Interstate Commission for Adult Offender Supervision
Executive Committee Meeting Minutes
2:00 pm EDT
March 16, 2010
WebEx

Members in Attendance:
1. Ken Merz       Chairman, MN
2. Milt Gilliam  Vice-Chair, OK
3. Kevin Kempf    Treasurer, ID
4. Kathie Winckler TX
5. Chris Norman  AL
6. Linda Janes   OH
7. Charlie Lauterbach IA
8. Ed Gonzales    NM
9. Mike McAlister NH
10. Wayne Theriault ME
11. Dori Ege     AZ
12. William Rankin WI

Members not in Attendance
1. Pat Tuthill   Ex-Officio, FL

Guests
1. Ethel White   TX

Staff:
1. Harry Hageman
2. Rick Masters  Legal Counsel
3. Sam Razor
4. Barno Saturday
5. Kevin Terry
6. Mindy Spring
7. Xavier Donnelly
**Call to Order**

Commissioner K. Merz (MN) called the meeting to order at 2:00 pm EDT. All voting members were present, establishing the quorum.

**Discussion**

Chairman K. Merz (MN) scheduled the meeting to update the Committee members on the Clemmons situation in Washington State.

K. Merz, K. Winckler, H. Hageman and R. Masters met with the Washington Governor’s office, US Representative and State Senator’s staff in Olympia, Washington on February 18, 2010 to discuss this issue.

Ken invited Secretary E. Vail and a Washington Governor’s office representative to attend the face-to-face Executive Committee meeting in Lexington, KY on March 31, 2010. Washington introduced a bill to its legislature that would request the Compact to call for an emergency rule making session to make the following changes to the ICAOS Rules:

1) **Sending state provides all relevant documents concerning the offender’s known criminal history in Sending State including all judgments and sentences, statements of Defendant on Plea of Guilty and any pre-sentence investigations;**

2) **A commitment that the Receiving State will be vested with the authority to decide when an offender transferred to the Receiving State for supervision can no longer be safely supervised in the community and that the offender needs to be returned to the Sending State.**

Executive Director H. Hageman discussed the Arkansas cases rejected by Washington and the subsequent Advisory Opinion 1-2010. Arkansas plans to re-submit the rejected applications. H. Hageman also talked about the ICAOs op-ed article and Washington’s response.

Legal Counsel R. Masters informed the Committee that the Washington Senate passed a bill directing the Department of Corrections to explore the possibility of entering into an MOU with the surrounding states as well as the feasibility of withdrawing from the Compact. Legal Counsel R. Masters believes that this approach suffers from a lack of enforcement and would be difficult to include to the ICAOS Rules.

Legal Counsel R. Masters also discussed the “memorial” enacted by the Washington legislation. The intent of the memorial is to encourage ICAOS to call an emergency rule meeting to make the rule changes requested by Washington. It also encourages Congress to take legislative actions, if ICAOS does not act.

Executive Director H. Hageman noted that Washington is talking to California, Oregon and Arkansas about signing an MOU.
Legal Counsel R. Masters indicated he reviewed the MOU language the National Office received from California and that it conflicts with the Compact Statute.

Commissioner K. Winckler (TX) discussed the supervision history of the Clemmons case and noted that Washington appeared hostile in the meeting in Olympia, Washington.

Chairman K. Merz (MN) also noted Washington’s concern that they are receiving many more compact offenders than they send out. Chairman K. Merz (MN) stated that according to ICOTS data, 85-90% of cases accepted by Washington were mandatory cases.

Commissioner W. Theriault (ME) spoke against MOU based on his experience with Massachusetts, before it joined the Compact.

Commissioner W. Rankin (WI) expressed his concern over the incident and noted that all the tools were in place to prevent this tragedy. He suggested that prior to changing Rules the Commission should conduct an internal review in an effort to prevent similar tragedies from happening in the future.

Chairman K. Merz (MN) noted that Executive Director H. Hageman met with CSG Executive Director D. Adkins, who suggested hiring a high profile independent consultant to provide an independent opinion on the issue.

Commissioner D. Ege (AZ) suggested referring the issue to the Compliance Committee instead and others suggested an internal review. She also noted that Clemmons transferred to Washington under the old rule, which included the rule change requested by Washington.

General Counsel R. Masters shared with the Committee that W. Rankin (WI) and he have informed Washington officials about the ICAOS rule making procedures.

Commissioner W. Theriault (ME) prefers an internal review, rather than hiring an outside source. In his opinion, no good policy originates from an emotional issue. The ICAOS Rules are based on over 75 years of experience, and should not be changed because of one admitted tragic incident.

Commissioner K. Winckler (TX) agreed with Commissioner W. Theriault (ME) and discussed the politics of the situation. She also noted that Washington has not presented any rule language to the West Region or anyone else at the Commission.

Commissioner K. Kempf (ID) agrees with the comments of Commissioners W. Rankin and W. Theriault. The Commission should take action and the best way to take action is to conduct an internal review. Commissioner K. Kempf (ID) suggested the internal review by the Compliance Committee and other appointed commissioners.

Commissioner W. Theriault (ME) noted that ICAOS treats all offenders equally and that the Commission needs to maintain the same philosophy, otherwise the credibility of the organization may sustain damage.
Commissioner M. McAlister (NH) noted that neither state filed a complaint against the other nor has anyone asserted that Arkansas has violated the Rules. Commissioner M. McAlister (NH) is also concerned about the process for conducting a review and the fact that the Compliance Committee does not have the resources to conduct an investigation.

Legal Counsel R. Masters agrees with the concerns noted by Commissioner M. McAlister (NH) and also notes that to this date Washington has yet to make the effort to file a formal complaint against Arkansas.

Commissioner W. Rankin (WI) is opposed to hiring an outsider to do a critical incident review, but believes it should be done internally to identify areas that may need to be improved.

Legal Counsel R. Masters expressed his concerns in regards to an outside reviewer 1) Washington officials will interpret the report as self-serving report by ICAOS management to justify its decisions 2) possible legal liabilities from the victims’ families.

Commissioner L. Janes (OH) agrees that the Commission has the expertise and tools in place to perform the internal review.

Legal Counsel R. Masters believes that Washington officials plan to attend the face-to-face Executive Committee meeting to propose new rule amendments and to request time on the agenda for this year’s Annual Business Meeting.

Commissioner K. Winckler (TX) mentioned that Washington made no effort to follow the ICAOS rule making process and procedures.

Commissioner W. Rankin (WI) noted that these rule amendments did not fall under the emergency rule-making category. Commissioner W. Rankin (WI) will be reviewing the retaking offender issue at the upcoming Rules Committee meeting.

Commissioner M. Gilliam (OK) agrees that the Commission has the capability to conduct a review to determine if the system failed and does not need to go outside.

Commissioner M. Gilliam (OK) and other commissioners discussed Washington’s threat to take the issues to Congress if not satisfied by the Commission.

Executive Director H. Hageman noted that if the Commission wishes to do a review the Commission probably has all the available material.

Commissioner W. Rankin (WI) stated that a review should include an opportunity to ask questions of Washington and Arkansas.

Chairman K. Merz (MN) stated that the Executive Committee would discuss the Washington situation in more detail during “New Business” at the face-to-face Executive Committee meeting.
in Lexington, KY. The purpose of today’s meeting was simply to update the Committee so they would have time to think about the situation.

**Adjourn**

The meeting adjourned at 1:09 pm EDT.