Nebraska State Council

Interstate Compact for Adult Offender Supervision

August 30, 2023

**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 9:07 a.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, Sally Reinhardt-Stewart, Jeff Davis, Andi Hart, Athena Sherman, Judge Ryan Post.

Also in attendance: Susan Barnard and Sharon Wilkens.

**Not Present:**

Joe Kelly, Gene Cotter, Layne Gissler, Wendy Elston, Judge Julie Smith, Dawn Renee Smith, Senator George Dungan, Elizabeth McQueen.

A quorum was not established.

**Minutes:**

Due to a quorum not being established, the minutes of the April 21, 2023, meeting could not be approved.

Commissioner Reinhardt-Stewart shared that Lieutenant Governor Joe Kelly has been appointed by Governor Jim Pillen as the Executive Branch Representative.

**Old Business:**

**NE Training Updates**

DCA Rader shared that Probation trains all new Probation Officers and new Assistant Probation Officers and Substance Use Monitors on Interstate Compact which is about 7 to 8 hours and there are 12 rounds a year. Since the Probation Officer training is 8 weeks, Probation is evaluating whether it might be more appropriate to train only the pieces that all officers must know initially, shortening the initial training and adding additional training when officers start being assigned interstate cases.

Sheriff Davis asked about questions that come, not just Monday through Friday 8 to 4, if there is a number they can call at night or weekends. DCA Rader responded that they call Abbie (Christian) and Susan (Barnard) but that questions are more pertaining to the Juvenile Compact (juvenile runaways) than the Adult Compact. If a juvenile gets picked up on the weekends and at night, either Abbie or herself is always on call. Commissioner Reinhardt-Stewart added that Parole has on-call officers that are scheduled a week at a time as well as ODs who are supervisory/management that also serve a week at a time.

Regarding training, Ms. Barnard commented they talked to other Midwest states to find out what training they have for their officers. The states contacted said they probably don’t train like they should but when Nebraska figures it out to let them know and they will adopt what Nebraska does. DCA Rader further shared they have sent the other Midwest states the 8-hour training, however most states don’t have that much time allotted so they are going to send them the shorter version and maybe they will adopt it. Ms. Barnard stated that when Commissioner Reinhardt-Stewart and she go to Virginia for the Annual Business Meeting that she can talk to other states and find out what they do for training.

Commissioner Reinhardt-Stewart provided an update on Parole, stating that Blair Hofeldt who was a Specialized Parole Officer has been promoted to Assistant Program Director so is in the process of training another Specialized Parole Officer, Brien Bencker, to assist her with the Interstate Compact when she is out of the office. He was previously with Probation as a supervisor for one of the Districts so is well versed on the Rules. He will be assisting her in training Parole new hires on the Compact Rules and the Interstate Compact Offender Tracking System (ICOTS). Since he is in the Omaha Regional Parole Office and Commissioner Reinhardt-Stewart is in Lincoln, the October 2, 2023, and future trainings will be held via WebEx.

**New Business**

**2023 Rule Amendment Final Proposal for Vote at Annual Business Meeting, Norfolk, Virginia, September 18-20, 2023**

Commissioner Reinhardt-Stewart shared that in addition to the 2023 Rule Amendment on the agenda which will be presented to the Commission for vote at the Annual Business Meeting next month, there will also be an amendment to the Bylaws that is to be voted on. The amendment to the Bylaws is to remove the International Association of Chief of Police as an ex-officio member due to the inability to actively participate in Commission business as they prioritize their responsibility for active engagement.

Regarding Rule 5.108 on Probable Cause Hearing in Receiving State, Commissioner Reinhardt-Stewart shared the minutes from the last meeting recapped the discussion on the amendment. The final proposal did not change and the justification remained the same which she reviewed again and asked members if there were other comments to share or additional discussion regarding the Rule amendment.

DCA Rader mentioned a concern and reiterated the concern of changing the “shall” to “may”, specifically that states will say they don’t have to hold them and will be letting our people go. Sheriff Davis asked what reason they would have to let them go. DCA Rader responded that by changing it gives them leeway. Commissioner Reinhardt-Stewart shared another reason is that the jails are full and they don’t have a lot of space. She stated this has been a lot of the concern in the past and that Parole has had a few that have been released when they shouldn’t have been, that the jails didn’t honor the parole hold. Sheriff Davis inquired as to what happened when they didn’t honor the parole hold. Commissioner Reinhardt-Stewart recalled the agency’s Legal Counsel got involved and wrote a letter. In one case the client was held in a different jail for Parole and the other was placed on EM and remained in the community as the jail wouldn’t put the individual back into custody. Regarding space at the jails, Sheriff Davis explained about Jail Standards and the process that occurs in Nebraska when a jail is overcrowded; however, he indicated he doesn’t understand how they can turn them away without having an alternative. Sheriff Davis had some additional questions relating to whose decision it is to let them go or find a different place for them to go. Commissioner Reinhardt-Stewart stated she would have to go back and research to see how all that came about, but Parole was needing the jail to hold the individual for Colorado to come and pick up on retaking. It wasn’t a matter of pending charges in that case but in the other case there were pending charges involved, but Parole’s position has been to keep them in custody when there are pending charges. Sheriff Davis also inquired how long Colorado was given. Commissioner Reinhardt-Stewart shared they would have had 30 days from the retaking point.

Ms. Barnard stated that on the Probation side, if they are supervising for another state and they don’t have a warrant yet, but the client is a danger to themselves or the public, they will typically do a 48-hour arrest and detain in order to see if the situation stabilizes.

Judge Post posed a clarification question relating to probation violations in other states. DCA Rader explained that if there is a violation in another state and the probable cause hearing has happened, they determine that there is a violation, then would request a warrant from the Judge as they are holding them. Judge Post inquired about the timing as to whether the state would have already let them go. Commissioner Reinhardt-Stewart and Ms. Barnard both responded this was a possibility. DCA Rader explained that the issuance of a warrant is going to override the probable cause process. There was some additional discussion on the possible outcomes in such cases. DCA Rader shared that on the Probation side if there is a violation order requiring retaking they will order them to return before coming to a Judge for a warrant.

Judge Post inquired about post release supervision cases that are supervised out of state. Commissioner Reinhardt-Stewart stated there have been a few cases that have post release supervision to do after parole. Parole’s process is to notify the other state at the time the Transfer Request is submitted that the individual has post release supervision after that and that Probation will be sending them a Transfer Request if they want to remain there at that point. However, it requires follow up and she shared she has been keeping Ms. Barnard posted whenever there is such a case so she can let the Navigator know.

Judge Post shared an example of an individual that was supervised in another state, reporting as directed, but absconded a lengthy period of time, that no one was notified, and Nebraska wasn’t aware that he was not being supervised. DCA Rader asked what the other state’s Progress Reports said but Judge Post didn’t think any were submitted and shared the results of what happened in this case. Ms. Barnard stated that when they train officers, they encourage them that if they are not seeing a Progress Report or anything on someone sent out to another state to ask for it, that they want an update on their status. DCA Rader stated that if a Judge wants it more often that they can request it. Judge Post stated that is ultimately what triggered it, that an officer hadn’t heard anything about the individual in awhile.

Commissioner Reinhardt-Stewart stated that on the Parole side warrants are issued within a day, that Parole has its own Teletype, and they work to get those out within 24 hours but sometimes it is the very same day. She stated the Nebraska Board of Parole is very good about getting back to them on requests to have a warrant issued, that it is less likely to happen due to the speed at which Parole is able to do it but that doesn’t mean it still couldn’t happen. DCA Rader stated they are within the time frame, but it takes them a little longer because of their process.

Regarding the Rule amendment, there was some additional discussion and those members present expressed their support for the language to remain as “shall” in the Rule. Commissioner Reinhardt-Stewart shared that she appreciated the conversation as it is helpful to have an idea how everyone feels about it since we are not able to vote at this meeting on how to send the Commissioner to vote.

On another matter, Commissioner Reinhardt-Stewart shared that states received a notification from Texas regarding a new offense code they put into place about individuals cutting off their electronic monitor devices or assisting others to do that. It is in their criminal code now and is effective September 1, 2023, they will be confined to no more than 2 years and no less than 180 days if they are committed for that. Texas has asked Compact Offices to notify their staff. There was discussion regarding how Nebraska might handle similar scenarios.

**ICAOS FY24 Audit Letter**

Commissioner Reinhardt-Stewart shared that in 2023 all states were audited. The audit reviewed data integrity within the Interstate Compact Offender Tracking System (ICOTS) with the focus on demographics, photos, junk/duplicate clean-up, rejected case clean-up, and offenders awaiting retaking clean-up. Nebraska did very well on the audit so is not being audited this year. Those states that had issues that needed to be taken care of will be reaudited and states that choose to be reaudited can make such a request; however, Nebraska chose not to be reaudited.

DCA Rader shared that quarterly the Commission is measuring several different data measure pieces that they think are important for states to be doing and gave an example of what those are. She shared they added if a state has a combined yearly compliance rate below 80%, there is a $10,000 fine. She stated Nebraska’s yearly totals are in the 90% range on a year-to-year basis so expressed that she and Commissioner Reinhardt-Stewart are not concerned about it but that Nebraska is a low volume state compared to other states. However, she stated the need to make sure this is being monitored. There is an opportunity for corrective action by the 3rd quarter and if it hasn’t been fixed a state will be fined $10,000. Discussion related to this matter was held, specifically related to other states’ compliance, which is not typically shared.

**Update on Reappointments to Nebraska State Council**

Commissioner Reinhardt-Stewart gave an update on the reappointments to the Council, specifically that she has been working with Pat Selk in the Governor’s Office to get the Governor appointments in place and they were approved. She stated we are now just waiting for the certificates to be signed by the Governor and Secretary of State and then those will be sent out by mail or email. Ms. Selk did indicate, as previously shared, that Lieutenant Governor Pat Kelly would be serving as the Executive Branch Representative. Dawn Renee Smith from Corrections was previously listed as the Executive Branch Representative so she will be listed as the Corrections Representative when the update comes out.

**Next Meeting – Adjourn**

There being no further business, Sheriff Davis motioned to adjourn and Andi Hart seconded the motion.

The meeting adjourned at 9:54 am.

Submitted by: Sharon Wilkens