INTERSTATE COMMISSION FOR ADULT OFFENDER SUPERVISION  
Rules Committee

December 1, 2006  
11:00 a.m. EST

Web Conference  
1-866-469-3239  Room 569 969 715

Committee Members in Attendance

1. William Rankin (Chair)  
2. Judge John D’Amico (Vice-Chair)  
3. Dori Ege  
4. Jeanette Bucklew  
5. Ed Ligtenberg  
6. Doreen Geiger  
7. Kathy Winckler  
8. Frank Herman  
9. Gerald Vandewalle (ex-officio)  
10. Karen Tucker (ex-officio)

Staff

1. Ashley Hassan  
2. Nicole Smith  
3. Kelli Price  
4. Xavier Donnelly  
5. Sam Razor  
6. Mindy Spring  
7. Rick Masters (legal counsel)
Call to Order

- W. Rankin called the meeting to order at 11:01 a.m. Eight of eight members were present, establishing a quorum.
- W. Rankin asked that R. Masters be added to the Committee attendance sheet.
- W. Rankin advised that R. Bitel has withdrawn from the Committee.
- W. Rankin moved to amend the agenda to approve the previous meeting’s minutes until after the Committee discussed ground rules. J. D’Amico seconded. Motion passed.

Introductory Comments

- W. Rankin indicated that he wished to continue passing fewer major changes. He indicated that training and Advisory Opinions should be used to help with the consistency and application of the rules.
- He also stated that he would like the Committee to avoid passing rules that are overly specific as it imposes a burden on states. He encouraged the Committee to identify required outcomes but allow the states some discretion regarding implementation when creating rules.

Committee Procedures/Work Plan

- D. Ege raised the question of the voting rights of ex-officios, specifically DCAs. She encouraged the Committee to allow this, as she was worried about the message that not doing so would send.
- R. Masters indicated that this was a legal issue because of the language of the Compact and stated that it would require an amendment. D. Ege stated that the Compact prohibited DCAs voting to pass rules with the Commission, but not to draft them.
- W. Rankin stated that ex-officios were allowed to have full participation in the discussions and decisions regarding the agenda of the Committee and how the Committee would approach topics. However, he stated, they cannot vote on specific language or make motions to send rules to the full Commission.
- W. Rankin asked for clarification as to whether the ex-officios had been allowed to vote in the past.
- D. Ege asked for clarification of the legal basis of the claims of W. Rankin and R. Masters.
- R. Masters stated that the National Office had drafted an Advisory Opinion regarding this issue, but that he could clarify the issue if the Committee requests.
- J. D’Amico stated that ex-officios had only been held to a non-voting role at the Annual Business Meeting.
- R. Masters stated that changing the bylaws to allow this would create more challenges for the Committee, as the statute would have to be amended and he counseled against that.
- W. Rankin stated that there were eight Commissioners with voting rights on the Committee. He indicated that he wanted a majority of all voting members, not a
majority of the quorum present, before sending any rules onto the full Commission. Therefore, no items would be forwarded without the approval of at least five Commissioners.

- R. Masters stated that the definition of majority was at issue here, and that traditionally the Committee had used the majority of the quorum as all that was needed to pass any motions. J. D’Amico noted that the Administrative Procedures Acts governs this. G. VandeWalle added that the issue should probably be shelved until more Commissioners were present.

- **J. D’Amico made a motion that R. Masters look into the legal ramifications of requiring a majority of the Committee’s approval for passing motions and suggested that the Committee use the majority of a quorum until the issue had been explored. D. Ege seconded.**
  - K. Winckler asked that the motion be clarified.
  - E. Ligtenburg noted that if a motion to send a rule to the full Commission was not unanimous, then it should be reexamined anyway, as most rules are sent with the unanimous approval of the Committee.

- **Motion passed.**
  - W. Rankin asked R. Masters if the definition of a quorum was a majority of the voting members. R. Masters indicated that it was. W. Rankin then asked if the ex-officios had voted on the agenda or the minutes in the past, and R. Masters indicated that only the Commissioners had.

**Calendar**

- W. Rankin indicated that M. Gilliam had suggested the Committee hold two on-site meetings in Lexington, Kentucky. D. Ege commented that in the past two meetings had been beneficial. However, she did suggest that the Committee do one face-to-face meeting with the thought that the Committee could take an extra year to present rules to the full Commission to ease the burden of training officers and to decrease the number of rules being sent back to the Committee.
  - K. Winckler indicated her support of D. Ege’s comments, indicating that the rules needed to be studied with intensity.
  - W. Rankin asked the Committee to suggest the best ways to approach the new rules and rule amendments and stated that any member who wanted to initiate a rule could do so.
  - J. D’Amico suggested that the Committee appoint subcommittees for certain rules, and that the Committee go through the rules that need to be addressed and assign those rules to certain subcommittees. He also stated that the subcommittees should contact the individual who made a motion to send each rule back at the Annual Business Meeting to clarify the issues that incited them to make the motion.
  - W. Rankin gave an overview of the issues surrounding Rule 4.109 and Rule 5.108. R. Masters asked if the Committee should issue a statement or communication to those states that have raised an issue with these rules.
  - J. D’Amico asked who has the authority to suspend a rule. R. Masters said that the communication would not suspend the rule but instead provide further
clarification. J. D’Amico noted that the rule is suggestive but not mandatory and would not require states without authority to follow the rule, and suggested that the Compliance Committee issue a pronouncement. E. Ligtenburg stated that such a communication should come from the Executive Committee, and K. Winckler suggested that it come in tandem from the Executive, Compliance, and Rules Committees.

- J. D’Amico noted that the issue in question is the suspension of one particular phrase from the rule. R. Masters answered that the Commission and its member states were obligated to follow their state constitutions. J. Bucklew suggested that the Committee only allow those states with constitutional conflicts to not follow the rule, and require those states to submit documentation evidencing the conflict.
- W. Rankin noted that there was some agreement that the Executive Committee should issue a statement to suspend enforcement of the rule in cases where it violates a state’s constitution. **J. D’Amico moved to ask the Executive Committee to issue the statement. F. Herman seconded.**
- D. Geiger asked if the Committee was opening a window for states to use to justify noncompliance. R. Masters answered that the Compact states that any rule passed by the Commission and violating a state Constitution is preempted by that state’s constitution.
- D. Geiger asked that R. Masters help write a brief detailing the relationship between Compact rules and state Constitutions. R. Masters asked for help from the Committee members who are attorneys. J. D’Amico stated that he would help draft the language to be referred to the Executive Committee.
- J. Bucklew asked for clarification of the motion.
- **Motion passed.**
- There was discussion of the rules and other issues referred to the Rules Committee.
- In addition to referrals from the full commission, Dispute Resolution 2-2006 and Advisory Opinions 12-2006 and 15-2006 also identified issues for the Rules Committee to review.
- There was discussion of amending Rule 2.109 to allow for sending the independent parts of proposed rule changes to the Commission for vote as opposed to all of the changes proposed to a particular rule as a whole. The committee agreed that this could be accomplished without a rule amendment.
- W. Rankin discussed possible dates for travel to Lexington, Kentucky in February. He suggested meeting the 26th through the 28th.
- D. Ege volunteered to take the lead to draft proposed language regarding a state’s obligation to issue a warrant upon notice that an offender has absconded.
- D. Geiger volunteered to draft the language regarding return of offenders who are “mandatory transfers” but whose eligibility status changes subsequent to the transfer.
- J. D’Amico volunteered to lead a subcommittee to look into Rules 5.108 and 4.109-1. The Committee asked that R. Masters be a part of that subcommittee. K. Winckler and J. Bucklew also volunteered to serve.
• W. Rankin asked R. Masters for more legal background regarding the issues raised in Dispute Resolution 2-2006, and asked D. Blackburn and R. Masters to draft a briefing paper for the Committee by mid-January.
• W. Rankin stated that he would send the regions Rules 3.103, 3.106, and 4.110 and the proposals from the Sex Offender Ad Hoc Committee. He indicated that he would ask the regions for their comments to be made by mid-January.
• W. Rankin asked the Committee if they felt they needed to meet again via Web-Ex before February.
• K. Winckler asked W. Rankin to send an email to the Committee with members’ contact information.
• W. Rankin asked the Committee and subcommittees to have their proposals drafted for circulation by mid-January.
• D. Ege asked that regions be given until February 1, 2007 to submit comments and proposals. The Committee agreed.

Approval of Minutes of June 27-28, 2006 Meeting
• D. Ege asked that the minutes be amended on page 32 to reflect that the proposals she submitted came from the Sex Offender Ad Hoc Committee and not the West Region.
• J. D’Amico made a motion to approve the minutes with that change. F. Herman seconded. Motion passed.

• Meeting adjourned at 11:24 a.m. EST.