



**INTERSTATE COMMISSION FOR JUVENILES
Compliance Committee Meeting**

Minutes
**July 05, 2018
Lexington, KY**

Voting Members in Attendance:

1. Jacey Rader (NE) Chair
2. Summer Foxworth (CO) Commissioner
3. Anne Connor (ID) Designee
4. Jeff Cowger (KS) Commissioner
5. Angela Bridgewater (LA) Commissioner
6. Dawn Marie Rubio (UT) Commissioner

Voting Members Not in Attendance:

1. Jane Seigel (IN) Commissioner
2. Amy Welch (KY) Commissioner
3. Roy Yaple (MI) Commissioner

Non-Voting Members in Attendance:

1. Jen Baer (ID)
2. Rachel Holt (OK)

Guest in Attendance:

1. Michael Tynkew (MI)
2. Mia Pressley (SC) Commissioner
3. Judy Estren, SC Juvenile Justice Deputy Director
4. Felicia Dauway (SC)
5. Rick Masters, Legal Counsel

National Office Staff in Attendance:

1. MaryLee Underwood, Executive Director
 2. Emma Goode, Training and Administrative Specialist
 3. Jenny Adkins, Project Manager
 4. Monica Gary, Logistics and Administrative Coordinator
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Call to Order

Chair Rader called the meeting to order at 2:00 p.m. EDT.

Roll Call

Director Underwood called the roll and a quorum was established.

Agenda

A. Connor (ID) made a motion to approve the agenda. A. Bridgewater (LA) seconded. The motion passed.

Minutes

D.M. Rubio (UT) made a motion to approve the June 07, 2018 meeting minutes as amended. A. Connor (ID) seconded. The motion was approved.

Discussion

Compliance Issues:

- Chair Rader explained the role of the ICJ Compliance Committee regarding the complaints against the State of South Carolina. On June 28, 2018, the ICJ Executive Committee referred two complaints against the State of South Carolina to the Compliance Committee. The Compliance Committee is to determine if South Carolina is in default and to recommend if the corrective action plan submitted by the State of South Carolina should be recommended for approval to the ICJ Executive Committee.
- Chair Rader noted that ICJ policies permit the involvement of an independent investigator, if needed. The Committee agreed that they would not engage an independent investigator given the information that has already been gathered and provided in advance.
- Chair Rader summarized the complaints against the State of South Carolina and South Carolina's responses. She noted the timeline as provided in the summary prepared by the National Office:
 - March 2018 – The ICJ National Office began to receive telephone calls and emails from multiple states indicating South Carolina was not responding in a timely manner to requests made through JIDS and/or that they were unable to reach South Carolina's ICJ office by telephone. When the Executive Director contacted South Carolina, Commissioner Pressley indicated that she expected a new staff person to be hired soon and that the issue would soon be resolved. There was discussion of reducing National Commission responsibilities so that South Carolina's Commissioner could focus more on in-state duties. Commissioner Pressley indicated that she wished to continue as the South Region Representative and the Human Trafficking Ad Hoc Committee Chair. She agreed to withdraw from presenting trainings on behalf of the National Commission.
 - April 19, 2018 – The National Office sent a letter to SC advising that 24% of assignments in JIDS were overdue. The letter directed SC to submit a plan by June 1 for how the issue would be addressed. No response was received. A copy of the letter and JIDS Activity Overview (4/1/18 – 6/26/18) were provided to Committee Members.
 - May 24, 2018 – New York filed a complaint for failure to respond to repeated requests for Home Evaluations based on two cases referred for transfer on March 13, 2018. In both cases, juveniles are living in South Carolina, but no home evaluations have been performed and no supervision has been provided. The National Office forwarded the complaint to South Carolina on the same day. In the days immediately following the complaint, there was some communication by South Carolina. However, the last communication from South Carolina regarding the matter was June 4. Moreover, the required home evaluations have not been completed. The Executive Director reached South Carolina's Commissioner by telephone on June 13, 2018. Commissioner

Pressley indicated that she would follow-up with New York in a few hours but did not do so that day or since. Related documents were provided to Committee members, including a copy of the complaint from New York and numerous communications from New York seeking updates

- June 14, 2018 – The National Office sent a registered letter to South Carolina regarding the unresolved complaint filed by New York and the growing JIDS backlog. The letter advised South Carolina that the matter would be referred to the Executive Committee on June 28, if not resolved prior to the meeting. The letter was received by South Carolina on June 18, 2018, but no response has been provided. A copy of the letter was provided to Committee Members.
- June 25, 2018 – North Carolina filed a complaint for failure to respond to requests for home evaluations based on three cases referred for transfer on March 13, 2018. In each case, the juvenile is living in South Carolina; no home evaluation has been completed; and no supervision has been provided. One juvenile is a sex offender. The National Office forwarded the complaint to South Carolina via email on the same day. The email indicated that, if not resolved, the matter would be reported to the Executive Committee at the meeting on June 28. No response has been provided. Related documentation was provided to Committee Members, including a copy of the complaint, a summary of the cases, and copies of JIDS communications.
- June 26, 2018 – New York emailed South Carolina and National Office requesting an update. The National Office contacted South Carolina by telephone. Commissioner Pressley indicated that she was on the other line with another state and stated that she would call back, but she did not call back. The Executive Director sent an email reminding her that the matter would be reported to the Executive Committee on June 28.
- June 27, 2017 – South Carolina provided a response by email stating: Both pending New York cases have been resolved. Juvenile Ralph Morrison's file has been closed in JIDS. South Carolina submitted a Home Evaluation Report for juvenile Andrew Stone indicating that supervision is being denied for the family's failure to cooperate with the home evaluation. The Charleston County Director made several attempts to complete the during various times of the day to no avail. In regards to South Carolina's current backlog, the past year with South Carolina DJJ has been marked with considerable changes and turnover. The agency has experienced the resignation and/or retirement of the three individuals that the Commissioner position reports to. With those vacancies duties of the Commissioner were increased and often times redirected to fulfill other duties. During this time, the Commissioner requested assistance from the agency to ensure that ICJ duties were met. A request for a full-time position (FTE) was submitted and denied on two separate occasions. With each request, the Commissioner used the communications submitted to South Carolina by the National Office to justify the need for the position and note the increase in non-compliance by the state. An additional request was submitted for a temporary position which was initially denied, but later approved. Unfortunately, the funding for this position is not available until July 1, 2018. The individual to fill this position has completed all of the necessary paperwork and background checks to begin working as soon as the funds for the position are released. It should also be noted that moving this position from a temporary position to a FTE position has been written into the agency's Fiscal Year (19-20) budget.

South Carolina Commissioner M. Pressley has spoken with Commission Chair Connor about the need for help tackling the backlog of files and the need for training once the new person starts. This will be scheduled as soon as South Carolina has a start date for the new hire. The Commissioner has been given permission to spend 60 days from the date of hire focusing solely providing intensive, on the job training to reduce the backlog and to acclimate the new hire.

- June 28, 2018 – The Executive Committee voted to refer the complaints filed by New York and North Carolina to the Compliance Committee for further action.
 - June 29, 2018 – The National Office emailed notice to the South Carolina ICJ Commissioner and Director of the Department of Juvenile Justice regarding the referral of the matters to the Compliance Committee and the upcoming meeting.
 - July 2, 2018 – Judy Estren, Deputy Director of the South Carolina Department of Juvenile Justice, contacted the National Office by telephone, stating that she was instructed by the Director Freddie Pough to do so. She stated that Director Pough was unaware of the matter until the notice sent on June 29 was received. She requested additional information, which was provided, and stated that she would submit a response by the end of the day. In the afternoon, she asked for and was granted an extension of time until the morning of July 3.
 - July 3, 2018 – Deputy Director Estren submitted a response regarding the complaints filed by New York and South Carolina, as well as the JIDS Backlog. The four-page response, including a Plan of Resolution, was provided to members in advance.
- Chair Rader stated that the Committee will take up the matter of the complaint filed by New York.
 - R. Masters, Legal Counsel, reminded the Committee that the proposed compliance plan may be resolved through various available options. The corrective action plan submitted by the State of South Carolina may or may not be adequate to cure the default. He suggested that the Committee focus on the matter of whether South Carolina is in default. He noted the systematic nature of lack of resources devoted to ICJ and the seriousness of the cases involved.
 - Chair Rader shared the “JIDS Activity Comparison Report from April – June 2017 vs. April -June 2018”. The report showed a significant decline in the amount of login activity, document activity, completed workflow activity, and new files entered.
 - Chair Rader acknowledged that the State of South Carolina has responded and submitted a corrective action plan for addressing the compliance complaints and the backlog.
 - M. Pressley (SC) responded that some of the 2018 correspondence were communication requests and not captured on the JIDS Activity Comparison Report.
 - Chair Rader asked the Committee to determine if South Carolina is in default based on complaint filed by New York.

A. Connor (ID) made a motion to find the State of South Carolina in default based on the complaint filed by New York. D. M. Rubio (UT) seconded. The motion was approved unanimously.

- Director Underwood noted that no one had abstained or voted ‘nay,’ therefore the vote would be recorded as unanimous. R. Masters, Legal Counsel, stated that the parties involved do not vote in the sanctions or actions.
- Judy Estren asked for clarification regarding whether the finding of default was related to each case or the entirety of the complaints. Chair Rader answered that it was the complaint filed by New York in its entirety.
- Chair Rader reviewed ICJ Compliance Policy 02-2017 regarding Sanctioning Guidelines. Factors to consider in determining the level of violation include:
 - Whether the violation resulted in serious physical injury or death
 - The State’s history of non-compliance
 - Whether the state accepted responsibility prior to detection and intervention and employed corrective measures
 - Whether the state was cooperative with ICJ in its examination and /or investigation of the underlying misconduct
 - Whether the state engaged in the violation over an extended period of time
 - Whether the state engaged in numerous acts and/or a pattern of non-compliance
 - Whether the state’s violation was the result of an intentional act or negligent failure to comply
- J. Estren noted that South Carolina Department of Juvenile Justice has experienced numerous personnel changes, including the departure of Director Sylvia Murray and several others from leadership positions. She noted that correspondence to Ms. Murray in April 2018 was never received in the current director’s office. Director Underwood noted that the registered letter was received by South Carolina’s Commissioner and stated that the copy to the director’s office was sent via regular mail because it was a courtesy copy.
- Chair Rader asked the Committee to review and consider the type of violation that has occurred:
 - Type I: Administrative Violations
 - Type II: Minor Violations
 - Type III: Moderate Violations
 - Type IV: Major Violations
- S. Foxworth (CO) suggested the violation may have been a Type II: Minor Violation. She noted that South Carolina will need assistance with the JIDS backlog.
- A. Connor (ID) noted that Type IV: Major Violations are described as “Violations of the compact’s legal requirements, which are of major importance and directly related to the protection of public safety and the Commission’s mission.” She stated that youth were unsupervised in the State of South Carolina and that is the mission of the Interstate Commission for Juveniles. J. Estren asked what other complaints are currently at hand. A. Connor (ID) stated there were none.

- Chair Rader noted that one of the issues that distinguished a Type IV violation is whether there is directly (rather than indirectly) related to public safety and the Commission's mission.
- J. Estren commented that the safety of youth going in and out of the State of South Carolina is of the utmost importance. She asked if she could get a list of ICJ cases and what is transpiring. Director Underwood agreed to provide the requested information.
- D. M. Rubio (UT) asked procedurally if there is an opportunity to go into an executive session. R. Masters, Legal Counsel, stated that there has not been any legal violation established.

D. M. Rubio (UT) made a motion that the default in complaint by New York against South Carolina constitutes a major violation. A. Connor (ID) seconded. The motion was approved. J. Cowger (KS) voted 'nay'.

- Chair Rader directed the Committee's attention to the complaint filed by North Carolina. She noted that the complaint was based on three cases in which home evaluations have not been completed, one of which involved an adjudicated sex offender who had been in South Carolina over 100 days without supervision. A. Connor (ID) stated that it is the obligation under the Compact to provide supervision

D. M. Rubio (UT) made a motion that South Carolina is in default on the North Carolina complaint. A. Connor (ID) seconded. The motion was approved.

Chair Rader asked the Committee to determine the level of violation. A. Connor noted that the complaint was based on numerous acts which indicated a pattern of non-compliance. She also noted that one of the case involved an unsupervised juvenile sex offender.

A. Connor (ID) made a motion to that the North Carolina complaint is a major violation. D.M. Rubio (UT) seconded. The motion was approved. J. Cowger (KS) voted 'nay.'

- Chair Rader directed the Committee's attention to the corrective action plan submitted by South Carolina, which includes hiring a second full time person dedicated to ICJ, and participation in training and technical assistance to be provided by the National Commission.
- A. Connor (ID) stated that it's imperative that the new personnel receive the proper training. J. Estren stated that South Carolina welcomes any input and assistance.
- Chair Rader noted that training and technical assistance are provided pursuant to ICJ Policy 2009-07 and that South Carolina may be required to pay related expenses. J. Estren noted that South Carolina would prefer to pay training expenses rather than a fine.
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- Chair Rader stated that the Compliance Committee's findings and recommendations will be forwarded to the ICJ Executive Committee.

- Chair Rader suggested that the corrective action be workable and sustainable. Director Underwood stated that the National Office can work together with South Carolina to incorporate the various suggestions from the Committee into the corrective action plan. The Committee agreed.
- D.M. Rubio (UT) asked if the home evaluations will be completed soon. M. Pressley (SC) responded that the assignments have been completed and routed in JIDS.

Old Business

- There was no old business.

New Business

- There was no new business.

Adjourn

Chair Rader adjourned the meeting by unanimous consent at 3:42 p.m. EDT.