



# Interstate Commission for Adult Offender Supervision

## West Region Meeting MINUTES

February 26, 2018 · 2:00 PM ET  
Teleconference

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### **Members in Attendance:**

1. Shawn Arruti Chair, Nevada
2. Jeremiah Stromberg Vice-chair, Oregon
3. Carrie Belden Alaska
4. Dori Littler Arizona
5. Anthony Pennella California
6. Melissa Roberts Colorado
7. Denton Darrington Idaho
8. Roberta Cohen New Mexico

### **Members not in Attendance**

1. Dwight Sakai Hawaii
2. Cathy Gordon Montana
3. James Hudspeth Utah
4. Mac Pevey Washington
5. Coltan Harrington Wyoming

### **Guests:**

1. Chris Smalling California
2. Devon Whitefield Colorado
3. Merideth McGrath Colorado
4. Judy Mesick Idaho
5. Brook Mamizuka Hawaii
6. Deon McDaniel Nevada
7. Victoria Vigil New Mexico
8. Mark Patterson Oregon
9. Jennifer Calvo Utah
10. Tanja Gilmore Washington
11. Pat Odell Wyoming
12. Miguel Herrera Wyoming

### **Staff:**

1. Ashley Lippert, Executive Director
2. Allen Eskridge, Policy and Operations Director
3. Barno Saturday, Logistics and Administrative Coordinator
4. Mindy Spring, Administrative and Training Coordinator

5. Xavier Donnelly, Project Manager
6. Kevin Terry, Website Analyst

### **Call to Order**

Commissioner S. Arruti (NV) called the meeting to order at 2:00 pm ET, eight out of thirteen members were present; a quorum was established.

**Commissioner J. Stromberg (OR) moved to approve the agenda. Commissioner M. Roberts (CO) seconded. Agenda approved.**

**Commissioner D. Littler (AZ) moved to approve the minutes from October 10, 2017. Commissioner J. Stromberg (OR) seconded. Minutes approved.**

### **Discussion**

*Executive Committee Update:* Executive Director A. Lippert updated the Region on the latest Executive Committee meeting. The Executive Committee is revisiting Committee and Region mission statements and goals. The Committee is in the process of choosing a location in the West Region for 2019 Annual Business Meeting. The Committee is working with the Workgroup on the agenda for the 2018 Annual Business Meeting.

The Compliance Committee adopted proactive compliance approach. It is working on developing and enhancing compliance processes at the state level. The Committee asked the Regions to gather top five measurable public safety compliance factors.

The Rules Committee was tasked to review the sex-offender and the transfer of sex-offenders rules. The Committee asked the Regions to provide feedback on these rules if states experienced any issues.

The Training Committee worked closely with the DCA Region chairs. The Committee asked the DCA Regions to identify the most relevant and beneficial topics for the 2018 DCA Training Institute as well as discuss the Benchbook's content, its usefulness and user-friendliness.

The Technology Committee had put into production several ICOTS enhancements and planned to start reviewing the 2019 ICOTS enhancement list.

*New Rule Amendments:* Commissioner S. Arruti (NV) added that the new rules amendments were in effect on March 1, 2018. A copy of the new rules is available on the Commission's website.

*Compliance Performance Review:* Commissioner S. Arruti (NV) stated that during the first quarter of 2018, the national office begins evaluating the compliance rates for each state. At the conclusion of each quarter, any deficiencies identified would be reported to the respective authority. When a state is below the minimum expected 80% compliance rate for any compliance standard, the state has until the next quarterly review to come into compliance with the deficient standard. After such time, if a state does not meet the minimum compliance standards, the national office will notify the Compliance Committee for possible further action. Commissioner

S. Arruti (NV) suggested contacting the national office if states have any questions regarding this performance review.

*Tribal Lands:* The Region discussed a proposal to submit recommendation to the Executive Committee for the formation of an ad hoc committee to look at the issue of supervision in tribal regions and development of best practices.

Commissioner S. Arruti (NV) stated that Interstate Commission for Juveniles published an advisory opinion on *Applicability and enforceability of the rules of the Interstate Compact for Juveniles with sovereign tribal nations and reservation lands* in 2010. The Compact has no authority where tribal lands are concerned: “Based upon the referenced provisions of the U.S. Constitution and decisions of the U.S. Supreme Court, in the absence of the Consent of Congress for tribes to enter into agreement with the states as members of the Interstate Compact for Juveniles, no such authority exists under which the provisions of the compact or its rules can regulate transfers of juveniles to and from sovereign tribal nations or reservation lands.” Additionally, in the research on intergovernmental compacts, it was found that “Federal statutes and case law restrict the lawful authority of tribes and states to make binding agreements between themselves and prohibit almost all tribal-state compacts absent approval by the Secretary of the Interior.”

Commissioner D. Littler (AZ) agreed that the issue could not be handled by a rule, and reminded the Region about Rule 4.101 where states were supposed to supervise incoming offenders like their own. She stated that in Arizona, there were 42 federally recognized tribes and the Compact Office used gentlemen agreements and MOUs when appropriate. She suggested opening the issue for discussion and identifying best practices instead of forming an ad hoc committee.

Commissioner D. Darrington (ID) stated that Idaho had several tribes and inquired if other states use the same agreement format for different tribes.

Commissioner S. Arruti (NV) stated that not only the agreements change from tribe to tribe, but also from leadership to leadership in the same tribe.

Commissioner J. Stromberg (OR) presented two options to proceed with this issue: option one to bring the issue to the Executive Committee to form a workgroup; if the Executive Committee votes against forming a workgroup, he suggested the West Region members work together on identifying best practices and see if this subject is raised to the level of the ABM topics or the work of the Executive Committee.

Commissioner S. Arruti (NV) stated that the West Region is not the only Region with tribal lands. He suggested opening the West Region’s advantage of collective experience to the other Regions.

**Commissioner D. Littler (AZ) moved to request the Executive Committee to form a workgroup to explore best practices on dealing with transfers to tribal land. Commissioner C. Belden (AK) seconded. Motion passed.**

*Draft Rule Amendments:* The Region reviewed draft rule amendment to Rule 3.101 proposed by Commissioner D. Littler (AZ). The Commission will vote on rule amendments at 2019 Annual Business Meeting.

**Rule 3.103** – Reporting instructions; offender living in the receiving state at the time of sentencing ~~or after disposition of a violation or revocation proceeding~~

- a. (1) A request for reporting instructions for an offender who was living in the receiving state at the time of initial sentencing ~~or after disposition of a violation or revocation proceeding~~

**Justification:** This language passed at a time when Rule 5.103 and the definition of “significant violation” was interpreted many ways and when states were abusing this rule only to get offenders out of the receiving state. Most of these situations resulted in retaking and no revocation in the sending state which then resulted in a new request for the offender to go right back. Keeping this language in Rule 3.103 contradicts the progress the Compact has made in regard to retaking and the June 1, 2017, rule changes have already shown that retaking requests have declined and those that are made are substantial and the violations are revocable in the sending state as well. Additionally, this rule does not take into consideration any victim related issues and we have seen officers use this rule to send offenders (they can be sent prior to reporting instructions approved) right back to DV related situations where the victim resides with no notice or regard for the safety of the victim.

Commissioner S. Arruti (NV) entertained a motion to suspend Robert’s Rules of Order so the Region members have a more open discussion without being restricted by procedure.

**Commissioner J. Stromberg (OR) moved to suspend the Robert’s Rules of Order. Commissioner M. Roberts (CO) seconded. Motion passed.**

DCA J. Mesick (ID) disagreed with the proposal, she stated that the rule was improved with the 2017 rule amendments. She agreed there was a need to protect victims’ safety, and suggested training officers to identify potential threat to victims.

Commissioner A. Pennella (CA) spoke in favor of the proposed rule amendment.

Commissioner D. Littler (AZ) stated that the problem was with the mandatory retaking without any notice. She added that the Notice of Departure (NOD) is sent only five to six days after an offender left the premises.

Commissioner R. Cohen (NM) agreed on missing victims’ notification piece in this Rule, and supported starting conversation on this issue.

Commissioner D. Littler (AZ) stated that if the Region decided not to change the rule, then it needed to come up with a stipulation for victims issues.

DCA D. Whitefield (CO) agreed with DCA Mesick. She stated that the only issue Colorado had with this rule was when a state retook a probationer and then immediately asked for either result of their revocation hearing or disposition while only scheduling an administrative hearing. She suggested stressing that sending states had to have a revocation hearing.

Commissioner D. Littler (AZ) will prepare another draft to review at the next Region meeting.

### **New Business**

Commissioner S. Arruti (NV) has a schedule conflict with the next West Region meeting. The national office will poll the Region for the best alternative meeting date. Commissioner S. Arruti (NV) will schedule the meeting for one and an half hour to give ample of time for the Region to discuss the draft rule amendments from Arizona.

Commissioner S. Arruti (NV) stated that DCA Region Chair Mesick will provide an update on the West Region DCAs activities at the next Region meeting.

### **Adjourn**

**Commissioner R. Cohen (NM) moved to adjourn. Commissioner C. Belden (AK) seconded.**

The meeting was adjourned at 3:02 pm ET.