longer an appointee to the Membership Group, may be appointed to an honorary position of member emeritus/emerita of the Membership Group by the Board of Directors under such procedures as the Board may establish.

(b) A member emeritus/emerita shall not be considered a member as defined in Article II, Section 1, nor shall a member emeritus/emerita be included in any reference within these Bylaws to “members,” except for Section 8 of Article II regarding liabilities.

(c) A member emeritus/emerita may attend meetings and speak, but shall have no voting privileges and may not make motions. A member emeritus/emerita may serve on committees at the discretion of the Chairperson.

(d) Membership as a member emeritus/emerita is perpetual, unless rescinded.

ARTICLE IV
BOARD OF DIRECTORS

Section 1. Number and Qualifications.

(a) The corporation shall have 15 directors, including the Chairperson and Vice Chairperson, and collectively shall be known as the Board of Directors.

(b) The Membership Group shall elect four at-large members and an additional nine members of the Membership Group. All directors must be members of the corporation. Should the membership appointment of any director cease during the director's term of office, that director shall no longer serve. Except for those members appointed on an at-large basis, only members from states currently contributing annual dues (Article II, Section 3) shall be eligible for election to the Board of Directors.
(c) The number of directors may be changed by amendment or repeal of this Bylaw or adoption of a new Bylaw.

Section 2. Election and Term of Office — State Appointed Members

(a) Members elected by the Membership Group to the Board of Directors shall be elected from candidates nominated from the floor during the second regular meeting of the calendar year, or at a special meeting called for that purpose. Each member shall vote by secret, written ballot for up to as many candidates as there are director positions to be filled. The directorships shall be filled by candidates receiving the highest number of votes. After the directorships have been filled, the candidates receiving the next highest number of votes shall be designated alternate directors. When a vacancy occurs, an alternate director shall accede to the Board of Directors in the order of the number of votes he/she received, to serve out the term of the director, who is replaced.

(b) Five (5) directors shall be elected to the Board in the manner specified above in even-numbered years; four (4) directors shall be elected in odd-numbered years. All directors so elected shall serve terms beginning the first day following the Membership Group meeting at which they were elected and concluding at the close of the second Membership Group meeting of the second calendar year following their election.

(c) Directors, the Chairperson and the Vice Chairperson shall be limited to serving two consecutive terms, except that a director shall not be precluded, after having served one term or two consecutive terms, from serving as Chairperson or Vice Chairperson for one term or two consecutive terms, or after serving as Chairperson or Vice Chairperson, from then serving another one term or two consecutive terms as a director. A director shall not be precluded, after having served two consecutive terms followed by one year of not serving a term, from serving another term or two consecutive terms.

(d) Alternate directors shall be eligible to accede to the Board until a new list of alternate directors is established at the next election for directors. If before the next annual election for directors, there are no alternate directors remaining, vacancies on the Board shall not be filled until the next regular election.

Section 3. Election and Term of Office — At-large Members.

(a) All eligible at-large appointees shall be automatically nominated for election to the Board of Directors at the second regular meeting of the calendar year or at a special meeting called for that purpose.
(b) The four appointees receiving the highest number of votes shall serve regular terms as directors. The remaining appointees shall serve as alternate directors. When a vacancy in the at-large directors occurs, an alternate director shall accede to the Board of Directors in order of the number of votes he/she received, to serve out the term of the director replaced.

(c) All directors’ terms will conclude at the close of the second Membership Group meeting of the second calendar year following their election.

(d) Alternate directors shall be eligible to accede to the Board until a new list of alternate directors is established at the next election for directors. If before the next annual election of directors, there are no alternate directors remaining, vacancies on the Board shall not be filled until the next regular election.

Section 4. Removal. Any elected director who misses three consecutive meetings of the Board without cause may, by a vote of the Membership Group, be removed from the Board.

Section 5. Authority. Except for those powers expressly reserved to the Membership Group by these Bylaws, the Board of Directors shall have the authority to manage the business and affairs of the corporation within the policy guidelines established by the Membership Group, and shall have all lawful powers necessary, expedient or appropriate to that end, including without limitation, the following powers:

(a) To select an Executive Director and Deputy Executive Directors in accordance with Article V, Sections 4 and 5;

(b) To review policies and procedures relating to the compensation of employees;

(c) To approve procedures relating to the selection of contractors;

(d) To delegate any of the powers enumerated in this Section 5 to the Executive Director upon such terms and conditions as the Board of Directors deem appropriate; and

(e) To establish rules and procedures for the appointment of members emeritus/emerita in accordance with Article III.

Section 6. Meetings and Quorum.

(a) The Board of Directors shall meet at least annually, and upon notice, at such other times, locations and dates it deems necessary and appropriate. Special meetings may be called by the Chairperson on such dates and at such times and locations as the Chairperson shall designate.
(b) A majority of the directors shall constitute a quorum for the transaction of business. Unless otherwise provided in these Bylaws or determined by the Board of Directors, meetings shall be conducted in accordance with Robert's Rules of Order, as such rules may be revised from time to time, insofar as such rules are not inconsistent with or in conflict with the Articles of Incorporation, these Bylaws, or with provisions of law.

(c) Executive Sessions may be called either by a vote of the directors or by the Chairperson.

(d) The minutes of the meetings of the Board of Directors shall be distributed to all members of the corporation. Distribution may be by first-class mail, facsimile, electronic mail, posting to the corporation’s website dedicated to the members of the corporation with concurrent notice to the members of the posting, or by any similar means.

**Section 7. Voting.**

(a) Every director shall have one vote on all matters voted upon by the Board. No alternate representation or proxy voting shall be permitted.

(b) Except as otherwise provided in these Bylaws, action by the Board of Directors shall require the affirmative vote of two-thirds of the directors present when the vote is taken. The normal method of voting shall be by simultaneous voice vote or by show of hands at the Chairperson's discretion. If any director requests a roll call vote, the Chairperson shall order such vote.

(c) The Chairperson may initiate a vote on any matter by mail, telephone, facsimile, electronic mail or similar means, in which case a deadline for response shall be established, and a lack of response within the designated time shall be recorded as "not voting." Approval of any action by such means of voting shall require the affirmative vote of two-thirds of the directors.

(d) Any action or question which does not receive the required approval of the directors may be referred by separate action to the Membership Group by a majority vote of the directors.

**Section 8. Indemnification by Corporation of Directors, Officers, Employees and Other Agents.**

(a) To the extent that a person who is, or was, a director, officer, employee or other agent of the corporation has been successful on the merits in defense of any civil, criminal, administrative or investigative proceeding brought to procure a judgment against such person by reason of the fact that he or she is, or was, an agent of the corporation, or has been successful in defense of any claim, issue or matter in
the action, such person shall be indemnified against expenses actually and reasonably incurred by the person in connection with the proceeding.

(b) If such person either settles any such claim or sustains a judgment against him or her, then indemnification against expenses, judgments, fines, settlements and other amounts reasonably incurred in connection with the proceedings shall be provided by the corporation, but only to the extent allowed by and in accordance with the requirements of the California Nonprofit Public Benefit Corporation Law.

Section 9. Insurance for Corporate Agents. The Board of Directors may adopt a resolution authorizing the purchase and maintenance of insurance on behalf of any agent of the corporation, including a director, officer, employee or other agent of the corporation, against liability other than for violating provisions relating to self-dealing, asserted against or incurred by the agent in his or her capacity or arising out of the agent’s status, whether or not the corporation would have the power to indemnify the agent against such liability under the provisions of the California Nonprofit Public Benefit Law.

ARTICLE V
OFFICERS

Section 1. Number and Titles. The officers of the corporation shall be the Chairperson, the Vice Chairperson, the Executive Director/Chief Executive Officer, the Secretary-Treasurer, and such additional Deputy Executive Directors as the Board of Directors may determine.

Section 2. Chairperson.

(a) Election and Term of Office. The Chairperson shall be elected by the Membership Group for a term beginning the first day following the Membership Group meeting at which the election is held and concluding at the close of the second Membership Group meeting of the second calendar year following the election. The Chairperson shall be a member of the corporation. Should this officer resign or be unable or ineligible to continue in office, the duties and responsibilities shall be assumed by the Vice Chairperson until the next meeting of the Membership Group, at which time a successor shall be elected to serve the remainder of the term.

(b) Authority and Responsibilities. The Chairperson shall preside at meetings of the Membership Group and the Board of Directors and shall perform the usual duties of a chairperson at such meetings. On occasions when the corporation is to be officially represented, the Chairperson shall be the representative, unless the Board of Directors designates some other member or officer to serve in such capacity.
Should the Chairperson be unable to represent the corporation, he/she may designate another member to do so. The Chairperson may create any ad hoc committee for the
EXHIBIT A (CONT.)

Membership Group or the Board of Directors, as the Chairperson deems appropriate
to the conduct of business. Members of any ad hoc committee shall be appointed by
the Chairperson. The individual appointed as committee chairperson shall be selected
from the Membership Group, except in unusual circumstances. The ad hoc
committee chairperson shall serve at the pleasure of the Chairperson of the
corporation.

Section 3. Vice Chairperson.

(a) Election and Term of Office. The Vice Chairperson shall be elected by the
Membership Group for a term beginning the first day following the Membership
Group meeting at which the election is held and concluding at the close of the second
Membership Group meeting of the second calendar year following the election. The
Vice Chairperson shall be a member of the corporation. Should the Vice Chairperson
resign or be unable or ineligible to continue in office, the Board of Directors may
designate another director to serve as Vice Chairperson until the next meeting of the
Membership Group, at which time a successor shall be elected to serve the remainder
of the term.

(b) Authority and Responsibilities. The Vice Chairperson shall perform the
duties of the Chairperson in the event of the Chairperson's absence or disability. The
Vice Chairperson shall perform such other duties and have such other authority as
may be delegated by the Membership Group or the Board of Directors.

Section 4. Executive Director.

(a) Selection and Term of Office. The Executive Director shall be selected by the
Board of Directors, and need not be a member of the corporation. The Executive
Director may be removed for cause by the Board of Directors with the approval of the
Membership Group by two-thirds vote of the members present.

(b) Authority and Responsibilities. The Executive Director shall be the chief
executive officer of the corporation and shall perform all duties and have all powers
appropriate to that capacity. The Executive Director shall make and sign contracts
and agreements on behalf of the corporation, subject to the authority of the Board of
Directors. The Executive Director shall sign or verify documents required by law to
be signed or verified by the chief executive officer of the corporation and shall
perform all acts and have all powers generally required or authorized by law for
the chief executive officer of a corporation. The Executive Director shall maintain
policies and procedures, subject to the review of the Board of Directors, deemed
appropriate to the conduct of the business of the corporation. The Executive
Director shall maintain the budget for annual state dues (see Article II, Section 3).
In addition, the Executive Director shall exercise authority over the selection,
employment, compensation and direction of the staff of the corporation.
EXHIBIT A (CONT.)

(c) Compensation. The Executive Director shall receive such compensation and other benefits as the Board of Directors shall determine, and shall be entitled to reimbursement of expenses and per diem allowances for attendance at meetings and other official functions.

Section 5. Deputy Executive Directors. The Board of Directors may designate one or more Deputy Executive Directors. Such officers need not be members of the corporation. They shall be placed under the general authority of the Executive Director and shall have such authority and responsibilities as the Board may designate.

Section 6. Secretary-Treasurer. The Board of Directors shall designate one employee of the corporation to be Secretary-Treasurer. The Secretary-Treasurer shall keep the minutes of the meetings of the Membership Group and Board of Directors and shall have custody of the records and books of the corporation. The Secretary-Treasurer also shall have custody of the official seal of the corporation and the authority to affix it to documents executed on behalf of the corporation and to attest the same.

The Secretary-Treasurer shall receive the property and funds due and belonging to the corporation and shall have custody of all funds, securities and title documents and shall manage them in a fiscally responsible manner. All checks, drafts, orders for the payment of money or other orders upon such accounts shall be signed by the Secretary-Treasurer or by such other officers or agents as the Board of Directors may designate. The Secretary-Treasurer shall keep regular and correct accounts and shall submit reports to the Membership Group, the Board of Directors, the Chairperson or duly established committees when called upon to do so. The Secretary-Treasurer and any person or persons designated to assist in the duties of treasurer shall give such bonds for the faithful performance of their duties as the Board of Directors may deem necessary, the cost of which shall be paid by the corporation.

Section 7. Compensation of Officers.

The Chairperson and Vice Chairperson shall receive no compensation for their services as officers of the corporation, but shall be entitled to reimbursement of expenses and per diem allowances for attendance at meetings and other official functions.

ARTICLE VI
COMMITTEES

Section 1. Standing Committees of the Membership Group.

(a) The purpose of standing committees is to provide information and recommend policy guidance to the Membership Group and the Board of Directors on matters relevant to activities of the corporation.
(b) Standing committees may be established or dissolved by a vote of the members of the corporation at a meeting of the Membership Group, at which a quorum is present.

(c) Each standing committee shall have a role statement, setting forth its subject matter, scope and general mission, to be approved by a vote of the members at a meeting of the Membership Group at which a quorum is present.

(d) The members- of standing committees shall be appointed by the Chairperson of the corporation from among the members of the corporation and such other persons as the Chairperson of the corporation may deem appropriate to provide representation on the committees of appropriate technical expertise and experience. The individuals appointed as committee chairpersons shall be selected from the membership of the Board of Directors. The individuals appointed as committee vice-chairpersons shall be selected from the Membership Group. Standing committee officers shall serve at the pleasure of the Chairperson of the corporation.

(e) Standing committees shall establish their own business procedures and schedule of meetings, subject to approval by the Chairperson of the corporation. No proxy voting shall be allowed. Subcommittees and ad hoc committees may be created by the committee where deemed appropriate to the conduct of business, with the approval of the Chairperson of the corporation.

(f) With the approval of the Board of Directors, a standing committee may retain a contractor to provide technical, legal or other assistance not available from the staff or the members of the corporation.

Section 2. Standing Committees of the Board of Directors.

(a) The purpose of standing committees of the Board of Directors is to provide information and recommend policy guidance to the Board of Directors on matters relevant to responsibilities of the Board.

(b) Standing committees may be established or dissolved by a vote of the members of the Board of Directors at a meeting of the Board, at which a quorum is present.

(c) Each standing committee shall have a role statement, setting forth its subject matter, scope and general mission, to be approved by a vote of the members at a meeting of the Board of Directors at which a quorum is present.
(d) The members of standing committees shall be appointed by the Chairperson of the Board of Directors from among the members of the Board and such other persons as the Chairperson may deem appropriate to provide representation on the committees. The individuals appointed as committee chairpersons shall be selected from the membership of the Board of Directors. Standing committee officers shall serve at the pleasure of the Chairperson.

(e) Standing committees shall establish their own business procedures and schedule of meetings, subject to approval by the Chairperson. No proxy voting shall be allowed. Meetings may be conducted by mail, telephone, facsimile, electronic mail or similar means.

Section 3. Other Committees. The corporation shall have such other committees as may from time to time be designated by resolution of the Board of Directors, and whose members shall be appointed by the Chairperson. Such other committees may consist of persons who are not also members of the Board. These additional committees shall act in an advisory capacity only to the Board and shall be clearly titled as "advisory" committees.

ARTICLE VII
CONTRACTOR SELECTION

Section 1. Competitive Bidding Requirement. All contractors retained to perform work for the corporation or any of its component bodies shall be selected, to the maximum extent feasible, through a formal procedure of inviting and evaluating bids from as many qualified contractors as possible, with a view to obtaining the maximum competition feasible under the circumstances. Non-competitive or "sole source" awards of contracts shall be made only where the circumstances do not warrant any form of competition.

ARTICLE VIII
CONFLICT OF INTEREST AND ETHICAL STANDARDS

Section 1. Conflict of Interest. Any member of the corporation or its committees, having the right to vote shall be disqualified from voting on any matter in which that member has a financial interest.

Section 2. Ethical Standards. Any member of the corporation or its committees having the right to vote shall disclose to the decision-making body any past, current, or prospective associations, personal, financial or otherwise, if in that member's opinion such association may influence a decision. Further, it shall be the policy that all employees be guided by this standard in making recommendations upon which decisions will be reached.
ARTICLE IX
FISCAL YEAR OF THE CORPORATION

The fiscal year of the corporation shall begin on the first day of July and end on the last day of June in each year.

ARTICLE X
OFFICES

Section 1. Principal Office. The principal office for the transaction of the business of the corporation is located in the County of Sacramento, State of California. The Board of Directors is granted full power and authority to change the principal office from one location to another in Sacramento County.

Section 2. Other Offices. The corporation may have branch or subordinate offices, within or without the State of California, where it is qualified to do business, as its business may require and as the Board of Directors may designate from time to time.

ARTICLE XI
AMENDMENT

The amendment of these Bylaws shall require the written consent of two-thirds of the members of the corporation or the vote of two-thirds of the members present at a meeting called for that purpose at which a quorum is present.

CERTIFICATE OF SECRETARY

I, the undersigned, certify:

(1) That I am the Secretary of SEARCH Group, Incorporated, a California nonprofit corporation, and

(2) That the foregoing Bylaws, comprising fourteen (14) pages, constitute the revised Bylaws of this corporation as duly adopted by written consent of the Membership Group effective January 24, 2004.

Date:________________________

Sheila J. Barton
Secretary
RESOLUTION OF THE MEMBERSHIP GROUP OF SEARCH, THE NATIONAL CONSORTIUM FOR JUSTICE INFORMATION AND STATISTICS, REGARDING NICS IMPROVEMENT LEGISLATION

JANUARY 25, 2004

WHEREAS, SEARCH has provided technical expertise and assistance to the Congress and to the Department of Justice regarding the establishment and operation of the Brady National Instant Criminal Background Check System (NICS);

WHEREAS, many SEARCH Members, through the state and central repositories, through Points of Contact (POCs) or through other state agencies, have been partners with or otherwise contributed to the development and implementation of the NICS;

WHEREAS, SEARCH supports efforts to improve the comprehensiveness, reliability and timeliness of the NICS;

WHEREAS, some NICS reporting responsibilities, including mental health information reporting, are outside the purview of the state criminal justice community;

WHEREAS, on October 2, 2003, Senators Charles E. Schumer (D-NY) and Larry Craig (R-ID) introduced S. 1706, the NICS Improvement Act of 2003, which has, as its goal, improving the operation of the NICS program;

WHEREAS, on October 2, 2003, Representatives Carolyn McCarthy (D-NY) and John Dingell (D-MI) introduced H.R. 3237, an identical bill to S. 1706;

WHEREAS, these bills would make states eligible for a waiver at the 10% match requirement under the National Criminal History Improvement Program if 3 years after enactment, a state electronically provides or makes available to NICS, 90% of the information held by states relevant to disqualification to possess or receive a firearm;

WHEREAS, these bills would also authorize the Attorney General to penalize the state by withholding a percentage of a state’s justice assistance funding if by the dates specified in the legislation, a state fails to electronically provide or make available a specified percentage of information relevant to disqualification to possess or receive a firearm; and

WHEREAS, few, if any, states will be able to qualify for the match waiver and most, if not all, states will be subject to the penalties because the reporting requirements relate, in part, to information such as mental health information, which is not the responsibility of state criminal justice agencies;
WHEREAS, the Bureau of Justice Statistics has been instrumental in developing the systems associated with the NICS.

NOW, THEREFORE, BE IT RESOLVED, by the Membership Group of SEARCH, The National Consortium for Justice Information and Statistics, that:

“The Congress of the United States is urged to adopt improvements and enhancements to the NICS consistent with the following recommendations:

1) Congress should provide for research and studies to provide incentives for the mental health community to make mental health information available to the NICS;

2) Congress should provide for research and studies to support ongoing state criminal justice agency efforts to provide incentives for making relevant criminal history and domestic violence protection orders available to the NICS;

3) Congress should provide funding to law enforcement, courts, mental health and other providers of information to NICS to assist in providing and, where necessary, researching, correcting and updating information and should include a set-aside for technical assistance to support efforts to collect and provide relevant information to NICS;

4) Congress should not penalize state criminal justice agencies by reducing federal Justice Assistance funding based upon a state’s inability to provide mental health information, or other relevant information, to the NICS;

5) Congress should review and revise the definitions related to mental health disqualifiers; and

6) The Bureau of Justice Statistics should be designated specifically and explicitly as the agency to administer any grants under any NICS improvement legislation.”
RESOLUTION OF THE MEMBERSHIP GROUP OF SEARCH, THE NATIONAL CONSORTIUM FOR JUSTICE INFORMATION AND STATISTICS, REGARDING STATE PARTICIPATION IN SECURITY THREAT ASSESSMENTS FOR HAZARDOUS MATERIALS ENDORSEMENTS

JANUARY 25, 2004

WHEREAS, on May 5, 2003, the Transportation Security Administration (TSA) issued an interim final rule implementing section 1012 of the USA Patriot Act addressing security threat assessments on individuals who currently hold or apply to hold a Hazardous Materials Endorsement (HME) on a Commercial Drivers License (CDL);

WHEREAS, effective November 3, 2003, TSA issued an amendment to the interim final rule to provide that TSA will not authorize a state to issue an HME on or after April 1, 2004, unless the state has in place procedures for collecting biographical and criminal history information, as well as fingerprints, on individuals who currently hold or apply to hold an HME, but providing further that a state may seek an extension until December 1, 2004;

WHEREAS, the TSA amendment stated that TSA would “shortly” publish a notice of proposed rulemaking to establish requirements concerning the state background check process;

WHEREAS, SEARCH supports background checks for HMEs and SEARCH wishes to support TSA in TSA’s initial and continuing efforts to conduct HME security threat assessments;

WHEREAS, in the absence of TSA policies and procedures to be promulgated in the promised, but now delayed TSA HME background check rulemaking, it is impossible for the organizations represented by SEARCH Members and other relevant state agencies to assist in providing HME background checks within the timeframe set out in the amended interim final rule;

WHEREAS, because of TSA delays it is not possible for relevant state agencies to provide individuals seeking to renew or obtain HMEs with a 180-day notice period regarding April 1, 2004, fingerprint requirements and other new requirements as presented in the May 5, 2003, interim final rule; and

WHEREAS, SEARCH Members believe it is an urgent and critical national security issue and imperative that TSA, as soon as practicable, issue a background check rule.

NOW, THEREFORE, BE IT RESOLVED, by the Membership Group of SEARCH, The National Consortium for Justice Information and Statistics, that:
“TSA should, as soon as practicable and consistent with the sensitivity and complexity of the effort, publish a proposed, comprehensive background check rule addressing the concerns and incorporating the information previously provided to TSA by SEARCH and by the Compact Council, and including:

1. The process states should use to obtain fingerprints;
2. A process to authenticate the identity of the HME applicant from whom prints are obtained;
3. The criminal history background check process consistent with the Compact Council’s rules for noncriminal justice checks; and
4. Consistent with flexibility for the states in the way in which they conduct (or choose not to conduct) a state check;
5. Adjudication and appeal criteria, including relevant time periods for criterion offenses;
6. A TSA process for appeal and correction of records, consistent with state standards and processes;
7. The process for collecting fees to fully reimburse the states for all of their costs;
8. A plan for frequent communication with all appropriate state entities, including SEARCH, SEARCH Members, other law enforcement and criminal justice entities, the American Association of Motor Vehicle Administrators (AAMVA) and AAMVA members, so that these entities may comment and respond to the TSA and, thereby, fully and effectively assist TSA in TSA’s obligation to conduct HME security threat assessments;
9. The role of private vendors, if any, in the HME background check process, including specifying standards to protect privacy; and
10. The relationship of the HME rule to the background check process and criteria for screening drivers and other individuals given access to secure areas at airports, seaports and other sensitive facilities to assure that this screening is robust and consistent with the emerging HME screening process.”