



## Interstate Commission for Adult Offender Supervision

### Rules Committee Meeting MINUTES

August 8, 2018  
WebEx

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#### **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. Coltan Harrington WY
9. Pat Odell Ex-Officio, WY
10. Tim Strickland Ex-Officio, FL
11. Tracy Hudrlik Ex-Officio, MN
12. Margaret Thompson Ex-Officio, PA
13. Rick Masters Legal Counsel

#### **Members not in Attendance:**

1. Linda Rosenberg PA

#### **Guests:**

1. Brandon Watts TX

#### **Staff:**

1. Ashley Lippert, Executive Director
2. Allen Eskridge, Policy and Operations Director
3. Mindy Spring, Administrative and Training Coordinator
4. Kevin Terry, Website Analyst
5. Xavier Donnelly, Project Manager

#### **Call to Order**

Commissioner J. Seigel (IN) called the meeting to order at 2:01 pm ET. Eight voting members were present constituting a quorum.

#### **Approval of Agenda and Minutes**

**Commissioner D. Littler (AZ) moved to approve the agenda as presented. Commissioner J. Nimer (FL) seconded. Agenda approved.**

**Commissioner J. Nimer (FL) moved to approve the minutes from May 16, 2018 as presented. Commissioner C. Moore (GA) seconded. Minutes approved.**

## **Discussion**

*Sex-Offender Rules Workgroup:* At the last meeting, the Rules Committee tasked members M. Thompson, D. Littler and D. Clark to review the issues brought to the committee and draft proposals to enhance the sex offender related rules and definition. Commissioner D. Littler presented the proposals explaining that the intent is to address issues related to the lack of direction in the current rule regarding which state is responsible for determining receiving state registration and streamline what information states should provide to investigate a transfer versus what information is needed to effectively supervise sex offenders once accepted in the receiving state.

Through discussion, concerns were raised regarding:

1. Formatting. M. Spring made appropriate changes to the format and numbering on the proposal.
2. Receiving states ability to require sex offender registration. Commissioner D. Littler indicated the rule proposal is not intended to prevent a receiving state from requiring an individual to register as a sex offender.
3. Consistency in the proposed language for sections (d) & (e) outlining procedures for the varying mandatory reasons for reporting instructions. Commissioner R. Maccarone specifically requested the committee reconsider proposing the language ‘continue to reside’ in (d) as it may unintentionally limit the application of the rule.
4. Previous sex crime convictions not related to the current transfer. Commissioner D. Littler acknowledged this is an issue now with the current rules. Chair J. Seigel requested that DCA T. Strickland review the proposal and offer any language suggestions before the next meeting for possible language to address this issue.
5. Ensure the proposal captures both those offenders already registered and required to register in the sending state. Minor change was made to definition proposal.
6. Due to the need for face-to-face discussion, formal approval of the proposal will be revisited at the next Rules Committee meeting in October.

## ***Rule 1.101 Definitions***

“**Sex 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 who is registered or required to register as a sex offender ~~either~~ in the sending ~~or receiving~~ state or is under sex offender terms and conditions in the sending state and who is required to request transfer of supervision under the provisions of the Interstate Compact for Adult Offender Supervision.

## ***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).

**Justification:**

Rule 1.101-Definition of “Sex Offender”: The current definition is often misinterpreted. It is not clear whose responsibility it is to determine registration in the receiving state; often offenders are allowed to proceed if they were living in the receiving state at the time of sentencing and not required to register in the sending state. The receiving state would still be able to impose registration requirements and sex offender conditions (Rule 4.101).

Rule 3.101-3:

Strike (b)(2) Undefined and vague term; states are not providing it; It is questionable how does this information helps with an investigation.

Strike (b)(3) Vague term; other requirements capture this information

Strike (b)(4) States have no control over how specific or detailed law enforcement reports are written and also suggest moving this to new proposed (c) since Rule 3.107 already requires a detailed narrative of the instant offense. If the transfer involves a prior conviction and 3.107 won’t apply, this should not hold up an investigation and can be moved to the “additional documents section below.

(d) & (e): Proposal provides clearer direction on the intent of what states are supposed to do within the 5 days to respond to reporting instructions requests and to also ensure a specific policy or law is quoted. This will assist an offender in coming up with a new plan for a resubmittal.)

*Victim Notification Rules:* Commissioner R. Maccarone presented proposals drafted by New York for Rules 3.108 and the definition of ‘Victim-Sensitive’ noting the proposals are intended to:

1. Create a national standard for victim notification
2. Reduce the number of notifications
3. Reduce/eliminate concerns when an offender self-registers as the notifications are limited to information an offender should already be aware of and no longer includes when warrants for retaking are requested with the exception of reports that an offender absconded.

Chair J. Seigel requested the members review the proposal and provide feedback at the next meeting in October when the committee meets face-to-face.

**Rule 1.101 Definitions**

~~“Victim-sensitive” – means a designation made by the sending state in accordance with its definition of “crime victim” under the statutes governing the rights of crime victims in the sending state. The receiving state shall give notice of offender’s movement to the sending state as specified in Rules 3.108 and 3.108-1~~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.~~

~~(e) 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.~~

*Offender Application:* Chair J. Seigel provided background regarding the request for the offender's address to be removed from the offender application. An enhancement has previously been approved through the Technology Committee at the request of former Commissioner M. Potteiger (PA.)

Commissioner D. Littler provided practical issues related to the form which typically arise when the offender is in the receiving state with approved reporting instructions and moves prior to the transfer being approved. She indicated this comes up more frequently with a recent rule amendment to Rule 3.104 (c).

It was noted there are no documented cases of a court challenging an offender application due to the address not being the current address for the offender.

**Motion to recommend the Technology Committee prioritize the modification of the offender application to remove the offender's address and make the following format**

**changes during FY2019 made by Commissioner R. Maccarone, seconded by Commissioner C. Moore. Motion carried.**

In support of my application for transfer I make the following statements:

1. ~~X~~ If I am allowed to transfer my supervision to Minnesota (receiving state), ~~I plan to live with null, at (full address/telephone #) null until I am allowed by the supervising authorities to change my residence.~~
- 1 ~~X~~ I will comply with the terms and conditions of my supervision that have been placed on me, or that will be placed on me by Texas (sending state) and Minnesota (receiving state).
- 2 ~~X~~ I understand that if I do not comply with all the terms and conditions that the sending state or the receiving state, or both, placed on me, that it will be considered a violation and there may be consequences including return to the sending state.
- 3 ~~X~~ I agree to the release of any drug or alcohol treatment information from Texas (sending state) to any authorized person in Minnesota (receiving state) for the purpose of transferring my supervision. This consent remains in effect from this date 08/03/2018 (today's date) until I revoke this consent.
- 4 ~~X~~ I agree to return to Texas (sending state) at any time I am directed to by the sending state or the receiving state. I know that I may have a constitutional right to insist that the sending state extradite me from the receiving state or any other state where I may be found. This is commonly called the right to extradition. But I also understand and acknowledge that I have agreed to return to the sending state when ordered to do so either by the sending or receiving state. Therefore, I agree that I will not resist or fight any effort by any state to return me to the sending state and I AGREE TO WAIVE ANY RIGHT I MAY HAVE TO EXTRADITION. I WAIVE THIS RIGHT FREELY, VOLUNTARILY AND INTELLIGENTLY.

*West Region Proposals:* The committee will review the proposals at its next meeting in October.

*Unsupervised Lifetime Supervision Provisions:* The committee will review the survey results at its next meeting in October.

Chair J. Siegel requested the members provide any documents or proposed language for any of the proposals at least 10 days prior to the next meeting in October as staff will be busy preparing for the ABM.

**Adjourn**

Motion to adjourn made by Commissioner S. Arruti, seconded by Commissioner R. Maccarone. The meeting adjourned at 3:33 pm ET.