



Interstate Commission for Adult Offender Supervision

West Region Meeting MINUTES

May 3, 2018 • 2:00 PM ET
Teleconference

Members in Attendance:

- | | |
|-----------------------|--------------------|
| 1. Shawn Arruti | Chair, Nevada |
| 2. Jeremiah Stromberg | Vice-chair, Oregon |
| 3. Carrie Belden | Alaska |
| 4. Dori Littler | Arizona |
| 5. Dwight Sakai | Hawaii |
| 6. Denton Darrington | Idaho |
| 7. Cathy Gordon | Montana |
| 8. Roberta Cohen | New Mexico |
| 9. James Hudspeth | Utah |

Members not in Attendance

- | | |
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| 1. Anthony Pennella | California |
| 2. [Vacant] | Colorado |
| 3. Mac Pevey | Washington |
| 4. Coltan Harrington | Wyoming |

Guests:

- | | |
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| 1. Kathryn Luth | Alaska |
| 2. Devon Whitefield | Colorado |
| 3. Merideth McGrath | Colorado |
| 4. Andrew Zavaras | Colorado |
| 5. Judy Mesick | Idaho |
| 6. Brook Mamizuka | Hawaii |
| 7. Michael Knott | Hawaii |
| 8. Deon McDaniel | Nevada |
| 9. Victoria Vigil | New Mexico |
| 10. Mark Patterson | Oregon |
| 11. Jennifer Calvo | Utah |
| 12. Tanja Gilmore | Washington |
| 13. Pat Odell | Wyoming |

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, Project Manager
6. Kevin Terry, Website Analyst

Call to Order

Commissioner S. Arruti (NV) called the meeting to order at 2:00 pm ET, nine out of thirteen members were present; a quorum was established.

Commissioner D. Littler (AZ) moved to approve the agenda. Commissioner C. Belden (AK) seconded. Agenda approved.

Commissioner J. Stromberg (OR) moved to approve the minutes from February 26, 2018. Commissioner R. Cohen (NM) seconded. Minutes approved.

Discussion

DCA West Region Meeting Update: DCA J. Mesick (ID), DCA West Region Chair, stated that the West Region DCAs met on April 19 to discuss topics for the DCA Training Institute. The DCAs had a robust discussion on supervision and retaking topics acknowledging that these were issues they continue to struggle with and could benefit from the sharing of case examples, knowledge, and best practices. The DCA region will continue its discussion on June 7.

Executive Director A. Lippert stated that the Rules Committee asked the Regions to provide feedback on the sex-offender and transfer of sex-offender rules if states experienced any issues.

She added that the Training Committee was looking for feedback on revising the content of Benchbook by making it more user friendly along with recommendations for individuals suited to complete this project. The national office planned to build a mobile version of the Benchbook that would be searchable and correspond with advisory opinions. All feedback and name recommendations can be sent to the national office.

Executive Director A. Lippert indicated that a DCA will soon serve as the DCA Liaison Committee Chair and as an Ex-officio member of the Executive Committee. Commissioners should provide their recommendation to Commissioner S. Arruti or Executive Director A. Lippert by May 15.

Commissioner D. Darrington (ID) nominated Judy Mesick for the DCA Liaison Committee Chair position.

Draft Rule Amendments: At the last meeting, the Region reviewed a proposal to Rule 3.103 and requested to come up with alternative language. Commissioner D. Littler (AZ) presented the original proposal and the alternative language to the Region.

Original Proposal:

Rule 3.103 – Reporting instructions; offender living in the receiving state at the time of sentencing ~~or after disposition of a violation or revocation proceeding~~

- a. **(1) A request for reporting instructions for an offender who was living in the receiving state at the time of initial sentencing ~~or after disposition of a violation or revocation proceeding~~**

Justification: This language passed at a time when Rule 5.103 and the definition of “significant violation” was interpreted many ways and when states were abusing this rule only to get offenders out of the receiving state. Most of these situations resulted in retakings and no revocation in the sending state which then resulted in a new request for the offender to go right back. Keeping this language in Rule 3.103 contradicts the progress the Compact has made in regard to retaking and the June 1, 2017, rule changes have already shown that retaking requests have declined and those that are made are substantial and the violations are revocable in the sending state as well. Additionally, this rule does not take into consideration any victim related issues and we have seen officers use this rule to send offenders (they can be sent prior to reporting instructions approved) right back to DV related situations where the victim resides with no notice or regard for the safety of the victim.

Alternative Language

Rule 3.103 – Reporting instructions; offender living in the receiving state at the time of sentencing or after disposition of a ~~violation or revocation proceeding by a court or~~ paroling authority following the retaking of the offender from the receiving state

- a. **(1) A request for reporting instructions for an offender who was living in the receiving state at the time of initial sentencing or after disposition of a ~~violation or revocation proceeding by a court or~~ paroling authority following the retaking of the offender from the receiving state**

This Alternative to first proposal would require that a formal authority of a court or paroling authority heard the proceeding. Often times, these offenders are returned and officers are making the decision not to file with their local authority and they are letting the offenders go right back to the receiving state with no notice or regard to public or victim safety. This rule needs a higher enforcement aspect if this portion is to remain in effect. I also propose adding the language about “following the retaking of the offender from the receiving state” because this “intent” of the rule needs to be clarified. States are interpreting Rule 3.103 to mean that “non-compact” absconders qualify. That was never the intent of this language and would reward absconders with mandatory reporting instructions and an NOD prior to approval to return to a plan that was created while on a “fugitive from justice” status. Recommend this language be added to the first proposal as well.”

Commissioner S. Arruti (NV) entertained a motion to suspend Robert’s Rules of Order so the region members have a more open discussion without being restricted by procedure.

Commissioner J. Hudspeth (UT) moved to suspend Robert’s Rules of Order to discuss the proposal. Commissioner C. Belden (AK) seconded. Motion passed.

Commissioner S. Arruti (NV) encouraged all region members to participate in this discussion. He added that he was in favor of the alternative language.

The region made changes in red to the alternative language:

Rule 3.103 – Reporting instructions; offender living in the receiving state at the time of sentencing or after disposition of a violation or revocation proceeding by a court, ~~or~~ paroling authority or other criminal justice agency following the retaking of the offender from the receiving state

- a. (1) A request for reporting instructions for an offender who was living in the receiving state at the time of initial sentencing or after disposition of a violation or revocation proceeding by a court, ~~or~~ paroling authority, or other criminal justice agency following the retaking of the offender from the receiving state

DCA K. Luth (AK) suggested ensuring that the title and the body of proposal were matching.

Commissioner D. Littler (AZ) moved to reinstate Robert’s Rules of Order. Commissioner J. Stromberg (OR) seconded. Motion passed.

Commissioner J. Stromberg (OR) moved to forward the alternative proposal to Rule 3.103 as amended to the Rules Committee for consideration. Commissioner J. Hudspeth (UT) seconded. Motion passed.

The region reviewed proposal to Rule 3.101-3 and 1.101 presented by Commissioner D. Littler (AZ).

Rule 3.101-3 Transfer of supervision of sex offenders and domestic violence offenders

- c. **Reporting instructions for sex offenders and domestic violence offenders – Rules 3.101-1, 3.103 and 3.106 apply to the transfer of sex offenders and domestic violence 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 or victim notification**

Rule 1.101 Definitions: “Domestic violence offender” means an adult placed under, or made subject to, supervision as the result of the commission of a criminal offense and released to the community under the jurisdiction of courts, paroling authorities, corrections, or other criminal justice agencies, and whose victim in the instant offense is known to reside in the receiving state.

Justification for rule 3.101-3 and 1.101 - Rule 3.103 currently does not provide for any exception to DV offenders who are returning home to reside in the same state as their victim. We have seen numerous instances of offenders returning home who assault their victims again. The “victim sensitive” status in ICOTS is not enough and states either don’t pay attention to this status or don’t know what to do with it. Adding this exception to DV offenders like we do with sex offenders could give the receiving state and the sending state a good opportunity to ensure known victims are notified prior to the offender’s departure to the state where they also reside.

Commissioner R. Cohen (NM) moved to suspend Robert’s Rules of Order to discuss the proposal. Commissioner D. Sakai (HI) seconded. Motion passed.

Commissioner S. Arruti (NV) suggested separating sex-offender and domestic violence offenders in the proposal.

Commissioner Stromberg (OR) stated that the region needs to define domestic violence, because it includes a lot of different elements.

Commissioner D. Littler (AZ) suggested adding *active restraining order* instead of defining the domestic violence concept.

Commissioner J. Stromberg (OR) noted that some victims did not ask for a restraining order.

Commissioner R. Cohen (NM) stated that NM judges expressed their concern with the five day timeframe in “*The receiving state shall have 5 business days to review the proposed residence to ensure compliance with local policies or laws or victim notification*”. She stated that some states take all five days to investigate thus keeping away the employment opportunities from offenders.

Commissioner D. Littler (AZ) suggested sending both rules to the Rules Committee for review and consideration and let the Committee to separate the rules if necessary.

Executive Director A. Lippert made a point of order that the region did not need to suspend Roberts Rules of Order for the sake of discussion more than once.

Commissioner D. Littler (AZ) moved to forward the concept and idea of developing a rule for domestic violence offenders. Commissioner C. Belden (AK) seconded. Motion passed.

The region reviewed proposal to Rule 4.109 (c)(3) presented by Commissioner D. Littler (AZ).

Rule 4.109 (c) (3) The sending state shall provide a copy of the warrant, when one is issued or required, to the receiving state per Rule 2.104 (a).

ICOTS change: Recommend adding a status of “Retaking/Warrant” to the Offender Profile screen that could be linked to the violation report/response.

Justification: This will codify what many states are already doing; there is no reason not to provide a copy of the sending state’s warrant to the receiving state. Receiving states often (almost always) ask for copies of the sending state’s warrants via email and outside of ICOTS for their local law enforcement agencies. Providing a copy in the Response to Violation Report makes good sense and will aid to further streamline the retaking process.

Commissioner D. Littler (AZ) noted that the region could clarify the proposal by adding “when a warrant is issued under rule 5.101 or 5.103 or required 5.102 or 5.103-1”.

Commissioner J. Stromberg (OR) supports the proposal. He is in favor to find an efficient way to track warrants.

Commissioner D. Littler (AZ) noted that if the proposal were to pass, she recommends adding a status of “Retaking/Warrant” to the Offender Profile screen that could be linked to the violation report/response to ICOTS enactments list.

Commissioner S. Arruti (NV) cautioned the region about the importance of verifying that the warrants were still active before acting on them. He suggested possibly adding a disclaimer language to ICOTS since it was difficult to remove any documents once they were added to the system.

Commissioner J. Hudspeth (UT) moved to forward proposal to Rule 4.109 to the Rules Committee for consideration. Commissioner D. Littler (AZ) seconded. Motion passed.

The Region reviewed proposal to Rule 5.103 (d) presented by Commissioner D. Littler (AZ).

Rule 5.103 (d) If the sending state issues a warrant under subsection (c) of this rule, the receiving state shall attempt to arrest the offender on the sending state's warrant and provide notification to the sending state. If the receiving state is unable to locate the offender to affect the arrest, the receiving state shall follow Rule 4.109-2 (a) and (b).

Justification: Receiving states are not attempting to arrest offenders who have warrants issued by the sending state under Rule 5.103. The warrants stay active and often times CARS are sent stating that the offender cannot be located. Rule 5.103 should give direction on what to do next when a warrant is issued and then when the offender is not located to be arrested. This will close the loophole currently in this rule.

Commissioner D. Littler (AZ) stated that this proposal would close a loophole with warrants and reduce number of Compact Action Requests (CAR) sent. She added that if a state informs AZ Compact Office about its absconded offender via CAR, she might not see this information for weeks.

Commissioner J. Hudspeth (UT) inquired about states that did not have a supervising authority.

Commissioner D. Littler (AZ) stated that the state would have its local law-enforcement to do it.

Commissioner J. Stromberg (OR) moved to forward proposal to Rule 5.103 to the Rules Committee for consideration. Commissioner J. Hudspeth (UT) seconded. Motion passed.

The Region will review a remaining proposal to Rule 5.103-1 at its next meeting scheduled for July 24, 2018.

Adjourn

Commissioner J. Stromberg (OR) moved to adjourn. Commissioner D. Ege (AZ) seconded.

The meeting was adjourned at 3:30 pm ET.