

BOARD OF THE PUBLIC SAFETY & SECURITY INFORMATION SYSTEM

(ILETS)

Meeting #137

The Public Safety & Security Information System (ILETS) Board convened in person on April 17, 2023, at 2:00 p.m. at the Riverside Hotel,

Board Members Present

Sheriff Mike Hollinshead, Elmore County Sheriff's Office (Chairman)

Sheriff Shaun Gough, Gooding County Sheriff's Office

Chief Bryce Johnson, Idaho Falls Police Department

Chief Craig Kingsbury, Twin Falls Police Department (virtual)

Major Bradley C Doty, Idaho State Police (ISP)

Colonel Kedrick Wills, Director, Idaho State Police (ISP)

Non-Members Present

Leila McNeill, Chief ISP Bureau of Criminal Identification (BCI) via phone

Sandy Kelleher, Operations Officer (BCI)

Alana Minton, ISP Deputy Attorney General

Sara Breckon, ISP BCI Audit & Training Team Supervisor

I. Opening

a. Call to Order

- i. Chairman Sheriff Mike Hollinshead called the meeting to order at 2:00 pm

b. Silent Roll Call of Board Members

- i. A roll call was conducted. All Board members were present in-person except Chief Craig Kingsbury who joined virtually.
- c. Chairman Hollinshead introduced the new ILETS Board Member, Chief Bryce Johnson.
- d. Chairman Hollinshead called for a motion, Sheriff Gough motioned to accept the board meeting minutes from the November 7, 2022, meetings. Colonel Wills seconded the motion.

Votes in favor: 6

Votes against: 0 Motion passed

II. Informational Topics

Updates on Non-ILETS Projects

a) Criminal Justice Subscription Notification Service update

Sandy Kelleher explained to Chief Johnson and the board. This project is in discovery with CPI to provide a statement of work necessary to implement this service for supervision and criminal justice purposes. The Statement of Work is anticipated to be submitted and signed before June 30, 2023, with the work to be completed as early as possible after the switch replacement is concluded. Once the work is completed or we have a “go-live” date, we will provide training to users on how to submit subscription requests and how to read responses.

b) House Bill 149-Criminal History Record Sealing

Chairman Hollinshead introduced Operations Officer Kelleher, who explained, during the 2023 Legislative session, a bill was passed which will allow those with relatively minor non-violent, non-sexual offenses to petition for sealing of their public records provided they have gone at least five years since the completion of the sentence without any subsequent offenses.

Only one offense, or offenses arising from a single incident or arrest event would be eligible for sealing. Should there be a subsequent felony conviction, the exemption from disclosure would be revoked. Should the sealing remedy be granted, the record would still be available to law enforcement and prosecutors for any purpose and could still be used to enhance future penalties.

The person seeking to have the records shielded from disclosure would bear the costs of legal counsel in seeking such relief. The stated intention of the law is to make access to employment or housing easier for those individuals who may have a single or very limited criminal history records.

ISP will need to expand functionality to our database to allow us to shield certain events for certain purposes. We currently only withhold arrests without dispositions over 12 months old from name-based records checks without a waiver from the subject of the record. This expanded functionality would need to withhold a single event, or an entire SID based on the purpose for which it is being requested. The database will also have to be able to un-shield the previously shielded event or SID in the event of a subsequent arrest. Law Enforcement and CWL records checks will still have access to all shielded information for criminal justice or firearms purchase/licensing purposes.

Alana stated that she and Leila had discussed this. After the software is set up, there will be some human interaction, but the heavy load will be on the court. We will still need a person to go in and check/uncheck a box for shielding.

c) NICS notifications regarding denial for purchase

Sandy informed the board, the Consolidated Appropriations Act of 2022 was signed into law on March 15, 2022. Section 1101 of the Act, included the “NICS Denial Notification Act of 2022.” The Act requires the Attorney General to report background check denials to state authorities and will require the FBI Criminal Justice Information Services (CJIS) Division’s National Instant Criminal

Background Check System (NICS) Section to make a report to local law enforcement of all FBI NICS denied transactions within 24 hours beginning October 1, 2022.

The report will include the date and time of the denial, the reason for the denial, the location of the federal firearms licensee (FFL), and the person's identity. If the original denial is changed to a proceed at any time, an updated "report" to those agencies originally notified will be required. The NICS denial notifications will be transmitted electronically to the appropriate receiving authorities within each state.

The NICS Section is currently exploring the delivery methods available for transmitting the NICS denial notifications and will provide this distribution method when available. The denial notification will be delivered to the appropriate law enforcement agency based on the city, state, and zip code combination of the FFL location and the city, state, and zip code combination of the attempted purchaser's home address. A list of mapped ORIs was provided to the FBI NICS section by BCI for all jurisdictions in Idaho. We have not received any complaints or questions from local agencies thus far.

Sheriff Gough stated that he has already received two of these.

Hollinshead asked if there were any further questions which there were not.

d) U_21 NICS Bipartisan Safer Communities Act requests

Sandy informed the board that when a NICS check is initiated for a potential firearm transferee under age 21, the NICS Section will request relevant juvenile information to the identified points of contact. Outreach to the points of contact identified for the potential juvenile criminal/delinquency information and the juvenile mental health adjudication/commitment information will be conducted through the established method as directed by the individual agency (i.e. Email). Outreach to local law enforcement for juvenile information will be made to the appropriate law enforcement agency based on the city, state, county, and zip code combination of the address provided by the individual to the firearms dealer. These requests will be delivered via a NCIC \$.H.U21 unsolicited message.

ISP co-hosted a webinar with the FBI earlier this year, designed to provide information on these messages and options available to local law enforcement on receiving and responding to these messages. The FBI has instituted a Link-and-Pin method for agencies to receive and respond securely. They need an email to send a message with a URL link and a PIN for the user to access the secure webpage operated by the FBI which contains all of the PII associated with the subject. Once the records check has been conducted to locate any records (or no records found), the agency user adds the information on the secure webpage, either through a free text comment box or by uploading documentation and submits directly to the NICS. Another webinar will be hosted with the FBI on May 1st at 9am. The webinar date and time will be announced during the conference requesting agencies to provide an email address for us to send the invitation to.

Sandy stated the NICS team would be here at the conference. There is a sign-up sheet at the registration table that agencies can sign up for virtual training with the FBI.

No other questions or statements.

III. Old Business

a) Circuit “last mile” contracts/SD WAN, router replacement project update

Sandy stated that as of 3/31/23, we have 60 sites moved to the new circuits. Unfortunately, Hypercore has indicated that they do not have the ability to create relationships with local carriers in certain parts of the state. Nitel purchased Hypercore after we signed our contract. Nitel has relationships with some of the local carriers that Hypercore does not; however, they have insisted that we are no longer under the terms of the contract with Hypercore because Nitel purchased Hypercore, and therefore we fall under their terms now.

ISP Legal counsel has reviewed the contract we signed with Hypercore and states the initial terms of the contract did not allow for assignment to a new company. We are currently in the process of notifying Nitel of this. We are also having billing issues with the vendor. Hypercore/Nitel has consistently billed us for locations they say have been installed and are working; however, our initial contract states that the circuits are not billable until they have been tested and approved by ISP staff.

They also have billed us for locations that have not been installed. State law does not allow us to pay on an invoice where what we are being billed for is not working or is not installed. We have tried on multiple occasions to get the vendor to modify their invoice to include only the sites that we have tested and approved, but they are having difficulty with that. We sent a Notice to Cure letter to Nitel to give them 30 days to make right those locations that they have yet to come up with local carriers that can provide service to those areas. The letter and an XL Spreadsheet of completed locations are included in your packet.

Sandy stated that we could use Syringa on the 20+ locations Nitel-Hypercore could not service. We used to use them; however, when we were switching to SD WAN, they stated that it is not in their business model; however, now it is.

Alana stated that we had sent them a letter to cure. We have not heard anything back, but they have until the end of April to respond. We are unsure if they will go forward with our contract.

Conversation occurred on what the different options were. Sandy stated worst case scenario is using each agency’s internet services until we can onboard another vendor. Another option is going with Syringa for the last 20+ agencies.

Colonel stated that we will wait until the end of the month to hear back on what they intend to do.

b) Switch replacement and conversion to Linux

CPI has been working on backend programming for several months. ISP IT has been finalizing configurations on the hardware at ISP. Connections have been established for CPI to move data from the old servers to the new equipment. CPI tells us that a good portion of the back-end work is finished, and they are just waiting to be able to move everything to a test environment for us and then finish any remaining tasks needing to be done in test after that. Once that is completed, we will have 30 days to test, and then we will cut over to Production. Some information is still needed, but we hope this will be resolved quickly and we can begin testing. ISP IT wants to institute a tracking method for vendors who access ISP's network through Bomgar. This is different from what CPI has done in the past, and it will affect how CPI manages our system. Unfortunately, this will incur an additional cost to ILETS for CPI to adjust or reprogram how they monitor and manage the ILETS system.

Chairman Hollinshead asked if there were questions, and there was not.

Leila said we would lose some automation by CPI if ISP required CPI to access the databases through Bomgar. Sandy explained the many functions that CPI continuously monitors, like high station queues and operations would be affected. About 19 different things, and if CPI can't monitor, then IT will have to handle those functions.

c) All system upgrades through CPI

All upgrades are put on hold pending switch replacement completion. This includes the Criminal Justice Subscription and Notification Service for individuals under supervision or investigatory purposes; the Endangered Missing Persons Alert and Missing Person Clearinghouse; the XML NIEM project for NCIC queries; and the Disaster Recovery site. Sandy said they continue to meet on SOWs and discovery, so we're ready to go when the switch is up. Meetings are happening every Monday.

d) Modernization of the CJIS Security Policy update

Seven control families are being considered for modernization during the spring round of the APB. The Regional working groups met in early March to discuss these upcoming changes or additional controls.

These controls include Planning; Physical and Environmental Protection; Contingency Planning; Audit and Accountability; System and Communications Protection; and Risk Assessment.

Contingency Planning is a new control family which addresses areas such as alternate storage and processing sites, developing and documenting a contingency plan for the agency, and implementing a system backup strategy.

Risk Assessment is a new control family including conducting and documenting a risk assessment and performing vulnerability scanning and monitoring.

The seventh control family is Information Assurance Requirements for the Protection of Criminal Justice Information (CJI) when Accessed Indirectly. This section looks to address security concerns for those entities that do not have direct access to systems where they could make changes to CJI.

The APB is being asked to consider using security controls aligned with the National Institute of Science and Technology (NIST) Special publications (SP) 800-53 Rev. 5. Or (SP) 800-171 Rev. 2. The former low level has 149 controls which is a reduction from the current moderate level controls of 287. The latter has 120 controls instead of 149. Using a reduced set of security controls for indirectly accessing CJI does not indicate a reduced concern with the security of the information but rather a reaction to less risk on the ability to affect the integrity of the original record(s). Operating under a comprehensive information security program to control direct access to original CJI records should include controls to protect all three tenets of information security: confidentiality, integrity, and availability. With indirect access to original CJI records, information integrity and availability are at less risk, thus allowing for a reduced set of security controls. There would still be requirements to be met under the low level of control, just not as many as there are for direct access to the information with the ability to make changes to the original data.

IV. New Business

a) Results from Legislative Session regarding ILETS IDAPA fee rule

As you all know, during legislative committee hearings this spring, we had some questions regarding the ILETS fee rule. The Senate Judiciary and Rules Committee was concerned about a big jump in fees after a long period without increases instead of smaller incremental increases closer together. Historically, the Board felt that increases should only come when absolutely necessary. It would be good to discuss this again and get consensus from the Board members currently on the board on how they envision increases in the future. Regardless of their feelings about the fee increase, the Senate committee approved the rule change.

It was much different in the House Judiciary and Rules Committee. They were very concerned about how we calculated the increase, and they didn't like that the smaller agencies were being charged double their previous fees and the larger agencies were being charged a smaller percentage of their current costs. There was even a comment from a legislator that perhaps ISP was analyzing the fund to its advantage. The Board may want to consider hiring an outside consultant to prepare any cost increases in the future to be able to answer legislators' concerns about the method of calculation squarely. The Board may also want to consider creating a subcommittee with other ILETS users on it to consider any fee increase recommendations to avoid any appearance of a lack of transparency.

Colonel said so this wasn't accepted.

Kingsbury and Gough stated they thought this was done (approved).

Clarified how it went through the house but not to the floor.

Leila stated that the legislatures didn't like the fee structure and felt it should be 42% across the board. She stated that this would be a lot for the top five users, so this fee structure was proposed. The legislature doesn't want more money coming out of the general fund; however, on the current trajectory, we will be out of funds within two years. Leila also stated that no one had complained.

Kingsbury said the Nampa PD Chief contacted him to ask about it, and Kingsbury walked him through it.

Colonel Wills said they dropped the ball after talking to ICOPA and ISA. They should have done more follow-up as the legislative session got closer. He stated he was concerned about this passing next year as it is an election year.

Gough, Kingsbury, and Johnson stated it was already in their budget for this year. Johnson stated it was in many of their budgets already. Johnson asked how much ISP pays, and Col replied just over half.

Colonel Wills thought they had the support of the Chiefs and Sheriffs ICOPA and ISA; the rejection was due to the Legislatures trying to adjust rules that were out of their scope. He was not concerned about getting support from the Governor's Office.

The Board discussed doing a percentage increase every year. Alana stated that she had never seen a rule like this but didn't see why we couldn't.

b) Vote on the motion to the Governor

a. Action Item – emergency/temporary ILETS fee rule

Gough asked Col Wills if this would put ISP in a bad position with the Governor's office. Col Wills did not think so. Alana recommended adding a sentence to the letter that allowed the governor to set the effective date rather than send it back to the board and then back to the governor again. The board agreed. Kingsbury made a motion, Motion for requesting temporary adoption of the ILETS fee rule:

"Pursuant to Section 67-5226, Idaho Code, before a temporary rule may be adopted, the Governor must find that temporary adoption of a rule is appropriate under certain circumstances.

Accordingly, I move that this board request that the Governor consider whether the adoption of these rules is necessary to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens.

Further, I move the board also request the Governor consider whether the fee(s) or charge(s) being imposed or increased are justified and necessary to avoid immediate danger to the agency/department/board/commission's budget, to the state budget, to necessary state functions and services, and to avoid immediate danger of a potential violation of Idaho's constitutional requirement that it balance its budget.

Should the Governor make a finding that these rules are necessary for the aforementioned reasons, these rules shall be conditionally effective upon [insert effective date here]."

read the letter including Alana's adjustment. Sheriff Gough seconded motion and no one opposed the vote.

c) Executive Session – started at 3:05pm and ended at 3:30

Sheriff Hollingshead motioned to go into an executive session.

Chief Kingsbury Second

- d)** Convene to consider records that are except from public disclosure as provided in Chapter 1, Title 74, Idaho code. ID 74-206(d)