



ICAOS
Sex Offender Ad Hoc Committee
2006-2007 Annual Report

Members

Robert Lee Guy, Chair (NC)
Gary Tullock (TN)
Kevin Kempf (ID)
James Camache (VA)
Maureen Walsh (MA)
Marilyn Kalvelage (CA)
Pat Tuthill (Ex-Officio)
Roselyn Powell, (Ex-Officio)
Barbara Breiland (Ex-Officio)

Staff

Don Blackburn
Ashley Hassan
Nicole Smith
Kelli Price
Mindy Spring
Warren Emmer, Chair (ND)

Guests

Madeline Carter, CSOM
Richard Stroker, CSOM
Jenny Bauer (IN)
Patricia Malone (MA)
Kermit Humphries, NIC
Carl Wicklund, APPA

The ICAOS Sex Offender Committee held its initial meeting on March 27-28, 2007 in Lexington, Kentucky. We were joined by representatives from the National Institute of Corrections, the Center for Sex Offender Management, the American Probation Parole Association and the National Office Staff. Over the next two (2) days the group received an excellent update on “sex offender” supervision, trends, legislation, and the many challenges we as commissioners, administrators, and practitioners face with this special offender population.

The heightened political and media focus on sex offenders nationally, and in all jurisdictions, places the committee work under a bright spotlight. We all agreed to step back and examine the issues surrounding sex offender management and identify the problems as it relates to this population and ICAOS. We agreed to not get caught in a vacuum as it relates to our individual issues or concerns with this population, but to think “outside the box” and examine sex offender management globally and its impact on Public Safety!

The committee and our partners adopted the following:

PROBLEM STATEMENT

Background: As a result of heightened concerns and special considerations regarding the management of sex offenders, several states have passed legislation or developed internal policies and procedures specific to this population.

Problem: These differences result in the inconsistent application of compact rules and some confusion, delays, or denial of transfers for sex offenders who are otherwise eligible under existing Compact rules.

Problems cited included:

- **Rules are too broad and there exist a need to propose specific rules for “sex offenders”.**
- **The need for a definition of “sex offender” for ICAOS.**
- **Statutes and SO classification vary from state to state causing inconsistencies in managing this population across jurisdictions.**
- **Public safety must be the primary goal of the Commission and the work of this committee.** (For example, the sending states need to assume more responsibility toward evaluating the sex offender’s application for transfer in determining public safety and the likelihood of success better served by said transfer).
- **“Get Tough Legislation” is having unintended consequences on surrounding states and ICAOS.** (“State Shopping” is a phrase that appears to be a major point of discussion and sometimes places ICAOS and Commissioners in a very vulnerable position within their own jurisdictions).

MISSION STATEMENT: To address Compact issues concerning sex offenders, the committee will develop guiding principles and proposed rules that will guide the transfer of sex offenders in a manner that promotes effective case management strategies and are consistent with public safety, risk reduction, and victim’s rights.

Short Term Goals

- 1) Sex Offender Definition
- 2) Sex Offender Rules
- 3) Adoption of Guiding Principals

THE GUIDING PRINCIPLES for the transfer of sex offenders adopted are:

Sending State: The goal of the transfer of a sex offender under the Interstate Compact is to enhance accountability and reduce the likelihood that an offender will recidivate. To this end, it is the responsibility of the sending state to determine the appropriateness of the transfer of the offender under the Interstate Compact.

- Determine if the offender is required to register as a sex offender in the sending state.
- Gather all pertinent background information; ex: socio-economic history, criminal history any and all assessments, pre-sentence investigation report, elements of the crime (ex: police report, crime version)
- To the extent resources permit, conduct a sex offender specific assessment to determine the level of risk posed by the offender and the accountability and treatment strategies most likely to reduce the risk of recidivism.
- Determine whether the transfer will result in offender accountability based on risk level and risk reduction.
- If a determination is made to proceed with the application for transfer, all pertinent information (refer to bullets 3 & 4) regarding the offender will be provided to the receiving state.

Receiving State: It is the responsibility of the receiving state to determine the appropriateness of the transfer of the offender under the Interstate Compact.

- Determine if the offender is required to register in the receiving state.
- Review the offender specific information provided by the sending state and any local information available regarding the offender.

- Assess the ability of the receiving state to provide an appropriate accountability and risk reduction strategy relative to the level of risk posed by the offender.
- All sex offender transfers will require the offender to abide by the laws of the receiving state.

After multiple meetings and sub-committee work, the sex offender definition (1.101) and Interstate Transfer of Sexual Offenders (3.101-3) were developed and forwarded to the Executive Committee on May 2, 2007. They were approved for review and posting by the Rules Committee.

At the June 12th and 13th meeting of the Sex Offender Ad Hoc committee in Lexington, the committee and our partners carefully reviewed and debated all comments/input provided by fellow commissioners and others. As a result, the committee completed proposed committee substitutes for both 1.101 and 3.101-3 to be presented to the next Executive Committee meeting.

On June 28, 2007 the Executive Committee held extensive discussion and debate on the proposed committee substitutes. We approved and referred a much more concise and simplified version back to Rules Committee for action.

The Final versions for consideration by the full commission are as follows:

RULE TITLE

Rule 1.101 Definitions

RULE LANGUAGE

“Sex offender” means an adult placed under, or made subject to, supervision as the result of the commission of a criminal offense and released to the community under the jurisdiction of courts, paroling authorities, corrections, or other criminal justice agencies, and who is required to register as a sex offender either in the sending or receiving state and who is required to request transfer of supervision under the provisions of the Interstate Compact for Adult Offender Supervision.

REFERRED BY

Executive Committee

JUSTIFICATION

To effectively implement and administer special rules regarding the movement of sex offenders there is a need for a sex offender definition. States need to identify the offender that is required to adhere to the new rules, as established. The sub-committee recognizes that each state is unique, in regards to who is a sex offender, and subsequently discussed a definition that does not unnecessarily impose on individual definitions. This is a “process definition”.

The Rules Committee amended language to make consistent with other definitions.

EFFECT ON OTHER RULES

No effect of ICAOS Rules, Advisory Opinions, or Dispute Resolutions

PROPOSED EFFECTIVE DATE

January 1, 2008

Interstate Transfer of Sexual Offenders (3.101-3)

RULE TITLE

Rule 3.101-3 *Transfer of supervision of sex offenders*

RULE LANGUAGE

(a) *Eligibility for Transfer* At the discretion of the sending state a sex offender shall be eligible for transfer to a receiving state under the Compact rules. A sex offender shall not be allowed to leave the sending state until the sending state's request for transfer of supervision has been approved, or reporting instructions have been issued, by the receiving state. In addition to the other provisions of Chapter 3 of these rules, the following criteria will apply.

(b) *Application for Transfer* In addition to the information required in an application for transfer pursuant to Rule 3.107, in an application for transfer of supervision of a sex offender the sending state shall provide all information, if available, to assist the receiving state in supervising the offender:

- (1) Assessment information, including sex offender specific assessments;
- (2) Social History;
- (3) Information relevant to the sex offender's criminal sexual behavior;
- (4) Law enforcement report that provides specific details of sex offense;
- (5) Victim Information:
 - i. the name, sex, age and relationship to the offender;
 - ii. the statement of the victim or victim's representative;
- (6) The sending state's current or recommended supervision and treatment plan.

(c) *Reporting Instructions for sex offenders living in the receiving state at the time of sentencing* Rule 3.103 applies to the transfer of sex offenders, except for the following:

- (1) The receiving state shall have five business days to review the proposed residence to ensure compliance with local policies or laws prior to issuing reporting instructions. If the proposed residence is invalid due to existing state law or policy, the receiving state may deny reporting instructions.
- (2) No travel permit shall be granted by the sending state until reporting instructions are issued by the receiving state.

REFERRED BY

Executive Committee

JUSTIFICATION

The Interstate Commission for Adult Offender Supervision appointed the Sex Offender Ad Hoc Committee to consider and respond to the challenges correctional systems face in the transfer of supervised sex offenders across state lines. The Committee recognizes that transferring sex offenders has become increasingly complex and difficult because of individual state laws regarding sex offender registries, residency restrictions and employment restrictions. Nonetheless, the public and elected officials expect correctional agencies to provide more oversight on the movement and supervision of sex offenders for public safety. The Committee believes a proactive approach to the issue of sex offenders will help the Interstate Commission further its broad goals of increasing public safety and offender accountability.

The Committee worked with the American Probation and Parole Association, the National Institute of Corrections, and the Center for Sex Offender Management to learn more about sex offenders and to define guiding principles for their interstate transfer. The Committee's main guiding principle is ensuring that the transfer of a sex offender enhances the offender's accountability and reduces the likelihood that the offender will recidivate. The rules drafted by the Committee are an important first step in realizing this goal: receiving states will have comprehensive information at the outset to determine the risk and appropriate supervision level for a sex offender.

The Rules Committee made changes to the numbering of the rule and sections (a) & (b) for style and consistency.

EFFECT ON OTHER RULES

The limiting effect of this proposal on Rule 3.103 is stated in subsection (c) of the proposed rule. The intent, as expressed in subsection (a) is for all other provisions of Chapter 3 to apply. The proposal does not limit the applicability of any other rule, e.g., Rule 3.101-1 or 3.106, which may mandate that reporting instructions be issued or a response provided within a definite time. There do not appear to be any ICAOS Advisory Opinions or Dispute Resolutions affected by this proposal.

PROPOSED EFFECTIVE DATE

January 1, 2008

SUMMATION: The Sex Offender Ad Hoc Committee has worked very hard to achieve our short term goals as previously discussed. Yes, we have set our sights high as committee members, practitioners, and commissioners.

We believe and feel that change is needed; change is good in our profession.

We need to “**Raise the Bar of Accountability**” with this high risk population by:

- Deliberate processing and controlling movement
- Sharing all available information
- Protecting victims rights
- Validating, in advance, the home plan
- Enforcing the sentencing or release plan

By increasing the communication and dialogue between sending and receiving states to expedite our efforts to effectively and efficiently control and monitor the movement of “sex offenders” across jurisdictions.

Finally,

Is the change **perfect?**

Absolutely Not!

Is this change **without challenges?**

Absolutely Not!

Is this change a **major step forward** for victims, the new compact, and public safety?

Absolutely!

As your chair of the Sex Offender Ad Hoc Committee, fellow commissioner, and colleague I respectfully ask for you to join our committee and embrace this change by voting for the new “sex offender” rules.



Robert Lee Guy