INTERSTATE COMMISSION FOR ADULT OFFENDER SUPERVISION

EAST REGION
WEB CONFERENCE MEETING

February 16, 2006
10:00 am EST

Members In Attendance

2. Alexis Bird, (PR)
3. Margaret Thompson, Coleen Fickel (PA)
4. Lisa Menard (VT)
5. John Gusz, Craig Schindewolf (NJ)
6. Maureen Walsh, Donald LaFratta (MA)
7. Kevin Dunphy (RI)
8. Jeanne Stewart (NH)

Staff

1. Don Blackburn
2. Ashley Kenoyer
3. Mindy Spring
4. Kelli Price

Roll Call  Michael DePietro

- The meeting was called to order by M. DePietro at 10:10 am EST. A roll call was taken establishing 3 Commissioners out of 12. A quorum was not established.

Opening Comments  Michael DePietro

- M. DePietro shared with the region the new legal opinion just posted by Rick Masters. This opinion states that a region must have a quorum of commissioners to vote anything out to a committee. In the East’s case that would be 7 out of 12 Commissioners would have to be present. The East Region will not be able to vote on any rules today because we were unable to establish a quorum.
• Please encourage your Commissioners to respond to emails that they receive regarding their availability to meet at these teleconferences, so that we can vote on issues.

**National Office Update**  *Don Blackburn*

• NACIS Update
  - New Project Manager
  - Update of Technical Specifications Document
  - Next Steps
  - IJIS Review
  - UAT
  - Implementation Planning/Training

• WebEx
  - Executive Committee approved one year contract for unlimited use
  - On-Demand Module: *Presentation Studio*
    - Site will be active within 2 weeks
  - PO Training is scheduled via Training Center March 8th & 9th
    - To register: Go to- [http://interstatecompact.webex.com](http://interstatecompact.webex.com)
  - Don Blackburn will be presenting
  - Available for states to use for training or may request training from the National Office
  - Missouri used to train within their state (7 Sessions)
  - Many others have attended training via WebEx
    - Oklahoma
    - Illinois
    - South Carolina
    - California
    - Idaho
    - North Carolina

**New Business**

• Discussion on a rule change by Don LaFratta from Massachusetts.
  - **Is a Receiving State (RS) “required” to grant reporting instructions, under Rule 3.103, to an offender living in the RS at the time of sentence but who does not meet the eligibility criteria set out in Rule 3.101 or 2.105?**

  The wording of this rule appears to leave no option to a RS but to issue reporting instructions, when section (b) (1) (A) is satisfied. What is not clear is whether Rule 3.101 and/or Rule 2.105 must first be satisfied.
In a period of two months, Massachusetts has received a total of 136 requests for reporting instructions, under 3.103. A quick survey finds that close to one-third of these requests may be “discretionary” cases. The unintended consequence of rule’s wording is to “force” states to “assume responsibility for supervision” for cases which otherwise would be rejected, if the regular transfer process was followed.

**Question:**

Is there a consensus among the Northeast Region to propose Rule 3.103 be modify to include in (b)(1)(A) the following:

“ and who meets eligibility criteria of set out in Rules 3.101 and 2.105”

• Discussion on a proposed amendment to Rule 3.103 by Colleen Fickel in Pennsylvania

  o **Currently:**
    3.103 (b)(1)(B) This exception is not applicable to offenders released to supervision from prison.

  o **Proposed:**
    3.103 (b)(1)(B) This exception is not applicable to offenders who, on the date of sentencing, have 6 months or more of incarceration remaining on their sentence.

  o **Justification:**
    The current rule is problematic for states with county level parole that does not always allow for pre-parole planning. Offenders are sentenced to either short terms of incarceration or released at sentencing with no prior notice to probation departments. The reality is that these offenders, who never resided in the sending state prior to the offense and incarceration, are often on the street before the probation department is aware of the need for supervision or transfer.

    If the rule is changed as proposed, it will allow states with these types of parole cases to still request and be issued reporting instructions. The reasoning behind the wording of the proposal is that if, at the time of sentencing, there are 6 months or more of incarceration remaining, the probation departments should have sufficient time for pre-parole planning, even in most instances where earned time/good time is available.
Discussion on a proposed definition of felony by Colleen Fickel in Pennsylvania

- Since there is such inconsistency among states regarding the terminology used to describe crimes/offenses and the fact that a rule exists to define a misdemeanor, it seems logical that a rule or definition of a felony should also exist.

Discussion on a proposed amendment to 5.102, New Felony Offense by Colleen Fickel in Pennsylvania

- Upon a request from the receiving state, a sending state shall retake or issue reporting instructions ordering the return of an offender from the receiving state or a subsequent receiving state upon the offender’s conviction for a new felony offense and –
  
  (a) completion of a term of incarceration for that conviction; or
  
  (b) placement on probation for that felony offense.

Discussion on a proposed amendment to 5.103, Violations of conditions of supervision by Colleen Fickel in Pennsylvania

- Upon a request by the receiving state and a showing that the offender has committed three or more significant violations arising from separate incidents that establish a pattern of non-compliance of the conditions of supervision, a sending state shall retake or issue reporting instructions ordering the return of an offender from the receiving state or a subsequent receiving state.

- Justification: Provide offenders with firm written direction regarding their reporting responsibilities.

Discussion on Travel Permits by Linda Valenti in New York

(1) No state shall allow/permit any offender under supervision to travel to another state whether for business, recreational, or personal reasons unless the offender is in substantial compliance with the terms of his/her supervision.

(a) Any travel permit shall be limited in duration from 24 hours but no more than 30 days in a twelve month period unless prior written permission is received from the other state. A travel permit shall include and specify a starting and ending date for travel and consecutive permits totaling greater than 30 days shall not be granted unless written permission is received from the other state.
An offender under supervision for a sex offense or registered as a sex offender in their state who is granted a travel permit shall be required to immediately report to the local law enforcement agency in the jurisdiction where he/she remains overnight. The offender shall show photo identification to verify identity and shall immediately furnish to the local law enforcement agency a copy of the orders and conditions of his/her release and the travel permit itself which shall include at a minimum information as to the nature of the offense, the reason for travel, and the exact address, person/entity and telephone number where the offender will be staying. The offender shall obtain official proof of compliance with this requirement by obtaining the signature, title, and date of signature of the local law enforcement agency official receiving such information.

- Discussion on By-Law change by Rich Bitel in New York
  - I refer to Article II, Section 1. COMMISSIONERS
    - The Commission Membership shall be comprised as provided by the Compact.
    - Each state will have and be limited to one Member. A Member shall be the Commissioner of the Compacting State, etc.
    - I refer to the first two sentences and paragraph in this section and request that the Compact modify the second sentence to read: Each Compact state be limited to two Members with one Member being the Commissioner or Acting Commissioner of that state and the other Member so designated by the Commissioner. The two Members from each state would freely participate in all called Compact meetings and act on any committee as determined by the Commission. The Commissioner (or Acting Commissioner) would act as the Chairperson for the purposes of voting or State Council matters.
    - Reasons:
      - The DCA's and Practitioners in each state would provide valuable insight and information to the Compact. Currently the Practitioners are stifled from their opinions and ability to assist this Compact in creating new rules and modifying current rules. The Practitioner's guidance and experience would be valuable in discussions and committee work, especially with rule and Compact problem issues. Members of the Compact's Executive Committee have stated for the last three years that the Practitioners need to be involved directly into the business of the Commission. The Commission would be responsible for the expenses of the Commissioner only.
Discussion on a rule change by Don LaFratta from Massachusetts.

**ICAOS Advisory Opinion**

Issued by:  
Executive Director-Don Blackburn  
Chief Legal Counsel: Richard L Masters

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<th>State Requesting Opinion</th>
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| Illinois  

**Description**

Can an Offender be not considered in Substantial compliance because of an arrest in the receiving state during the investigation.

**Background**

Pursuant to Rule 6.101 the State of Illinois requested, in an email to the Executive Director on October 06, 2005, further clarification of Rule 3.101.

"Specifically, can a receiving state make a determination that an offender is not in substantial compliance in the sending state, when the offender commits a crime in the receiving state during the period of investigation, or when the offender has an outstanding warrant in the receiving state?"

- This opinion concludes that an arrest, during the period an offender is in a RS under reporting instructions, is not a sufficient basis to reject transfer. The Commission looks to Advisory Opinion 7-2004, (pending charges in the RS at the time of transfer are “irrelevant to the transfer decision”) in establishing this position. The opinion makes no distinction as to whether a felony charge would be weighed differently from that of a misdemeanor.

**Question:**

In light of this new opinion should rules 3.103 (exception) and 3.106 (expedited transfer) be modified to provide some relief to a RS when an offender, on reporting instructions, is charged with a new crime in the RS?

Should this rule be modified to indicate reporting instructions can be voided, at the request of the RS and notice to the SS, if the new arrest involved a particular category of crime, misdemeanor or felony?

Discussion on proposed change in Rule 3.104-1 by Rich Bitel in New York

- Requesting the Compact Rules Committee review Rule 3.104.1 and modify the rule to read: An acceptance by the receiving state shall be valid
for 120 days. The receiving state may withdraw the acceptance and close interest in this case by notifying the sending state of such action.

- This rule should apply for both probation and parole. Many states do not notify the receiving state when a case has been denied parole or the offender has changed their mind and remain in the sending state. This has become a bookkeeping nightmare. Parole home plans frequently change after four months and require a second home check. This would eliminate this problem. The receiving state may send a closed case memo to the sending state after 120 days.

**Discussion on a proposed rule by Rich Bitel in New York**

- I am proposing that the Compact provide funding so each Region can have two face-to-face meetings each year. The State Agency for each Parole and Probation Staff attending the one day meeting, would be responsible for the travel, hotel and per diem. The Compact would be responsible for the meeting room and day's food service costs.
- Attending to Compact business as well as neighbor to neighbor issues and problems are best served by meeting with the other parties in person.
- Everyone at the table has the opportunity to share in the discussion and bring up issues or problems. These meetings promote a more amicable atmosphere and create better working conditions between states, thus improving the entire process in the Compact.

**Adjourn**

- The next meeting will be scheduled for some time in May. The meeting adjourned at 11:29 am.