INTERSTATE COMMISSION FOR ADULT OFFENDER SUPERVISION

COMPLIANCE COMMITTEE MEETING

Lexington, Kentucky

June 27-29, 2006

Committee Members in Attendance:

1. Warren Emmer (ND)
2. Wayne Theriault (ME)
3. Jacqueline Kotkin (VT) (not present Day 1)
4. Bill Rankin (WI)
5. Judith Sachwald (MD)
6. Leo Lucey (UT)
7. Colleen Fickel (PA) *ex-officio*
8. Gregg Smith (LA) *ex-officio* (present 2nd part of Day 2)

Committee Members not in Attendance:

1. Robert Oakes (AL)
2. Mike Ferriter (MT)

Staff:

1. Don Blackburn
2. Rick Masters (not present Day 3)
3. Mindy Spring
4. Kevin Terry

Day 1  Tuesday June 27, 2006

Meeting was called to order by Chair, W. Emmer at 3:12 pm EST. 5 members were present, establishing a quorum. (J. Kotkin and Gregg Smith were not present for Day 1)
Motion to approve the agenda made by W. Theriault, seconded by J. Sachwald. W. Emmer requested the Committee move the discussion of Enforcement Actions to the top of the agenda. Amended agenda approved.

Motion to approve the May 5, 2006 minutes made by L. Lucey, seconded by W. Rankin. Minutes approved.

3. Puerto Rico

- W. Rankin submitted report to the Committee for approval regarding Puerto Rico being delinquent/unpaid for FY 06 dues. It was found that Puerto Rico submitted payment for FY 06 dues on or about June 1, 2006.
- Motion made by W. Rankin, seconded by W. Theriault to not find Puerto Rico in default and that no further action is needed by the Compliance Committee. Motion carried unanimously.

1. OH vs PA Complaint 1-2006

R. Masters outlined for the Committee procedures for closed session per Article 7 of the statute. It was noted the discussion of the enforcement actions would fit into the guidelines and would warrant the Committee going into closed session.

W. Emmer reviewed the Ohio complaints against Pennsylvania and Texas. It was noted the Executive Committee requested the Compliance Committee to review the issues and report back.

Motion to go into closed session made by J. Sachwald, seconded by W. Theriault. Motion carried unanimously.

Open session resumes. Ex-Officio, C. Fickel joined the meeting.

Motion to submit violation report regarding OH vs PA 1-2006 made by J. Sachwald, seconded by L. Lucey to state: “Compliance Committee finds Pennsylvania in default of the Compact pursuant to Rule 6.103 for violation of ICAOS Rule 2.110 due to its failure to order offenders back to the Commonwealth of Pennsylvania or to issue a warrant for said offenders.”

- Friendly amendment made by W. Rankin to include reference in the motion to Compact transition Rule 3-101. Accepted.
- Friendly amendment made by L. Lucey to include time frame within which the violations occurred June 2004 through and including January 2006 in regards to supervision of said offenders. Accepted.

Motion carried unanimously.
The Committee discussed corrective action to be taken by Pennsylvania.

R. Masters referred the Committee to Rule 6.103 “Enforcement Actions Against a Defaulting State” and noted the Compliance Committee must refer any proposed action to the full Commission for a vote.

Motion made by L. Lucey, seconded W. Rankin to recommend to the Executive Committee and the Commission, that the Commission determine Pennsylvania to be in default of the Compact pursuant to Rule 6.103 for violation of Rule 2.110 and its previous transition Rule 3-101; impose and suspend a fine of $10,000 on the Commonwealth of Pennsylvania pending implementation of the corrective action plan, as contained in the letter from Commissioner Benjamin Martinez to Compliance Committee Chairman, Warren Emmer, dated June 23, 2006. Further, Pennsylvania shall cooperate with the Commission in the completion of an audit of Adult Probation department of Allegheny county with the terms and conditions of the Compact within 1 year from the date of adoption of the proposed sanctions by the Commission. Upon successful completion of the terms of the action plan, the order imposing the fine shall be vacated. The Commission will notify the state Commissioner, Governor, State Council, Chief Justice or chief judicial officer and the majority and minority leaders of the Pennsylvania legislature of the default and corrective action plan per Rule 6.103 (c). Motion carried unanimously.

Motion to recess for the day made by W. Theriault, seconded by L. Lucey. Meeting recessed at 5:17 pm EST

**Day 2  Wednesday, June 28, 2006**

**OH vs TX complaint 3-2006**

Meeting reconvened at 8:35 am EST.

W. Emmer opened the meeting by introducing the OH vs TX Complaint 3-2006 and suggested that the Committee should go into closed session to discuss the OH vs TX complaint.

Motion to close session made by L. Lucey, seconded by J. Sachwald. Committee went into closed session based on advice of legal counsel under Article 7 of the Compact due to discussion of potential legal enforcement action and related investigation.

Meeting resumed to open session.

Motion to recommend to the Commission, that it determines that the State of Texas be found in default of the Compact pursuant to Rule 6.103 due to its violation of ICAOS
Rule 2.110 in the matter of the complaint from Ohio 3-2006, made by W. Theriault, seconded by J. Kotkin. Motion carried unanimously.

Motion to approve the following proposed corrective action recommended to the Commission pursuant to Rule 6.103 in the matter of the OH vs TX complaint 3-2006 made by W. Rankin, seconded by L. Lucey.

Proposed Corrective Action

$1,000,000.00 (suspended) fine pending the following:

- Within 90 days after the Approval of the recommendation of the Compliance Committee to the Commission, Texas shall submit a corrective action plan to the ICAOS Compliance Committee Chair that addresses, but is not limited to, the following:
  - Identification of the magnitude of non-compliance with ICAOS Rule 2.110, the causes of non-compliance and the steps that will be taken to bring Texas into compliance within 1 year of the Commission’s order.
  - The authority of the Compact Commissioner/Compact Administrator to compel compliance with ICAOS Compact Rules

- Compliance Committee will review the proposed action plan and approve/amend said plan within 60 days of receipt of the action plan.

- Texas must also agree to cooperate with the Commission’s efforts to monitor and verify Compliance with the Compact.

- Commission will provide Texas with reasonable technical assistance specified in the approved plan.

- Commission will notify the State Commissioner, Governor, State Council, Parole Authority, Chief Justice or chief judicial officer and the majority and minority leaders of Texas’s legislature of the Corrective Plan per Rule 6.103 (c).

- Within 30 days of the Commission’s action, Texas shall respond to the Commission’s enforcement action, indicating whether Texas will comply with the conditions.

Motion Carried unanimously.

W. Emmer explained to the Committee the process for proposed sanctions which is required to be adopted by the Commission. Such approval must take place at either the Annual Business Meeting or a national teleconference called by the Chairperson or a majority of the Commission.
The Committee recessed for a joint meeting with Rules Committee at 12:20 pm EST.

The Committee reconvened at 2:14 pm EST. Ex-officio, Gregg Smith, joined the Committee.

**Audit Ad Hoc Committee Report**

Chair, W. Rankin, reported findings from the Arkansas Audit/QSA. Copies of the report were distributed to the Committee and reviewed.

The Committee Reviewed Part 1, Interstate Compact Audit Forms (QSA)

Discussion of Audit Process. W. Rankin noted the QSA tool is a self-assessment rather than an audit tool. The instrument asks whether something happens, not how often it happens. W. Rankin noted the audit/QSA could have been completed over the phone and that an on-site review is not required for this instrument.

Discussion of developing model procedures and to recommend states develop procedures for Interstate Compact.

The Committee reviewed Part 2, Summary of Single Case File Audits. This format requires physical review of case files. This format provides information about how often something occurred. Discussion of NACIS capturing information gathered for Part 2 of the Assessment.

Discussion of Part 3. ICAOS Rules and Corresponding AR Manual Sections. W. Rankin noted manual was organized differently then ICAOS rules, therefore difficult to do.

The Committee Reviewed Part 4-Standards for written policies and procedures

Discussion of developing approx 15 standard policies and procedures for states that do not have their own in place.

W. Rankin suggested certifying that states have essential policies and procedures in place.

It was discussed that the QSA should be used for states to audit themselves.

Discussion of audits being done in regards to Rule 2.110 for states. J. Kotkin noted this audit should be done on all case files, not only Interstate Compact cases.

Discussion of developing model policies and procedures. J. Sachwald noted procedures are usually written specific to a state to be consistent.
C. Fickel noted the statute states that State Councils are required to develop policies and procedures for states.

The Committee developed Next Steps for Compliance Committee

1. Review/refine self assessment QA (C. Fickel & G. Smith) by August 15, 2006 for the Audit Ad Hoc Committee
3. Ask each Commissioner/Compact Administrator to Compel/review 2.110 in their state
   a. Encourage case file audit National Office and Each State
   b. Training module and Bulletin on 2.110 developed by national office
4. C. Fickel is developing an outline of the composition, purpose, authority, responsibility, and duties of the Audit Ad Hoc Committee.

Discussion on emphasizing Rule 2.110 in training. D. Blackburn stated it should be communicated to line officers that employees could be terminated for not complying with Rule 2.110.

The Committee recessed for the day at 4:00 pm EST.

**Day 3 June 29, 2006**

C. Fickel submitted to the Committee a draft of a description of the Audit Ad Hoc Committee. The outline was added to previous page of the minutes as #4 of the next steps for Compliance Committee.

The Committee Reviewed and revised the Overall Goals & Strategy Plan of the Compliance Committee. (See Attached)

D. Blackburn addressed the Committee with the issue of many states not having State Councils established.

The next Compliance Committee meeting will be scheduled tentatively the week of August 21st-25th. Agenda items will include reviewing and approving reports to be submitted for the OH vs PA Complaint and the OH vs TX Complaint; and the development and maintenance of state councils.

W. Emmer will discuss bringing the reports before the Commission prior to the Annual Business Meeting in October or at the Annual Business Meeting at the next Executive Committee Meeting.

Motion to adjourn made by W. Theriault, seconded by L. Lucey. Meeting adjourned at 10:46 am EST.
The mission of the Interstate Commission for Adult Offender Supervision (ICAOS) Compliance Committee is to ensure that all states are in substantial compliance with the rules adopted by the Interstate Commission for Adult Offenders Supervision.

The Compliance Committee will use training, measurement tools and recommended rules changes to ensure that the signatory states address the deficiencies that were identified in the Annual Survey of the States’ Compliance.

To bring about compliance the Compliance Committee will work with:

1. Rules Committee to recommend changes to existing language that will build in actions that will not only encourage, but foster compliance.
2. Training Committee to develop Regional Training to ensure that Compact Commissioners, Deputy Compact Administrators and all practitioners are trained in great detail in their respective roles to comply with compact rules.
3. Technology Committee to develop the necessary capabilities in the automated information system to measure compliance.

The Compliance Committee has identified four strategies to achieve its mission.

**Strategy #1**
ICAOS shall develop a Compliance self-assessment guide for distribution to all Compact states.

**Action Plan**
A. Compliance Committee will develop a draft of the compliance self-assessment guide by August 15, 2006.
B. The guide will be distributed to the states by January 1, 2007. States will be encouraged to use the self-assessment tool to:

1. identify problem areas which may require revision of policies, procedures, and practices within the state;
2. provide the valuable data necessary for states to pinpoint staff, technology, equipment, and other resource needs; and
3. identify areas which may require technical assistance from ICAOS.

**Strategy #2**
Assess and promote compliance with the Interstate Commission for Adult Offender Supervision rules, regulations policies and procedures.

Action Plan
A. All compact states and ICAOS staff and executives should be well versed and have a clear understanding of compliance issues and potential problems.
B. The Compliance Committee shall conduct an annual survey of compliance issues. The ICAOS Executive Director shall provide states with the results of the survey.
C. The Compliance Committee has identified the top five most common compliance issues encountered by ICAOS:
   1. Allows offenders to reside in your state without your knowledge or permission.
   2. Fails to send transfer packet after offender has been given reporting instructions.
   3. Fails to retake offender or issue warrant when required by rule.
   4. Fails to respond, or untimely response to your request for reporting instructions.
   5. Fails to respond, or untimely response to transfer request.

Strategy #3
Effective compliance and dispute resolution.

Action Plan
A. The compliance committee may receive referrals from any of the following:
   1. The executive director may refer a matter to the compliance committee if the executive director becomes aware that:
      (a) a member state has demonstrated a persistent pattern of non-compliance; or
      (b) a common issue is the cause of dispute or non-compliance among several states; or
   2. At any time, from the executive committee.

B. The Compliance Committee will review all compliance referrals made to the committee.
   1. The chair may assign member(s) of the compliance committee and/or others to investigate the referral on behalf of the committee.
   2. The assigned investigator(s) will discuss the compliance/dispute issue with all parties to the dispute.
   3. The investigator(s) will report its findings to the compliance committee.
   4. The Chair will convene a meeting to review the findings and allow all parties to the action an opportunity to address the Committee at that time.
   5. The Compliance Committee will forward a report to the Executive Committee setting forth the issues, findings and recommended actions.
C. Compliance Committee will forward a recommendation to the Rules Committee that the content of strategy #3 be incorporated into ICAOS rules.

**Strategy #4**
Compliance education and enforceability.

**Action Plan**
A. When the compliance committee identifies an issue(s) where part, or all, of the solution may be addressed by training, it may work with the training committee to clarify those issues and develop a curriculum targeted at the identified need.
B. Mentor/technical assistance teams may be utilized to assist states found to be out of compliance with ICAOS rules, regulations and/or policies and procedures.
C. Identified compliance problems common to many states shall be addressed as noted in strategies #1 and #2 of the compliance committee’s goals/strategies.

________________________________________  ____________________
Warren Emmer, Compliance Committee Chair  Date