INTERSTATE COMMISSION FOR ADULT OFFENDER SUPERVISION
WEST REGION MEETING MINUTES

April 17, 2013
2:00 pm ET

WebEx

Members in Attendance:
1. Cheryl Marlow Hawaii, Chair
2. Dori Ege Arizona
3. Kim Madris Nevada
4. Edward Gonzales New Mexico
5. Tim Hand Colorado
6. Denton Darrington Idaho
7. Anmarie Aylward Washington
8. Mike Mayer Utah
9. Pam Bunke Montana
10. Dawn Sides Wyoming
11. Jeremiah Stromberg Oregon

Members not in Attendance
1. Carrie Belden Alaska
2. Dan Stone California

Guests:
1. Cathy Gordon (MT)
2. Judy Mesick (ID)
3. David Babby (CA)
4. Joe White (CO)
5. Mario Fox (CA)
6. Patricia Odell (WY)
7. Devon Whitefield (CO)
8. Roberta Cohen (NM)
9. Sheryl Cudney (AZ)
10. Dawn Persels (OR)
11. Sidney Nakamoto (HI)

Approved on 8/27/2013. B.S.
Call to Order
Commissioner C. Marlow (HI) called the meeting to order at 2:00 pm EDT. Ten out of thirteen members were present, quorum was established.

Approval of Agenda
Commissioner E. Gonzales (NM) made a motion to approve the agenda. Commissioner T. Hand (CO) seconded. Agenda approved.

Approval of Minutes
Commissioner D. Sides (WY) made a motion to approve the minutes from January 10, 2013 as drafted. Commissioner M. Mayer (UT) seconded. Minutes approved.

Old Business
Rules Proposals: Commissioner D. Ege (AZ) and Commissioner T. Hand (CO) spoke on behalf of the Rules Committee that recommends withdrawing the following proposals 2.105-v1, 2.105-v2 and 5.101 submitted by the West Region. The Rules Committee agreed that the above proposals do not reflect the issue and put together alternative proposals – 2.105-v3 and 5.101.

The Region reviewed rule proposal 2.105-v1 and 2.105-v3.

2013-WEST-2.105v1

Proposal to create/amend rules:

Rule 2.105-Misdemeanants

(a) A misdemeanor offender whose sentence includes 1 year or more of supervision shall be eligible for transfer, provided that all other criteria for transfer, as specified in Rule 3.101, have been satisfied; and the instant offense includes 1 or more of the following—

(1) an offense in which a person has incurred direct or threatened physical or psychological harm;
(2) an offense that involves the use or possession of a firearm;
(3) a 2nd or subsequent misdemeanor offense of driving while impaired by drugs or alcohol;
(4) a sexual offense that requires the offender to register as a sex offender in the sending state.

Justification:
Proposal to remove Rule 2.105.

2013-RULES-2.105v3

Approved on 8/27/2013. B.S.
Proposal to create/amend rules:

Rule 2.105 Misdemeanants

(a) A misdemeanor offender who is initially charged with a felony and whose sentence includes 1 year or more of supervision shall, be eligible for transfer, provided that all other criteria for transfer, as specified in Rule 3.101, have been satisfied; and the instant offense includes 1 or more of the following—

(1) an offense in which a person has incurred direct or threatened physical or psychological harm;
(2) an offense that involves the use or possession of a firearm;
(3) a 2nd or subsequent misdemeanor offense of driving while impaired by drugs or alcohol;
(4) a sexual offense that requires the offender to register as a sex offender in the sending state.

(b) A misdemeanor offender who is not initially charged with a felony and whose sentence includes 1 year or more of supervision and is convicted of one of the above offenses may, at the discretion of the sending state, be eligible for transfer, provided that all other criteria for transfer, as specified in Rule 3.101, have been satisfied.

Justification:
Misdemeanants originally charged as a felony and sending state has the discretion to apply for transfer of supervision for misdemeanant offenders.

Commissioner K. Madris (NV) made a motion to withdraw the rule proposal 2.105-v1 and adopt the Rules Committee alternative 2.105-3. Commissioner P. Bunke (MT) seconded.

Commissioner D. Darrington (ID) made an amendment to remove “and endorse the Rules Committee alternative 2.105-3.”

Motion passed unanimously.

The Region reviewed rule proposal 2.105-v1.

2013-WEST-2.105v2

Proposal to create/amend rules:

Rule 2.105 Misdemeanants

(a) A misdemeanor offender whose sentence includes 1 year 25 months or more of supervision shall be eligible for transfer, provided that all other criteria for transfer, as specified in Rule 3.101, have been satisfied; and the instant offense includes 1 or more of the following—

(1) an offense in which a person has incurred direct or threatened physical or psychological harm;
(2) an offense against a person that involves the use or possession of a firearm;

Approved on 8/27/2013. B.S.
(3) a 2nd or subsequent misdemeanor offense of driving while impaired by drugs or alcohol;
(4) a sexual offense that requires the offender to register as a sex offender in the sending state.

**Justification:**
Proposal to increase the sentence length criteria for eligible misdemeanors as well as modify instant offense criteria.

Commissioner E. Gonzales (NM) made a motion to withdraw the rule proposal 2.105-v2. Commissioner D. Darrington (ID) seconded.

**Motion passed unanimously.**

The Committee discussed the West Region rule proposal 5.101 and the alternative Rules Committee proposals 5.101 and 5.101-1.

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**2013-WEST-5.101**

Proposal to create/amend rules:

**Rule 5.101 Retaking by the sending state**

(a) Except as required in Rules 5.102, 5.103, 5.103-1 and 5.103-2 at its sole discretion, a sending state may retake an offender, unless the offender has been charged with a subsequent criminal offense in the receiving state.

(b) Upon its determination to retake the offender, the sending state shall **retake or order the return of the offender from the receiving state or a subsequent receiving state**, issue a warrant and file a detainer with the holding facility when the offender is in custody.

(c) If the offender does not return to the sending state as ordered, then the sending state shall **issue a warrant that is effective in all compact member states, without limitation as to specific geographic area, no later than 10 calendar days following the offender’s failure to appear in the sending state.**

(d) If the offender has been charged with a subsequent criminal offense in the receiving state, the offender shall not be retaken without the consent of the receiving state, or until criminal charges have been dismissed, sentence has been satisfied, or the offender has been released to supervision for the subsequent offense.

**Justification:**
Due to the cost of retaking, this change allows the sending state the option to order the return of the offender.

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**2013-RULES-5.101**

Proposal to create/amend rules:

**Rule 5.101 Discretionary retaking by the sending state**

Approved on 8/27/2013. B.S.
(e) Except as required in Rules 5.102, 5.101-1, 5.103, 5.103-1 and 5.103-2 at its sole discretion, a sending state may retake or order the return of an offender unless the offender has been charged with a subsequent criminal offense in the receiving state.

(f) Upon its determination to retake the offender, the sending state shall issue a warrant and file a detainer with the holding facility when the offender is in custody.

(b) If the offender does not return to the sending state as ordered, then the sending state shall issue a warrant no later than 10 business days following the offender’s failure to appear in the sending state.

(c) If the offender has been charged with a subsequent criminal offense in the receiving state, the offender shall not be retaken without the consent of the receiving state, or until criminal charges have been dismissed, sentence has been satisfied, or the offender has been released to supervision for the subsequent offense.

**Justification:**
Rule 5.101 as it is currently written is confusing because it combines the absolute authority of the sending state to retake an offender with the obligation of the receiving state to resolve all pending charges for a subsequent criminal offense prior to retaking by the sending state. The rewrite of Rule 5.101 and the creation of Rule 5.101-1 separate these two issues into two separate rules which clarifies how states resolve retaking issues while protecting the public and victims.

Rule 5.101 outlines the absolute authority of the sending state to retake an offender at the state’s sole discretion.

Rule 5.101-1 outlines the process the receiving state must follow to allow the sending state to retake an offender who has committed a subsequent felony or violent crime in the receiving state.

**2013-RULES-5.101_1**
Proposal to create/amend rules:

**Rule 5.101-1 Pending felony or violent crime charges**

Notwithstanding any other rule, if an offender is charged with a subsequent felony or violent crime, the offender shall not be retaken or ordered to return until criminal charges have been dismissed, sentence has been satisfied, or the offender has been released to supervision for the subsequent offense, unless the sending and receiving states mutually agree to the retaking or return.

**Justification:**
Rule 5.101 as it is currently written is confusing because it combines the absolute authority of the sending state to retake an offender with the obligation of the receiving state to resolve all pending charges for a subsequent criminal offense prior to retaking by the sending state. The rewrite of Rule 5.101 and the creation of Rule 5.101-1 separate these two issues into two separate rules which clarifies how states resolve retaking issues while protecting the public and victims.

Rule 5.101 outlines the absolute authority of the sending state to retake an offender at the state’s sole discretion.
Rule 5.101-1 outlines the process the receiving state must follow to allow the sending state to retake an offender who has committed a subsequent felony or violent crime in the receiving state.

Commissioner E. Gonzales (NM) made a motion to withdraw the rule proposal 5.101. Commissioner P. Bunke (MT) seconded.

Motion passed unanimously.

Adjourn
Commissioner E. Gonzales (NM) made a motion to adjourn. Commissioner P. Bunke (MT) seconded. Meeting adjourned at 2:36 pm EDT.