Nebraska State Council

Interstate Compact for Adult Offender Supervision

May 21, 2021

**Call to Order/Roll Call:**

The regular meeting of the Nebraska State Council of Interstate Compact for Adult Offender Supervision was called to order at 1:06 p.m. by Commissioner Sally Reinhardt-Stewart. The meeting was published and posted per the Open Meetings Act and the agenda and minutes of the last meeting were forwarded to all Council members in advance of the meeting. The meeting was recorded. Roll was called by Commissioner Reinhardt-Stewart.

**Present**:

Jacey Rader, Dawn Renee Smith, Elizabeth McQueen, Judge Mark Young, and Sally Reinhardt-Stewart.

Also in attendance: Margaret Buck (Senator Machaela Cavanaugh’s Office), Susan Barnard, and Sharon Wilkens.

**Not Present:**

Gene Cotter, Andi Hart, Layne Gissler, Jeff Davis, Judge Kenneth Vampola, Senator Machaela Cavanaugh, and Laurie Holman.

A quorum was not established.

**Approve Minutes:**

Commissioner Reinhardt-Stewart shared that there is a vacancy on the Council since County Attorney Representative, Tressa Alioth, was recently appointed as a Judge so we are working with the Nebraska County Attorneys Association for a replacement to fill the vacancy.

Members received a copy of the minutes of the October 14, 2020, meeting in advance and a copy was provided in each member’s folder. Per Council By Laws a simple majority of Council members must be present to vote on any business of the Commission so the minutes from the October meeting were deferred to the next meeting for approval.

**Old Business:**

**Membership Terms:** Commissioner Reinhardt-Stewart shared she had spoken with Kathleen Dolezal, Office of the Governor, a few months back when she took over as Commissioner. According to information received, anybody that was a member at that point when the Governor was re-elected would be carried over into that next term, however, Commissioner Reinhardt-Stewart wanted to make sure that everyone was still willing to continue on in their role as a member of the Council.

Judge Young announced that he would be retiring in September.

Dawn Renee Smith and Elizabeth McQueen indicated willingness to continue on the Council. Commissioner Reinhardt-Stewart indicated she would reach out to others not present.

**NE Training Updates:** Jacey Rader shared that on the Probation side they have done a lot of things that they record to send out due to the number of Probation Officers to be trained. They have found a lot of benefit in recording just small snippets of things and sending those out just randomly so it’s not a 2-hour training but a 2-minute training on how to do something. They have noticed this might be helpful and they have been really successful with that. She also shared they have a program called “Snag It” that allows them to record their screen so they can go into the Interstate Compact Offender Tracking System (ICOTS) and show users of the system how to do something and walk them through and there is a voice over. For example, if the Compact staff is communicating with a staff member via email and the staff member says I don’t know how to do this, I’m not going to be able to get this done the Compact staff records a snag it video with an accompanying message to walk the staff member through how to do this and points out the steps to take.” She recommended if anyone doesn’t have it to look into it as it is amazing.

Commissioner Reinhardt-Stewart shared on the Parole side that training has been conducted almost monthly this past year for new Parole Officers and Assistant Parole Officers and will be continuing to do that as new staff come on board. She also shared that the Compact Office will be conducting training for designated Assistant Parole Officers to assist with activating interstate clients coming into Nebraska which entails data entry. In addition, Assistant Parole Officers are going to be trained how to do Transfer Requests and Requests for Reporting Instructions so they can assist Parole Officers when someone requests to transfer parole to another state.

Commissioner Reinhardt-Stewart shared that several years ago a training presentation was put together for State Council members. It has been updated with the assistance of Jacey Rader and Susan Barnard of the Probation Compact Office and is about 12 minutes. She informed it would be sent out to not only new members of the Council but all members.

**New Business:**

**ICAOS Committee Reports**

**Training Committee:** Commissioner Reinhardt-Stewart shared that she currently serves on the Training Committee and that Jacey Rader had served on this same Committee until recently. She shared that the Committee has met twice since the Annual Business Meeting in September 2020. This Committee assisted the National Office presenting at the American Probation and Parole Association’s Winter Conference this year on the topic of *Navigating the Interstate Compact through the Pandemic*. She reported a proposal for the Association’s Summer Institute had been submitted but the Committee hadn’t yet heard back if selected to present. In addition, the Committee is usually involved with the Annual Business Meeting in some fashion so will know more later. The National Office also conducted Compact Staff training in October 2020 and February and April 2021 on the enhancements to the Interstate Compact Offender Tracking System (ICOTS).

**Compliance Committee:** Commissioner Reinhardt-Stewart shared that she currently serves on the Compliance Committee in her role as Commissioner and that Jacey Rader also serves as an Ex-officio member in her role as a Deputy Compact Administrator (DCA). The Committee has met twice since the September 2020 Annual Business Meeting.

The FY21 compliance audit was postponed this past year due to COVID. The Executive Committee of the Commission then decided that the FY22 audit, beginning in July 2021, would instead focus on Discretionary and Mandatory Case Acceptance Rates, compared to the national average.

Commissioner Reinhardt-Stewart shared that two states were required to submit Corrective Action Plans during the past year. The Committee also discussed Rule 2.111 on “Emergency suspension of enforcement” during its meetings. Although the Rule did not suspend enforcement of states’ duties under the Compact it did temporarily suspend enforcement of the rules or parts thereof, including timelines.

The Committee has also been involved in discussions regarding the 2022 Rejection Assessment and setting an acceptance rate standard on outgoing interstate compact cases. This will be addressed further in the next few months.

In regard to Rule 2.111, Jacey Rader provided some further explanation that when the Pandemic happened last year, travel looked different for everybody. When people were transferring and trying to return, even law enforcement agencies were not going to the receiving state to get them until they had been tested or there would be entire facilities that would have an outbreak and law enforcement said we know we are supposed to go get them but Rule 2.111 suspended the enforcement of compact rules. So essentially states needed to abide by the rules but it was understood that the time frames related to those rules would take longer to bring somebody back than it normally would have. Rule 2.111 was rescinded on April 1, so now we are back to regular operations with timelines and compliance happening as they were prior to the Pandemic.

**Interstate Compact Pandemic Response**

**Emergency Rule—2.111 Rescinded April 1, 2021:** Commissioner Reinhardt-Stewart thanked Jacey Rader for providing further explanation of the impact on states as part of the Compliance Committee report and reiterated what this meant.

**Annual Business Meeting – Virtual:** Commissioner Reinhardt-Stewart stated the Annual Business Meeting last fall was held virtually and the decision was made to hold a virtual meeting again this year. The meeting will be held September 27 - 29, 2021, with some activities preceding on other dates. The agenda will include a session to discuss the Proposed Rule Amendments and ICOTS Enhancement as well as a public hearing in advance of the vote on the proposals. The Commission made the decision to meet virtually to eliminate any lingering issues related to travel restrictions by states and public health concerns across the country.

Jacey Rader also shared that she is Chair of the Interstate Commission for Juveniles (ICJ) and they elected to do a virtual meeting as well, not because people were concerned about Directed Health Measures, but because a lot of states have been impacted fiscally and they don’t want their staff to travel so they wanted to be cognizant of that.

Commissioner Reinhardt-Stewart shared that the Commission implemented a one-time reduction in the annual dues for member states of the Compact. This was welcome by states across the country due to the budget situation a lot of them are facing.

**DCA Dashboard Reports – A Brief Overview:** Commissioner Reinhardt-Stewart shared that the National Office has developed over 50 reports that are available to assist Compact Offices in their work. The 50 reports are generated through ICOTS, the Interstate Compact’s tracking system. The DCAs in states have responsibilities for the administrative duties related to the management of that system and there are certain things that have to be done to maintain data integrity. She stated that starting July 1, 2021, a DCA Dashboard Project will commence. The project will focus on different topics each quarter and states will clean up things that are on that list. Commissioner Reinhardt-Stewart shared it is anticipated to show where some improvements may be needed or where states are doing really well.

**Rejection Assessment Commencing July 2021:** Commissioner Reinhardt-Stewart shared that the FY22 audit previously mentioned is going to assess state data related to case acceptance rates as compared to the national average. It is going to look at both discretionary as well as mandatory transfer requests that are done within states. The basis for doing this is to promote continued emphasis on offenders’ success, effective tracking, orderly and effective transfer processes and adherence to rules. The Commission is going to be analyzing the documents for each state relating to their performance as a sending and receiving state. Once this starts every state will receive results of that assessment and be able to look at those and determine what they can do to increase the acceptance rates from their standpoint.

A discretionary acceptance assessment was completed by the Commission in 2016. At that time it was determined that 80% of the rejections were avoidable and what was learned during COVID-19 was that there was only a small increase in the number of acceptances that occurred since the time of the assessment. They are going to be looking for any new trends that have developed since then and to identify factors affecting the acceptance rates for discretionary and mandatory cases and look at common factors. In preparation for the assessment, a pilot was conducted of 3 states--Minnesota, Maine and Colorado. The pilot showed that the #1 problem is still verification of residence plans for transfer requests. To address, Minnesota conducted training of their staff on verifying the residence plans. In reviewing for the period of November of 2020 to January 2021, Minnesota has already seen an increase in acceptances.

With regard to Parole, verification of residence plans is already part of our training, as it is for the Nebraska Department of Correctional Services Re-entry Unit who handles Transfer Request for offenders who request to transfer parole to other states upon release from the institutions onto parole.

**Proposed Rule Amendments & ICOTS Enhancement:** Commissioner Reinhardt-Stewart introduced this topic and indicated that Jacey Rader will lead the discussion on the proposals. DCA Rader referred to the 2021 Rule/ICOTS Proposal Summary in members’ folders. The first was proposed by the Executive Committee and proposes to add the National District Attorneys Association as an Ex-officio member. She shared that she and Ms. Barnard had talked about it that morning and believes Commissioner Reinhardt-Stewart has the same thoughts about it. She stated they don’t have any major concerns about adding them as an Ex-officio member. Commissioner Reinhardt-Stewart shared that the Association had been asked to participate in a 2020 Roundtable Series hosted by the Commission (topics were Remote Sentencing/Hearings and Electronic Signatures) and the Association’s involvement was appreciated.

Jacey Rader addressed the next proposal which would impact Rule 1.101 by revising the definition of ‘Resident’, specifically it would change the qualification for ‘resident’ to lived in the receiving state 1 year prior to sentencing or supervision start date. She shared she and Ms. Barnard had talked about this from the Probation perspective and they don’t have concerns about it. If they have lived there for a year, it is assumed they have developed some ties there and that is where they are supposed to be. She didn’t have any significant concerns about the timeframe.

Commissioner Reinhardt-Stewart shared she also doesn’t have a problem with this proposal. It has been found that when a state tries to determine whether somebody is a resident of the receiving state a lot of times under the current definition the case is so old there would not be an ability to actually prove that somebody resided in a state prior to one year preceding the occurrence of the offense. It is an improvement on the current definition and will probably be easier to make a determination of whether an offender is a resident under the proposed definition so is in favor of it.

Ms. Smith asked for clarification on the timeframe. Commissioner Reinhardt-Stewart clarified the new language reads ‘has continuously resided in a state for at least 1 year prior to either the supervision start date or sentence date for the original offense for which transfer is being requested’. Ms. Smith then inquired whether there was previously a requirement. Commissioner Reinhardt-Stewart stated the current language reads ‘has continuously resided in a state for at least 1 year prior to the commission of the offense for which the offender is under supervision’. Jacey Rader indicated they are just changing it to sentencing or supervision start date.

Jacey Rader stated the next proposal is Rule 5.108 on Probable Cause. This clarifies Probable Cause must be established prior to retaking on a violation that is actually revocable. On the Probation side, it probably looks different than on the Parole side, and that they don’t have an issue with this. She explained that for most of their cases that are transferred out, if they are coming back and they are a felon they are coming back under supervision because they haven’t started their Custodial Sanctions. So if they do Probable Cause or not is okay with them. They are not going to revoke when they come back to Nebraska because they are coming back to them on a technical violation if they are.

Commissioner Reinhardt-Stewart indicated for Parole there would not be a problem with this proposal and that she had shared the proposal with Tom Verplank, Parole’s Hearing Officer. She stated when a Probable Cause Hearing is requested the offender has to admit to at least one or more violations if they are waiving the hearing. The proposal adds new language that reads ‘that would result in the pursuance of revocation of supervision in the receiving state and requires retaking’. The example in the justification refers to a failure to report. An example for Parole would be failure to pay programming fees. If that is the only thing that the offender is going to admit to Nebraska Parole is not going to request revocation/retaking for that violation. The offender would have to have something more significant included for us to request retaking from the sending state.

Jacey Rader concluded by indicating we are okay with this one.

Jacey Rader stated the next proposal affects Rules 2.110, 4.111, 5.101, 5.102, 5.103 and 5.103-1. It expands the timeframe for issuing a warrant to a standard 15 business days which gives a little more time to get those warrants so is not concerned about it. It is thought it will help states to get into compliance. She shared that the last time a Rule proposal did something like this the Commission members voted against it.

Commissioner Reinhardt-Stewart stated that one of the Rules affected is the abscond Rule. The current language reads ‘upon receipt’ of the violation report the warrant is to be issued. Basically the proposed language gives states approximately two weeks to get the warrant issued so for Parole allows a lot more time. When Parole receives a violation report, a warrant is immediately requested. Sharon Wilkens is involved with the warrants process (these are warrants issued by the Nebraska Parole Board). Although okay with the changes, Parole is going to still get them issued as quickly as possible.

Jacey Rader stated the final proposal is the New Warrant Status Tracking/Audit Tool that will be made available if passes to track cases that are in warrant status. It will send email notifications and there will be a new managed activity for discretion and retaking. She shared that a lot of states are ready, that they have their own tracking system as does Probation but these tracking systems are an Excel spreadsheet. Therefore, having something built into the system will be helpful and that Probation is supportive.

Commissioner Reinhardt-Stewart stated that Parole is also supportive. She shared in 2019 a warrant audit was conducted. Many states implemented Excel tracking modeled after New York’s tracking which had been shared by that state to assist other states as a mechanism to start tracking warrants. Both Compact Offices began tracking at that point which has also been helpful to answer questions that come up.

It was shared the comment period for the proposals is open until June 1, 2021. Once the comment period is closed, final proposals will be made available. Jacey Rader stated they will be reviewed and will be brought back to the State Council at its next meeting. Regardless of what happens with the warrants Rule proposal the ICOTS enhancement to allow for warrant tracking will be a separate vote from the warrant proposal.

**Next Meeting – Adjourn:**

Commissioner Reinhardt-Stewart stated the plan is to schedule the next meeting prior to the Annual Business Meeting in September. The final proposals have to be posted at least 30 days in advance of the meeting. It was stated a Doodle Poll will be sent out in order to help determine the date of the Council’s next meeting.

There being no further business, Jacey Rader moved to adjourn the meeting; seconded by Judge Mark Young.

The meeting adjourned at 1:45 p.m.

Submitted by: Sharon Wilkens