Interstate Commission for Adult Offender Supervision
East Region Minutes
May 20, 2011
10:00 am EDT
WebEx

Members in Attendance
1. Ben Martinez     Chair, PA
2. Andrea Evans     NY
3. Mike McAlister   NH
4. James Plousis    NJ
5. Josh Wall        MA
6. Keith Tallon     VT
7. Raquel Colon     PR

Guests
1. Semona Childs    CT
2. Sandy Layton     NY
3. Curt Shockley    VT
4. Laura Queenan    RI
5. Kevin Dunphy     RI
6. Michael Hayden   NY
7. Darwin Bliss     MA
8. Margaret Thompson PA
9. Kay Longenberger PA
10. Ed McDermott    MA
11. John Gusz       NJ
12. Debbie Alt      NJ
13. Robert Maccarone NY
14. Linda Valenti   NY
15. Kristina Barker  CT
16. Julie DiCenzo   MA
17. Richard Vernick  MA
18. Carlo Pini      DE
19. Tami Ford       CT

Approved on 9/13/2011. B.S.
Call to Order
B. Martinez called the meeting to order at 10:05 am. Seven out of 12 members were present establishing a quorum.

Approval of Agenda
B. Martinez advised that an item will be added under New Business to address a request from the Rules Committee to attempt to clarify the East Region proposal to amendment Rule 3.101-3. Motion to approve the agenda as proposed made by M. McAlister, seconded by K. Tallon. Agenda approved.

Approval of Minutes
Motion to approve minutes from January 28, 2011 meeting made by K. Tallon, seconded by M. McAlister. Minutes approved as drafted.

Discussion
Discussion on potential repeal of the Violent Crime Definition; Rule 5.101 (b); Rule 5.102 (b); Rule 5.103-2 (b), (c) (New Jersey)

- J. Gusz stated NJ probation has experienced a financial burden imposed by the recently enacted mandatory retake rule that prevents a state to order an offender’s return when a receiving state requests retaking for a violent offender. This essentially can be looked upon as an unfounded mandate. It may also result in the unintended consequence of Courts ordering early termination of an offender’s supervision.

- B. Martinez stated this may have similar consequences in PA., particularly with county probation departments.

- While there was a consensus that it is in the early stages of this rule’s implementation, it was felt that tracking of cases that had supervision terminated as a result of a request to retake an offender would be useful in assessing the impact of this rule as well as any potential amendments.

- S. Razor stated the National Office can track aspects of the issues such as the number of requested retaking or warrants requested, discharges after a violation, etc. B. Martinez requested the national office provide a report for the region
analyzing number of offenders with warrants requested that have their supervision terminated prior to their max date.

- R. Masters noted that there are avenues available for a region to forward rule proposals to be considered by the Commission prior to 2013 ABM.

**Rule 3.101-4 Complete Transfer of Resident**

**Motion to withdraw the East Region’s proposal for Rule 3.101-4 made by M. McAlister, seconded by J. Plousis. Motion carried 6-1.**

- R. Masters summarized the memorandum submitted to the Rules Committee on February 14, 2011 which questions the Commission’s authority to approve such a rule.
  
  o The proposal appears to disregard the Commission’s statutory limitations.

  o The Compact statute states that the sending state always retains jurisdiction over an offender.

  o The proposal appears to be a violation of constitutional law since legislature defines and classifies the punishment when crimes are committed.

  o The proposal appears to shift that authority to a state other than the state where the crime was committed.

- R. Maccarone followed up on the purpose of the proposal which includes not only reducing administrative costs in each state, but primarily addressing public safety by dealing with violation in a swift and certain fashion. R. Maccarone suggested that potential courses of action could be having the Commission seek congressional action or to have each state amend their respective state statute.

- L. Valenti commented on alternative opinions derived from legislation authorized by the Crime Control Act of 1934.

- J. Wall noted the proposal should move forward as proposed.

- R. Masters noted to allow the rule to be enacted may require each state to obtain legislative approval since a compact is essentially a contract between all parties.

- R. Maccarone noted that moving forward with the proposal could foster further discussion and may promote legislation to address the constraints cited in Mr. Masters’ memo to the Rules Committee.
• M. McAlister restated the reason for the motion which was made since the proposal cannot be supported if not constitutional.

• The motion was passed by the region as noted above.

Audit Results (Pennsylvania)

• M. Thompson inquired as to how states were dealing with audit results.

• K. Dunphy noted RI went through the results with their Commissioner to identify areas to improve on.

• J. Gusz went through their results and defined training areas to focus on and anticipates that next year’s audit will reflect on their training efforts.

• A. Evans noted NY did some case by case and general reflection. NY is implementing training based on results and is in the process to make some changes to focus on compliance. NY has had issues with ‘phantom cases.’

• J. Gusz indicated that duplicate cases/activities are user generated and that replicate activities are system generated and are fixed by Appriss.

• S. Razor stated that June is the last month for this fiscal year’s Compliance Audit. As this is the initial year of the audit, processes are being established as well as a baseline for the upcoming year’s audit. The Compliance Committee is in the process of defining upcoming processes for the next audit.

Amendment to Rule 2.105 (New York)

• R. Maccarone explained the proposal regarding eligibility for a first offense misdemeanor DWI offender who has a condition that requires installation of an ignition interlock device.

• R. Master noted the region could justify the proposal to the Executive Committee to be presented at this year’s Annual Business Meeting by the Rules Committee.

• R. Maccarone noted the offender is responsible for the cost of the interlock device as required in the sentencing state.

• J. Gusz recommended looking at the impact of this rule in relation to the number of interstate cases. Supervision is currently not imposed for first-time DWI offenders in RI, NJ or MA; however, those states under this proposal would be required to supervise incoming offenders.
• R. Maccarone decided to withdraw proposal and refine the language to be proposed at a later date.

**Review of IC managed activity (Connecticut)**

• T. Ford noted their office is receiving a lot of incoming Transfer Request with incorrect reasons marked off and asked that states review outgoing requests for accuracy before transmitting.

• M. Thompson recommended using the Eligibility Worksheet in the field.

**New Business**

• B. Martinez indicated the Rules Committee chair, Bill Rankin, requested clarification on the East Region’s proposal to amend Rule 3.101-3 *Transfer of supervision of Sex Offenders*. Specifically what “assisting the offender,” “appropriate residence,” “reasonable effort,” and “establish” mean. The opinion of Wisconsin’s State Council is that the language is vague and would compel the receiving state to find the offender appropriate residence if needed.

• B. Martinez will discuss the proposal and proposed clarification language with Bill Rankin at next week’s Executive Committee meeting.

• J. Gusz, as a member of the Rules Committee, plans to explain the region’s intentions of this proposal at their next meeting.

• Andrea Evan announced M. Hayden will be retiring in June.

**Adjourn**

*Meeting adjourned at 11:45 am ET.*