



Interstate Commission for Adult Offender Supervision

Rules Committee Meeting MINUTES

November 27, 2018

WebEx

Members in Attendance:

1. Doug Clark (SD), Chair
2. Dori Littler (AZ), Vice chair
3. Chris Moore (GA)
4. Robert Maccarone (NY)
5. Brody Burks (TX)
6. Tim Strickland (FL), Ex-Officio
7. Tracy Hudrlik (MN), Ex-Officio
8. Margaret Thompson (PA), Ex-Officio
9. Pat Odell (WY), Ex-Officio

Members not in Attendance:

1. Jenny Nimer (FL)
2. Linda Rosenberg (PA)
3. Rick Masters, Legal Counsel

Guests:

1. Kelly Palmateer (NY)
2. Heather Clark (TX)

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. Kevin Terry, Website Analyst

Call to Order

Commissioner D. Clark (SD) called the meeting to order at 2:00 pm ET. Five voting members were present constituting a quorum.

Approval of Agenda and Minutes

Commissioner B. Burks (TX) moved to approve the agenda as presented. Commissioner R. Maccarone (NY) seconded. Agenda approved.

Commissioner B. Burks (TX) moved to approve the minutes from the October 3, 2018 meeting as presented. Commissioner D. Littler (AZ) seconded. Minutes approved.

Discussion

Sex-Offender Rule Review: Commissioner D. Clark (SD) stated that the Executive Committee tasked the Rules Committee to reviewed Rule 3.101-3 Transfer of Supervision of Sex Offenders and definition of ‘Sex Offender’. The Rules Committee formed a workgroup to review the issues brought to the committee and draft proposals to enhance the sex offender related definition and rules. At the last meeting, the Rules Committee unanimously approved the proposed changes to the definition of “Sex-Offender”.

Commissioner D. Littler (AZ) presented the workgroup’s proposal to Rule 3.101-3.

Rules Committee Workgroups Version

Rule 3.101-3 Transfer of supervision of sex offenders; investigation; additional documents and reporting instructions

- (a) *Eligibility for Transfer*-At the discretion of the sending state a sex offender shall be eligible for transfer to a receiving state under the Compact rules. A sex offender shall not be allowed to leave the sending state until the sending state’s request for transfer of supervision has been approved, or reporting instructions have been issued, by the receiving state. In addition to the other provisions of Chapter 3 of these rules, the following criteria will apply.
- (b) *Application for Transfer and Investigation*-In addition to the information required in an application for transfer pursuant to Rule 3.107, ~~in an application for transfer of supervision of a sex offender~~ the sending state shall provide the following information, if available, to assist the receiving state in the investigation of the transfer request of a sex offender supervising the offender:
- (1) (1)All assessment information completed by the sending state; including sex offender specific assessments;
 - (2) ~~social history;~~
 - (3) ~~information relevant to the sex offender’s criminal sexual behavior;~~
 - (4) ~~law enforcement report that provides specific details of sex offense;~~
 - (5) (2)victim information if available and if distribution is not prohibited by law
 - (A) the name, sex, age and relationship to the offender;
 - (B) the statement of the victim or victim’s representative; and
 - (6) (3) the sending state’s current or recommended supervision and treatment plan, if available.
- (c) Additional documents, necessary for supervision in the receiving state, such as a law enforcement report regarding a prior sex offense, sending state’s risk and needs score, or case plan may be requested from the sending state following acceptance of the offender. The sending state shall provide the documents within 30 calendar days from the date of the request, unless distribution is prohibited by law or a document does not exist.
- (d) *Reporting instructions for sex offenders living in the receiving state at the time of sentencing* - Rules ~~3.101-1, 3.103 and 3.106~~ applies to the transfer of sex offenders, as defined by the compact, except for the following:

- (1) The receiving state shall have 5 business days to ensure the offender can continue to reside at review the proposed residence pursuant to ensure compliance with local policies or laws prior to issuing reporting instructions.
 - (2) ~~If the proposed residence is invalid due to existing state law or policy,~~ The receiving state may deny reporting instructions by specifying how the proposed residence fails to comply with a state law or policy to assist the sending state in submitting an alternative plan of supervision.
 - (3) ~~No travel permit shall be granted by the sending state until reporting instructions are issued by the receiving state; except for Rule 3.102 (c).~~
- (e) Reporting instructions for sex offenders – Rules 3.101-1 and 3.106 apply to the transfer of sex offenders, as defined by the compact, except for the following:
- (1) The receiving state shall have 5 business days to review the proposed residence to ensure compliance with local policies or laws prior to issuing reporting instructions.
 - (2) If the proposed residence is invalid due to existing state law or policy, the receiving state may deny reporting instructions by specifying how the proposed residence fails to comply with a state law or policy to assist the sending state in submitting an alternative plan of supervision.
- (f) A sending state shall provide the following for reporting instructions requests submitted pursuant to this section:
- (1) A narrative description of the instant offense in sufficient detail to describe the circumstances, type and severity of offense and whether the charge has been reduced at the time of imposition of sentence; and
 - (2) Conditions of supervision; and
 - (3) Any orders restricting the offender’s contact with victims or any other person; and
 - (4) victim information to include the name, sex, age and relationship to the offender, if available and if distribution is not prohibited by law.
- (g) No travel permit shall be granted by the sending state until reporting instructions are issued by the receiving state; except for Rule 3.102 (c).

Commissioner R. Maccarone (NY) presented proposal by NY to Rule 3.101-3. He stated that the language in rule proposal 3.103-3(b)(2) and (3) was redundant.

- (b) Application for Transfer and Investigation-In addition to the information required in an application for transfer pursuant to Rule 3.107, ~~in an application for transfer of supervision of a sex offender~~ the sending state shall provide the following information, if available, to assist the receiving state in the investigation of the transfer request of a sex offender supervising the offender:
- (1) ~~(1)All~~ assessment information completed by the sending state; including sex offender specific assessments;
 - (2) ~~social history;~~
 - (3) ~~information relevant to the sex offender’s criminal sexual behavior;~~
 - (4) ~~law enforcement report that provides specific details of sex offense;~~
 - (5) ~~(2)~~ victim information if available and if distribution is not prohibited by law
 - (A) the name, sex, age and relationship to the offender;
 - (B) the statement of the victim or victim’s representative; and
 - ~~(6)-(3)~~ the sending state’s current or recommended supervision and treatment plan, if available.

Commissioner R. Maccarone (NY) added that the workgroup proposal reinforced that *living in receiving state at time of sentencing RIs* should be mandatory however; the suggested language,

did little to change the current practice. Changing the language in Rule 3.101-3 (d)(1) to read, “ensure the offender can continue to reside at the proposed address” removes the option to submit a subsequent address for investigation should the original address be unsuitable. While it is important for the receiving state to ensure that the offender is returning to a suitable location, the offender should not ultimately be forced to remain in the sending state with no support. It is expected that the sentencing authority in the sending state will impose any condition(s) that are necessary to protect the public and victims based on the offender’s crime. Violations of the receiving state’s laws and policies should not be a transfer issue, but instead a supervision issue. By changing the focus of this rule to the sex offender terms and conditions imposed by the sending state, denials for violations of the receiving state’s laws and policies will be eliminated. This will allow the offender to return to his/her state of residence in a timely manner and for non-compliance issues with the receiving state’s laws and policies to be address at the local level.

(d) Reporting instructions for sex offenders living in the receiving state at the time of sentencing - Rules 3.101-1, 3.103 and 3.106 applies to the transfer of sex offenders, as defined by the compact, except for the following:

- (1) The receiving state shall have 5 business days to ~~ensure the offender can continue to reside at review~~ review the proposed residence ~~pursuant to ensure compliance with the sex offender terms and conditions imposed by the sending state. ensure compliance with local policies or laws prior to issuing reporting instructions.~~ pursuant to ensure compliance with State and/or local policies or laws prior to issuing reporting instructions.
- (2) ~~If the proposed residence is invalid due to existing state law or policy, the receiving state may deny reporting instructions by specifying how the proposed residence fails to comply with a state law or policy to assist the sending state in submitting an alternative plan of supervision.~~ If the proposed residence is in violation of the sex offender terms and conditions of supervision imposed by the sending state, the receiving state may deny reporting instructions by specifying how the proposed residence fails to comply with a state law or policy to assist the sending state in submitting an alternative plan of supervision.
- (3) ~~No travel permit shall be granted by the sending state until reporting instructions are issued by the receiving state; except for Rule 3.102 (e).~~

DCA T. Strickland (FL) presented FL changes to Rule 3.101-3 (d)(e).

(d) Reporting instructions for sex offenders living in the receiving state at the time of sentencing - Rules 3.101-1, 3.103 and 3.106 applies to the transfer of sex offenders, as defined by the compact, except for the following:

- (1) The receiving state shall have 5 business days to ensure the offender can continue to reside at review the proposed residence pursuant to ensure compliance with State and/or local policies or laws prior to issuing reporting instructions.
- (2) If the proposed residence is invalid due to existing state law or policy, the receiving state may deny reporting instructions by specifying how the proposed residence fails to comply with State and/or local policies or laws a state law or policy to assist the sending state in submitting an alternative plan of supervision.
- (3) No travel permit shall be granted by the sending state until reporting instructions are issued by the receiving state; except for Rule 3.102 (e).

- (e) Reporting instructions for sex offenders – Rules 3.101-1 and 3.106 apply to the transfer of sex offenders, as defined by the compact, except for the following:
- (1) The receiving state shall have 5 business days to review the proposed residence to ensure compliance with State and/or local policies or laws prior to issuing reporting instructions.
 - (2) If the proposed residence is invalid due to existing State and/or local policies or laws, the receiving state may deny reporting instructions by specifying how the proposed residence fails to comply with State and/or local policies or laws to assist the sending state in submitting an alternative plan of supervision.

Commissioner D. Littler (AZ) stated that in the FL proposal, the receiving state decides on approval of Reporting Instructions, where in the NY proposal, the receiving state does not have this ability. She liked the idea behind the NY proposal, but was not sure if the Commission was ready for such big change.

DCA M. Thompson (PA) noted the Commission voted against a similar rule proposal submitted by the East Region about eight years ago. She spoke in favor of the NY proposal, but was concerned that the Commission would vote against it.

Commissioner B. Burks (TX) spoke in favor of the workgroup's proposal with addition of (e) from the FL proposal and (d) from the New York proposal.

Commissioner R. Maccarone (NY) spoke against making considerations based on local laws.

DCA M. Thompson (PA) suggested replacing (d)(1) wording in the NY proposal with the wording from the FL proposal.

Commissioner D. Littler (AZ) suggested removing “*pursuant to local policies or laws*” in (d)(1) per Legal Counsel's approval.

Commissioner R. Maccarone (NY) noted that at the last meeting, the committee agreed to remove “*at the proposed residence*” in the rule proposal 3.101-3(d)(1). DCA T. Strickland (FL) concurred.

DCA T. Hudrlik (MN) cautioned the committee about possible problems with the NY proposal. She stated that offenders could possibly be held accountable for violating the local ordinances, or their condition of supervision, by returning to their residence.

Commissioner D. Littler (AZ) stated that in Arizona they utilize state resources to assist the offenders in finding a different place of residence.

DCA T. Hudrlik (MN) stated that not all states have similar resources available for their use.

DCA T. Strickland (FL) agreed with Minnesota. He added that in Florida, most of the residency issues were finalized prior to sentencing. They would not give 15 days to the offender to find a new residence if he was in violation of his statutory requirements or local ordinance. They

handle the interstate offenders the same way as they would handle similar cases involving FL offenders and arrest them for violating their supervision conditions.

Commissioner C. Moore (GA) spoke in favor of the idea behind the NY proposal. He suggested outlining possible outcomes to the offender prior to his return. He added that most states task their supervision officers to assist the offenders in finding a new residence if needed. He noted that this proposal would put the Compact ahead of the curve, as research in the criminal justice field shows, providing an offender with a stable environment reduces recidivism.

DCA T. Hudrlik (MN) brought up another potential problem with the NY proposal. When an offender returns to his/her residence without imposed special conditions and continues to victimize its residents.

The committee decided to reconvene the sex-offender workgroup to consolidate the existing proposals. The workgroup will present one final proposal for the committee's consideration.

Victim Notification Rule: Commissioner D. Clark (SD) stated that at the last Annual Business Meeting, the Commission instructed the Rules Committee to evaluate the effectiveness of the victim notification rules and make recommendations for changes.

Commissioner R. Maccarone (NY) presented a proposal for Rules 1.101 and 3.108 Victim Notification. He noted that his proposals were drafted with IVINS being in place. He suggested discussing the victim notification related rules and proposals at the face-to-face meeting.

Rule 1.101 Definitions

"Victim-sensitive" – means a special status assigned in ICOTS when a victim requests to receive notification in accordance with Rule 3.108.

Rule 3.108 Victim notification

~~(a) Notification to victims upon transfer of offenders~~ Within 1 business day of the issuance of reporting instructions or acceptance of transfer by the receiving state, the sending state shall initiate notification procedures of the transfer of supervision of the offender in accordance with its own laws to known victims in the sending state, and the receiving state shall initiate notification procedures of the transfer of supervision of the offender in accordance with its own laws to victims in the receiving state.

~~(a)-(b) Notification to victims upon violation by offender or other change in status who have requested notification regarding the transfer of supervision of an offender shall be notified when:~~

~~(1) The receiving or the sending state is responsible for reporting information to the sending state when an offender submits the notice of departure in accordance with Rule 4.105 (a);~~

~~(A) Engages in behavior requiring retaking;~~

~~(B) Changes address;~~

~~(C) Returns to the sending state where an offender's victim resides;~~

~~(D) Departs the receiving state under an approved plan of supervision in a subsequent receiving state; or~~

~~(E) Is issued a temporary travel permit where supervision of the offender has been designated a victim-sensitive matter.~~

~~(2) Both the sending state or the receiving state shall notify known victims in their respective states of this information in accordance with their own laws or procedures. submits the notice of arrival, or notice of failure to arrive, in accordance with Rule 4.105 (b);~~

~~(3) The receiving state submits an absconder violation report to the sending state in accordance with Rule 4.109;~~

~~(4) The offender changes his or her primary address;~~

~~(5) The Reply to case closure notice is submitted in accordance with Rule 4.112.~~

~~(c) The receiving state shall respond to requests for offender information from the sending state no later than the 5th business day following the receipt of the request.~~

The committee will continue its discussion on this subject at its next meeting.

Issues indented with rule language “unless distribution is prohibited by law or does not exist”: Commissioner D. Clark (SD) noted that any changes to this language would affect multiple rules.

The committee members and the national office noted that they did not encounter any issues with the above language. The committee decided there was no need for additional discussion on this matter.

Old Business

Rules Committee Calendar: To prepare for its spring face-to-face meeting, the Rules Committee decided to meet via WebEx in January, February and March. The national office will poll the committee members for the best meeting dates.

The face-to-face meeting will take place in April in Louisville, KY.

Adjourn

Commissioner C. Moore (GA) moved to adjourn. Commissioner R. Maccarone (NY) seconded. The meeting adjourned at 3:30 pm ET.