



Interstate Commission for Adult Offender Supervision

Rules Committee Meeting MINUTES

May 16, 2018
WebEx

Members in Attendance:

1. Jane Seigel IN, Chair
2. Dori Littler AZ
3. Jenny Nimer FL
4. Chris Moore GA
5. Shawn Arruti NV
6. Robert Maccarone NY
7. Doug Clark SD
8. Tim Strickland Ex-Officio, FL
9. Tracy Hudrlik Ex-Officio, MN
10. Margaret Thompson Ex-Officio, PA
11. Rick Masters Legal Counsel

Members not in Attendance:

1. Coltan Harrington WY
2. Pat Odell Ex-Officio, WY

Guests:

1. Matthew Charton NY
2. Tina Balandera 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. Kevin Terry, Website Analyst
6. Xavier Donnelly, Project Manager

Call to Order

Commissioner J. Seigel (IN) called the meeting to order at 2:00 pm ET. Seven voting members were present constituting a quorum.

Approval of Agenda and Minutes

Commissioner D. Clark (SD) moved to approve the agenda as presented. Commissioner J. Nimer (FL) seconded. Agenda approved.

Approved on 08/08/2018. B.S.

Commissioner S. Arruti (NV) moved to approve the minutes from January 29, 2018 as presented. Commissioner R. Maccarone (NY) seconded. Minutes approved.

Discussion

Sex-Offender Rules: At the last meeting, the Rules Committee tasked the regions to report on issues related to the sex-offender rules.

The committee discussed the issues reported by the East Region. The East Region requests “clarification of the sending state’s responsibilities when an offender is not required to register in the sending state, but potentially may have to register in the receiving state. Per DCA K. Longenberger, Pennsylvania encounters regular push-back from various receiving states to assist in determining registration requirements for offenders when registration is unknown prior to submission of a transfer. As requirement to register is unknown in the receiving state, the offender does not yet meet the compact definition of a sex offender. In addition, two to five days is sometimes not enough time to determine whether or not an offender has to register in the receiving state.”

Another East Region issue was “consistencies with allowing time to investigate housing. For returning offenders, sending states have only two business days to investigate housing, instead of five. DCA N. Latulippe suggested the five days should be applied to returning offenders as well.”

DCA M. Charton (NY) requested clarification on Reporting Instruction (RI) for sex-offenders who had committed a sex-offense in the sending state, but were not registered in the sending state. He added that in practice, New York always tried to keep these offenders for a full five days to allow the receiving state to complete a mini investigation. However, some states disagree with this practice, stating that since these offenders do not meet the definition of registered sex-offender, they do not fall under the five day requirement.

Commissioner D. Clark (SD) stated that South Dakota had a process in place to identify offenders with sexual behavior issues regardless of their crime of conviction. In such cases, the crime itself involved sexual behavior, but the offender pled it down to another crime, such as burglary, etc.

DCA T. Hudrlik (MN) suggested clarifying the definition of sex-offender focusing on the offense or the condition. She stated that sometimes an offender has a very good plea agreement where he is not required to register in the sending/convicting state. Thus, he starts to shop around for a state that will not make him register either, ending up in a state based on the registration process, rather than what is in the best interest of their supervision.

The committee agreed that before proceeding with revising the sex-offender rules, it needed to revise the sex-offender definition.

The committee tasked D. Littler, D. Clark, and M. Thompson to revise the sex-offender definition and present it to the committee for review and consideration at its next meeting.

Unsupervised Lifetime Supervision Provisions: Commissioner R. Maccarone (NY) discussed the notion of unsupervised lifetime supervision and how it impacted states that did not have this status.

He stated that New York was one of the states that did not have the lifetime supervision provision and expressed his concerns regarding NY's authority to monitor these offenders.

Commissioner J. Seigel (IN) offered two possible solutions to this problem: 1. Amend the rules to request a sending state to close its interest in the offender who maxed out on the sentence and cannot be a subject of revocation and 2. To require the offenders with lifetime supervision to sign an extradition waiver prior to their transfer or add such waiver to the offender transfer application.

Commissioner D. Littler (AZ) stated that Rule 4.101 and 4.102 were well written and suggested the Rules Committee review the definition of supervision instead. She added that when a sending state asked her to close a case, she always required valid documentation. She also expressed a concern with having the lifetime supervision offender unsupervised in her community if the sending state closes its interest in that offender.

Legal Counsel R. Masters noted that Advisory Opinion 9-2004 partially discussed the transfer of lifetime supervision offenders and the importance of having a valid supervision plan. He added that the opinion did not cover the details on how to administer the plan.

Commissioner D. Littler (AZ) stated that in Arizona lifetime supervision applied only to offenders with dangerous crimes against children. The compact office supervised such cases until they were dismissed or the offender was deceased.

Commissioner J. Nimer (FL) confirmed that Florida had a similar law regarding lifetime supervision offenders.

Commissioner R. Maccarone (NY) stated that New York cannot legally continue with a valid plan of supervision after an offender maxed out of the sentence, because New York can be held liable for searching the offender's premises. He noted that the challenge with these offenders was that if they start missing their appointments, and New York files a violation report, the sending state cannot bring them back because these offenders maxed out on the sentence.

Commissioner J. Seigel (IN) added that Indiana views such offenders as absconders, but the compact office cannot issue a warrant, because it does not have any grounds to bring these offenders back. She stated that Indiana was looking into creating a new crime on violation of lifetime parole/probation, though in this scenario, the case would be dealt with as a new crime.

Commissioner D. Littler (AZ) noted that the compact could retake offenders under any circumstances and suggested retaking such offenders instead of revoking them when a violation report was filed.

Commissioner S. Arruti (NV) informed the committee that Nevada has the lifetime supervision provision. Nevada files new charges for violating lifetime supervision and obtains a warrant that way.

Commissioner C. Moore (GA) stated that in Georgia, supervision was statutorily limited to two year and to five years in certain circumstances. After the completion of supervision, the compact office sends an acknowledgement letter instructing the offender to be a law-abiding citizen.

Commissioner R. Maccarone (NY) suggested finding out the information on how many states have unsupervised/lifetime probation/parole, a copy of their statute, and the powers by which a compact office interprets this type of supervision.

The committee decided to find facts and gather information on this issue by surveying the states and resume its lifetime supervision discussion at its face-to-face meeting in October.

Calendar: The committee reviewed its FY 2018-2019 calendar. The committee added a WebEx meeting in August and a face-to-face meeting in October 2018. The national office will poll the committee on the best date to meet in August. The meeting will be scheduled for 1 hour and 30 min.

New Business

Commissioner D. Littler (AZ) asked the committee to consider revising the offender application in ICOTS by removing the offender's address and phone number in the sending state. She added that many states reject applications based on this information. The committee added *Offender Application* to its next agenda.

Commissioner D. Clark (SD) informed the committee that the Midwest Region plans to submit a few rule proposals in the near future.

Commissioner R. Maccarone (NY) advised the committee to review the victim notification rules. He added that this year the Technology Committee met multiple times to discuss the IVINS system and its possible termination due to its cost and limited use. He suggested amending the victim notification rule by reducing the number of notifications required before making any final decision on IVINS. He added that the full commission will be voting on the IVINS contract at the Annual Business Meeting in October.

The committee will discuss *Victim Notification Rules* at its next meeting.

Commissioner S. Arruti (NV) suggested including the West Region rule proposals to the next meeting's agenda.

Adjourn

The meeting adjourned at 3:09 pm ET.