



## **Interstate Commission for Adult Offender Supervision**

### **Compliance Committee Meeting MINUTES**

**April 19, 2021 · 1:00 pm ET  
Video Conference**

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#### **Members in Attendance:**

1. Allen Godfrey (MN), Chair
2. Merideth McGrath (CO)
3. Hope Cooper (KS)
4. Cathy Gordon (MT)
5. Sally Reinhardt-Stewart (NE)
6. Amy Vorachek (ND)
7. Diann Skiles (WV)
8. Suzanne Brooks (OH), Ex-officio
9. Tina Balandran (TX), Ex-officio

#### **Not in Attendance:**

1. Gloriann Moroney (MA)
2. Dale Crook (VT)
3. Jacey Rader (NE), Ex-officio

#### **Staff:**

1. Ashley Lippert, Executive Director
2. Allen Eskridge, Policy and Operations Director
3. Barno Saturday, Logistics and Administrative Coordinator
4. Mindy Spring, Administrative and Training Coordinator
5. Xavier Donnelly, ICOTS Project Manager
6. Kelsey Moore, Web Applications and Tech Support Manager

#### **Call to Order**

Chair A. Godfrey (MN) called the meeting to order at 1:01 p.m. ET. Executive Director A. Lippert called the roll. Seven out of nine members were present; a quorum was established.

#### **Approval of Agenda and Minutes**

**Commissioner M. McGrath (CO) moved to approve the agenda as presented. Commissioner H. Cooper (KS) seconded. Agenda approved as presented.**

**Commissioner C. Gordon (MT) moved to approve the minutes from December 14, 2020 as drafted. Commissioner S. Reinhardt-Stewart (NE) seconded. Minutes approved as written.**

#### **Discussion**

*FY22 Rejection Assessment:* Training Coordinator M. Spring presented the FY22 compliance audit pilot state's results to the committee. She thanked Colorado, Maine, and Minnesota for participating in the pilot assessment. The purpose of the audit is to promote offender success, effective tracking, orderly and efficient transfer processes as well as adherence to ICAOS Rules 3.101, 3.101-1, 3.101-2, and 3.104. The FY22 assessment evaluates state acceptance and rejection cases for transfers processed during FY21. Further, it measures change from the FY16 assessment and establishes common factors impeding present-day acceptance rates.

The national office used data generated from the *Transfer Decisions Summary, Transfer Decisions - Incoming Cases & Transfer Decisions - Outgoing Cases* compliance dashboards to provide each state's assessment results and a link to complete a self-assessment, gathering specific information on each state's procedures and plans for improving acceptance rates, enhancing efficiency, and improving training. This feedback will be utilized to publish a national report identifying factors impeding acceptance rates and making recommendations for improvement.

The participating pilot states provided diversity in the volume of transfers. The assessment also highlighted transfers with initial rejections that were subsequently accepted to identify issues delaying the transfer process.

Based on the findings, the discretionary case acceptance rate had improved minimally since the last discretionary case assessment in FY16. The verification of transfer plans and insufficient justifications remained the top concern for both mandatory and discretionary transfers.

The national office drafted the following factors for consideration:

- *Set Acceptance Rate Standard*  
The Commission should consider setting a standard for acceptance rates to focus on 'outgoing' transfers. This standard could include expectations for states to self-audit, provide training, and follow up on rejections with users to prevent future rejections.
- *Improve ICOTS User Training*  
Compact administrators for each state have the responsibility to train users to ensure verified data is entered into ICOTS.
- *Reduce Technical Rejections*  
Ensure technical rejections do not delay the transfer process while also setting expectations for sending state compact offices to ensure transfers are complete and include proper documentation.
- *Sex-Offender Transfers*  
Rule 1.101 Sex-Offender definition and Rule 3.101-3 were amended effective April 1, 2020. The amendment intended to reduce improper denials for sex offender transfers. While the number of sex offender transfer requests increased since April 1, 2020, the rejection rate for transfers of sex offenders has not changed. States should research these denials and ensure equal treatment of sex offenders.

- *Training/Technology referral regarding Rejection Summary*  
The assessment shows inconsistent use of this data field across all states. Training for users and compact staff should ensure proper ICOTS usage for these fields to optimize reporting capabilities. Consideration for an ICOTS enhancements could also be made to the Technology Committee to improve data outcomes on this measure.

Chair A. Godfrey (MN) noted that his state reviewed the findings for Minnesota and found them helpful for improving their acceptance rate processes and procedures.

The committee discussed the national office recommendation to set acceptance rate standards.

Commissioner S. Reinhardt-Stewart (NE) noted that it would be useful to see where the states stood collectively before determining the standards.

Training Coordinator M. Spring noted that all compliance dashboard reports used in the audit were available to all states.

Commissioner H. Cooper (KS) spoke in favor of setting a standard as there was minimum progress in discretionary cases acceptance rate since the last audit in FY16. She suggested setting annual increments towards a compliance standard.

Commissioner A. Godfrey (MN) noted that the main goal would be to guide states toward compliance.

Commissioner A. Vorachek (ND) agreed with Kansas.

DCA S. Brooks (OH) cautioned the committee to set realistic standards, adding that there are situations where the receiving states simply could not comply with the supervision requirements in transfer applications.

Executive Director A. Lippert noted that there was nothing to preclude the committee from shifting from the traditional 80% compliance mark. Once, the national office completes the audit and the committee has all the data, it can determine the benchmark for this standard.

The Compliance Committee will continue this discussion in the fall once the national audit data is available.

*Probable Cause Hearing:* Commissioner A. Godfrey (MN) presented to the committee an issue of probable cause waivers and rule requirements for holding offenders in custody on a waiver. He shared an example where a receiving state (RS) submitted a violation requiring retaking for an offender who was not in custody. The sending state (SS) requested a probable cause (PC) and the offender agreed to waive PC. The RS obtained the waiver and notified the SS. The RS does not take the offender into custody upon obtaining the waiver and would only take into custody upon the SS's warrant. If PC was established, was the RS required to hold the offender in custody?

The national office reached out to Legal Counsel Travis and received a legal interpretation on this matter. The interpretation stated that once a person admitted and waived PC, based on Rule 5.108, the RS was required to take that person into custody and allow the SS to retake.

Commissioner A. Godfrey (MN) noted that there could be multiple states that did not comply with this rule requirement for many reasons, including the COVID-19 pandemic related limited incarceration capacity and national reforms to reduce prison and jail populations.

Commissioner H. Cooper (KS) noted that if Kansas asks for a revocation, that meant that the offender's behavior was very serious, and that person should be incarcerated. She suggested clarifying the language in the rules. She added that if an offender were in the community and not being detained, why would the receiving state go through the seriousness of sending them back to the sending state.

DCA S. Brooks (OH) agreed with Kansas. In Ohio they trained to submit a violation report on a technical violation behavior only if they exhausted every possible corrective action and the offender was a threat to public safety.

Commissioner C. Gordon (MT) stated that Montana used to operate the same way as Ohio, however, due to the COVID pandemic, their jails limited number of people they accept and would only take offenders with very serious offences.

Chair A. Godfrey (MN) will bring this matter to the Executive Committee's attention later this week.

### **Old Business**

There was no old business.

### **New Business**

Commissioner A. Godfrey (MN) presented Hawaii's request to extend application of Rule 2.111 Emergency Suspension of Enforcement until June 8, 2021 for committee's consideration.

Hawaii listed the following reasons for their request: isolation of Hawaii islands and difficulties of shipment of goods including PPE; the state's quarantine restrictions; travel restrictions in place; small extradition units; small number of law-enforcement officers with TSA certificates (Flying While Armed Class); and police department criteria limiting extradition to violent crimes.

Commissioner C. Gordon (MT) spoke in favor of approving Hawaii's request considering presented circumstances.

Commissioner H. Cooper (KS) and Commissioner A. Vorachek (ND) spoke in favor of approving the request.

Executive Director A. Lippert noted that the Commission was in uncharted territory, whatever decision the committee makes, would set a standard for future events of this nature. She added that Hawaii's request had merits, their Governor issued over 19 executive orders related to the COVID-

19 pandemic and this request was in line with orders received from their Governor. She suggested working with Hawaii's Compact Office to develop a contingency plan for Compact to move forward, if their Governor and the executive branch continued issuing restriction orders.

Executive Director A. Lippert noted that Hawaii had been working around the pandemic and their compliance numbers were above 80%, their biggest challenge was extraditions due to their unique location.

If Hawaii submits another request, the Compliance Committee decided to meet again to discuss requests that exceed the 60 days mark and set parameters and develop recommendations.

**Adjourn**

**Commissioner H. Cooper (KS) moved to adjourn. Commissioner D. Skiles (WV) seconded.**

Meeting adjourned at 2:08 p.m. ET.