INTERSTATE COMMISSION FOR
ADULT OFFENDER SUPERVISION

WHITE PAPER

# Legal Implications of the Compact's National Data System

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## Executive Summary

This paper explains the legal status and potential admissibility of records maintained in the ICAOS National Data System as official business records. The system serves as the central platform used by all member states to record, track, and share information on the interstate supervision of individuals who move through the Compact.

Because these records are contemporarily created and maintained in the regular course of Compact business by authorized personnel, they are considered business records and satisfy business records exception to the hearsay rule under the Federal Rules of Evidence[1]. Each state retains ownership and custodial responsibility for the data it enters, as outlined in ICAOS policy.

Because of this, and when properly certified, National Data System records may be introduced in court as reliable evidence of official Compact activity. Compact offices should accordingly maintain consistent data entry and recordkeeping practices to preserve the accuracy and integrity of these records.

While this paper focuses on business records as understood in the Federal Rules of Evidence, this concept is similarly reflected in state-court evidentiary rules. Each jurisdiction may, however, have its own version of hearsay and its own exceptions to the rule against hearsay. Compact Administrators in each State should accordingly familiarize themselves with the rules particular to their jurisdiction with regard to properly introduction business records into evidence.

## 1. HEARSAY AND THE BUSINESS RECORDS EXCEPTION

### 1.1 Hearsay Overview

Hearsay generally refers to out-of-court statements—including statements in documents—offered to prove the truth of what they assert. Absent an exception, this evidence is inadmissible. The business records exception, recognized in Rule 803(6) of the Federal Rules of Evidence and similar state provisions, permits the admission of records made and kept in the ordinary course of business.

### 1.2 Criteria for Business Records

Under the Federal Rules of Evidence, to qualify under the exception, the proponent must show that:

1. The record was made by, or from information transmitted by, a person with knowledge;
2. The record was made at or near the time of the event;
3. The record was kept in the course of business or activity; and
4. Making the record was a regular practice of the organization.

ICOTS records may satisfy this criteria when properly authenticated by the state responsible for creating and maintaining the data.

## 2. NATURE AND CUSTODY OF ICOTS RECORDS

### 2.1 Description of INSITE

The Commission developed the Interstate National System for Information, Tracking and Enforcement (INSITE) for tracking and managing the movement of supervised individuals across state lines. All 53 member jurisdictions use the system to transmit, approve, and monitor interstate compact cases. The National Data System serves as both a communication platform and a historical record repository, maintaining standardized data as required under Article VII of the Compact.

### 2.2 Data Ownership

INSITE data belongs to the member states that entered it, not to the Interstate Commission. ICAOS Administrative Policy 02-2009 (Record Retention and Destruction) confirms that each state retains ownership of its entries and attachments.

*“All offender records and case information entered in INSITE by member states is the property of the member states and is maintained according to the laws and policies of the member states.”*

Accordingly, the Commission only manages the system infrastructure and does not alter or dispose of state-provided records without written consent.

### 2.3 Determining the Custodian of Records

Because states own the information they submit, the custodian of record is typically the state that created or entered the data into INSITE. That state is responsible for attesting to the

record's authenticity and reliability through a business records affidavit or witness testimony. A custodian's affidavit should:

- Identify INSITE as the official data system used under ICAOS;
- Confirm that entries were made at or near the time of the underlying event by authorized personnel; and
- Describe INSITE as the routine and official method of recording and exchanging information between compact states.

## 3. RELIABILITY AND CHAIN OF DATA ENTRIES

### 3.1 Record Creation and Updates

When a user generates a Compact Activity PDF in INSITE, the record reflects the data as it currently exists. Each user's authorized account provides a traceable record of who made updates or edits. Compact offices should ensure each entry includes a timestamp and identifying information to establish a clear chain of data entries.

### 3.2 Maintaining Record Integrity

Subsequent edits, such as correcting identifiers, adding aliases, or updating supervision details, should document who made the change and when. Maintaining a consistent edit history strengthens the record's admissibility and supports the credibility of the business records affidavit.

PRACTICE NOTE: *COMPACT OFFICES SHOULD VERIFY THAT STAFF FOLLOW ESTABLISHED INSITE DATA ENTRY STANDARDS, INCLUDING CONTEMPORANEOUS RECORDING, USER AUTHENTICATION, AND AUDIT DOCUMENTATION. THESE STEPS REINFORCE THE RECORD'S RELIABILITY FOR JUDICIAL USE.*

## 4. ESTABLISHING INSITE AS A REGULAR BUSINESS RECORD

### 4.1 Regular Practice of Compact Offices

Compact administrators should be prepared to testify, or certify via affidavit, that producing INSITE records is a routine part of their official duties and that maintaining offender case records occurs in the regular course of business.

This demonstrates that INSITE records are not created for litigation but as part of ongoing supervision and data-sharing under ICAOS.

## MODEL DESCRIPTION FOR AFFIDAVITS

A CUSTODIAN AFFIDAVIT MAY STATE:
*“The Interstate National System for Information,Tracking, and Enforcement (INSITE) is the official electronic system used by all states to record, track, and exchange information concerning offenders transferring supervision between states under ICAOS. The attached record was made at or near the time of the event by authorized personnel in the regular course of compact business.”*

## 5. LEGAL FRAMEWORK AND SUPPORTING AUTHORITY

- Article I of the Compact assigns states the responsibility for interstate supervision and joint data collection.
- Article VII directs the Commission to collect standardized data concerning interstate movement.
- Administrative Policy 02-2009 confirms that states retain ownership of all data they enter.
- Under the Federal Rules of Evidence (803(6)), INSITE records qualify as business records when these requirements are met.

*[1] While this paper focuses on business records as understood in the Federal Rules of Evidence, this concept is similarly reflected in state-court evidentiary rules. Each jurisdiction may, however, have its own version of hearsay and its own exceptions to the rule against hearsay. Compact Administrators in each State should accordingly familiarize themselves with the rules particular to their jurisdiction with regard to properly introduction business records into evidence.*