



INTERSTATE COMMISSION FOR ADULT OFFENDER SUPERVISION

ANNUAL BUSINESS MEETING

September 13-14, 2005

**Pointe South Mountain Resort
7777 South Pointe Parkway
Phoenix, Arizona**

Tuesday, September 13, 2005

Call to Order

- The meeting was called to order by Chairman D. Guntharp (AR) at 8:33 a.m. PST. Following welcoming remarks and an overview of the agenda; Chairman D. Guntharp (AR) noted there will be changes made to the agenda.
- Chairman D. Guntharp (AR) recognized Dave Byers, Director of the Arizona Administrative Office of the Courts to introduce Arizona Chief Justice Ruth McGregor.
- Commissioner D. Ege (AZ) introduced Dora Schriro, Arizona Compact Administrator and Director of Corrections who welcomed the Commission to Arizona and shared success stories of the Compact in Arizona.
- Chairman D. Guntharp (AR) recognized the representatives of Louisiana, Mississippi, and Alabama affected by the recent hurricane.

Roll Call

- Executive Director D. Blackburn instructed the Commission on the Audience Response System (ARS) to be used during voting.
- Roll was called by Executive Director D. Blackburn. 52 of 52 members were present, thereby constituting a quorum.

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|-------------------------|-------------------|
| 1. Alabama | Robert Oakes |
| 2. Alaska | Leitoni Tupou |
| 3. Arizona | Dori Ege |
| 4. Arkansas | David Guntharp |
| 5. California | Karen Stoll |
| 6. Colorado | Jeaneene Miller |
| 7. Connecticut | Theresa Lantz |
| 8. Delaware | Karl Hines |
| 9. District of Columbia | Paul Quander, Jr. |
| 10. Florida | R. Beth Atchison |
| 11. Georgia | Joe Kuebler |
| 12. Hawaii | Ronald Hajime |
| 13. Idaho | David Nelson |
| 14. Illinois | Michelle Bushcher |
| 15. Indiana | Jenny Bauer |
| 16. Iowa | Jeanette Bucklew |
| 17. Kansas | Keven Pellant |
| 18. Kentucky | Lelia VanHoose |
| 19. Louisiana | Genie Powers |
| 20. Maine | Wayne Theriault |
| 21. Maryland | Judith Sachwald |
| 22. Michigan | Joan Yukins |
| 23. Minnesota | Ken Merz |
| 24. Mississippi | Ivy Keys |
| 25. Missouri | Wanda LaCour |
| 26. Montana | Mike Ferriter |
| 27. Nebraska | James McKenzie |
| 28. Nevada | Amy Wright |
| 29. New Hampshire | Mike McAlister |
| 30. New Jersey | John D'Amico |
| 31. New Mexico | Edward Gonzales |
| 32. New York | Michael DePietro |
| 33. North Carolina | Robert Lee Guy |
| 34. North Dakota | Warren Emmer |
| 35. Ohio | Harry Hageman |
| 36. Oklahoma | Milton Gilliam |
| 37. Oregon | Scott Taylor |
| 38. Pennsylvania | Benjamin Martinez |
| 39. Puerto Rico | Alexis Bird |
| 40. Rhode Island | A. T. Wall |
| 41. South Carolina | D. Ann Hyde |
| 42. South Dakota | Ed Ligtenberg |
| 43. Tennessee | Gary Tullock |
| 44. Texas | Kathie Winckler |

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|--------------------|-------------------|
| 45. Utah | Leo Lucey |
| 46. Vermont | Jacqueline Kotkin |
| 47. Virginia | James Camache |
| 48. Virgin Islands | Arline Swan |
| 49. Washington | Doreen Geiger |
| 50. West Virginia | Henry Lowery |
| 51. Wisconsin | William Rankin |
| 52. Wyoming | Les Pozsgi |

After roll call Executive Director D. Blackburn recognized ex-officio members:

- Pat Tuthill *Victim's Representative*
- Gerald Vandewalle *Conference of Chief Justices*
- Denton Darrington *National Conference of State Legislators*
- Kermit Humphreys *National Institute of Corrections*
- Dave Byers *Conference of State Court Administrators*
- Linda Sydney *American Probation & Parole Association*
- Marilyn Scafe *Association of Paroling Authorities International*

- A sample question was given to the Commission to demonstrate how the ARS is used.

Approval of Minutes

- Motion to approve the October 26-27, 2004 meeting minutes made by Commissioner K. Merz (MN), seconded by Vice-Chairman H. Hageman (OH). Chairman D. Guntharp (AR) noted that revised minutes were handed out prior to the meeting. Minutes were approved.

Approval of Agenda

- Motion to approve and amend the agenda by adding "By-law amendment" prior to the Litigation Report and switching the Compliance and Finance Reports made by Commissioner D. Ege (AZ), seconded by Commissioner W. Emmer (ND). Agenda was approved.

By-Law Amendment

- R. Masters, Legal Counsel, presented the proposed By-law amendment to Article VII, Section 3 to call for the election of regional representatives at this meeting and every other year thereafter. 2/3rd s vote of the Commission is needed to approve the amendment.

- Motion to amend Article VII, Section 3 of the By-Laws made by Commissioner H. Lowery (WV), seconded by Commissioner M. Gilliam (OK). Motion carried unanimously.

- The Commission broke for region sessions at 9:00 a.m. PST and reconvened at 9:45 a.m. PST.

Litigation Report

- R. Masters, Legal Counsel gave a summary of the Commission's lawsuit against Tennessee. The action was successfully concluded and Tennessee was ordered to reimburse the Commission for its attorney fees and costs. Information, including the injunction is posted on the ICAOS website.

- Executive Director D. Blackburn introduced the staff of the National Office.

Information & Technology Report

- Commissioner J. Kuebler (GA), Technology Committee Chair, presented the Committee's report, which is posted on the ICAOS website. The presentation recognized the Committee members & technical assistants, goals & accomplishments of the Committee, and provided an overview of the ICAOS website statistics.
- S. Perry, ICAOS National Office Technology Manager, demonstrated NACIS to the Commission. S. Perry reviewed login, queues, user levels & administration, offender management, and transfer request & processes. S. Perry will provide screen shots and sample reports to the Commission before the end to the meeting on Wednesday.
- S. Perry stated that SoftScape, Inc. built and hosts the database on a server in Boston, Massachusetts and is responsible by contract for disasters.
- Vice-Chairman H. Hageman (OH) presented the NACIS report which is posted with the Technology Committee report on the ICAOS website. 3 documents pertaining to legacy data and integration were handed out to the Commission.
- NACIS Report
 - Testing: The vendor will have the system released for testing each piece of functionality in the next few weeks.
 - Revisions: After testing
 - Training: Comprehensive training for trainers then end-users will be trained. Researching software and e-learning types of applications for end-users.
 - Legacy Data: Minimum of 3 of the 16 tables of data elements are required to be migrated into the system. Document 2.1 Technical Specification can be used to assist in migrating the legacy data.

- Users: States are responsible for administrating their own users. It is suggested to narrow down the number of POs to handle Compact cases.
 - Integration: Integration document was distributed to the Commission. It is recommended the document be given to MIS professionals to build an interface. SoftScape has contracted to do for \$100/hour. Vice-Chair H. Hageman noted that for Ohio it will be about 2 weeks worth of work.
 - Please note that documents are not final drafts and have been sent to a third party to ensure they are Justice XML compliant.
- The Commission was polled to find out if 10% of offender data is sufficient for their state to migrate into NACIS. 41-Yes, 10-No

- Vice-Chairman H. Hageman noted that additional offender information can always be added and it is important that there is not a lag between migration and production. NACIS is a web-based, free-standing application, interfacing is unnecessary to use system.
 - Production: Anticipated to be March, April, or May
 - Survey for implementation date I: March-10 (responses), April-7 (responses), May-32 (responses)
 - Survey for implementation date II: June-17 (responses), July-14 (responses), August-16 (responses)
 - Discussion of budget and training issues
 - Survey for training time for states: 1 month-13, 2 months-12, 3 months-20
 - Discussion of time periods. Vice-Chairman H. Hageman would not advocate using the system prior to migration and stressed the importance of setting dates. Using 2 systems would be difficult to administrate.
 - Discussion of getting Compact offices online only. Vice-Chairman H. Hageman noted this will eliminate the workflow the system is designed to manage.
 - Survey for NACIS Migration: 1 month-10, 2 months-38
 - Survey for Implementation method: Full implementation-40, phased in implementation-7
 - Commissioner W. Emmer (ND) noted that the Commission can work with states that have problems getting up in the system.
 - Discussion of testing: Commissioner D. Ege (AZ) noted that the JAD will be doing “dummy” transfers. Discussion of others, besides JAD members testing.
 - Vice-Chairman H. Hageman noted the Committee will plan on giving states 3 months to train and 2 months to migrate legacy data.
 - SoftScape, Inc. can provide states with a live demo and the National Office can provide assistance.

- The Commission recessed for lunch at 11:33 a.m. PST
- The Commission reconvened at 1:18 p.m. PST
 - Vice-Chairman H. Hageman noted the training and migration for NACIS can be done at the same time.

Finance Committee Report

- Treasurer G. Powers (LA) presented the FY 07 budget to the Commission and recommended to the Commission an increase in the dues.
 - Summary of the cost savings of the National Office
 - Effective and efficient dues collection
 - Reduced administration cost by 15%
 - Indirect costs to CSG were reduced from 27% to 13% (\$120,000/year)
 - Committee meetings held at National Office
 - Annual meeting cost (Phoenix-\$75/night) *not anticipated for next year*
 - Rental Space decreased from \$15/sq ft to \$12/sq ft
 - Applied for own tax ID Number for tax exemption purposes.
 - Attorney fees are to be reimbursed from the Tennessee litigation
 - \$633,000 carry-over is for NACIS and dedicated to the system.
 - Motion to accept the FY 07 budget made by Treasurer G. Powers, seconded by Commissioner K. Merz (MN). Motion carried.
- Treasurer G. Powers (LA) noted that the originally proposed 2% increase in dues was thought to bring in \$100,000 but is actually approximately \$20,000.
 - The cost for hosting NACIS and hiring a help desk person is approximately \$135,000/year, upgrades not included.
 - It is also recommended the Commission establish a legal defense fund.
 - Motion to increase dues by 2% made by Treasurer G. Powers (LA), seconded by Commissioner W. Emmer (ND). Motion Carried.
 - Motion to increase dues to 8% made by Commissioner W. Theriault (ME). Motion failed.
 - Chairman D. Guntharp (AR) noted effective date will be for the next fiscal year (FY 07).
 - Massachusetts dues are projected to be \$25,000/year.
 - Treasurer G. Powers (LA) noted the \$37,000 received from Tennessee will go into the legal budget and it is recommended by CSG to have 10% on reserve in case of legal action.
 - Discussion of budget increases. Chairman D. Guntharp (AR) noted that not all staff is built into budget until needed with the Executive Committee's approval.

- Commissioner K. Winckler (TX) noted states do not have the opportunity to go back to their states for such an increase.
 - Commissioner A. Bird (PR) recommended saving on the annual meeting and asking Congress for extra money without increasing the dues. Chairman D. Guntharp noted the staff is pursuing grants and federal money may be easier to get once the database system is up.
 - Commissioner J. Kuebler (GA) suggested the Commission reevaluate and dues formula.
- Chairman D. Guntharp (AR) recognized Commissioner G. Powers (LA), Commissioner R. Oakes (AL), and Representative I. Keys (MS) for their efforts and experiences with the recent hurricane affecting their states.
- Commissioner G. Powers (LA) expressed appreciation of the support received to help find offenders. A list of Louisiana sex offenders are posted on the ICAOS website. Chairman D. Guntharp (AR) noted states should help out by getting the evacuated offenders under supervision as soon as possible.
 - Commissioner R. Oakes (AL) expressed appreciation for received support. Southern counties in Alabama are back up.
 - Representative I. Keys (MS) noted the Mississippi Compact is functional, but some costal areas and not and some offenders are displaced. Expressed appreciation for support.

Approval of Orders of the Day

- Commissioner M. Gilliam (OK), Rules Committee Chair, recognized the members and ex-officios of the Rules Committee
- Motion to approve the orders of the day to include the adoption of Rule 2.109 made by Commissioner M. Gilliam (OK), seconded by Commissioner J. D'Amico. Motion carried.
 - R. Masters, Legal Counsel, noted that the purpose of the approval is to limit discussion and adopt Rule 2.109 to limit amendment consideration.
- Motion to approve Rule 2.109 to be effective immediately made by Commissioner M. Gilliam (OK), seconded by Commissioner J. D'Amico. Motion carried.
 - Motion to delete language in section (i) "In the event that a petition for judicial review of a rule is filed against the Interstate Commission by a state, the prevailing party shall be awarded all costs of such litigation, including reasonable attorneys' fees.," made by Commissioner B. Martinez, seconded by Commissioner M. DePietro. Motion failed.

- Motion to call for vote made by Vice-Chair H. Hageman (OH), seconded by Commissioner J. Kuebler (GA). Motion passed with 2/3rds vote of the Commission.
- Motion to include language in section (b), "for consideration by the Commission at the next annual meeting," made by Commissioner M. Gilliam (OK), seconded by Commissioner J. D'Amico (NJ). Motion carried.
 - Chairman D. Guntharp noted that a proposed rule or amendment could be brought to the Commission for a vote prior to the next annual business meeting.
- Motion to delete language in section (a)(1), "during the annual Commission meeting. This proposal would be made in the form of a motion and would have to be approved by a majority vote of a quorum of the Commission members present at the meeting." made by Commissioner K. Winckler (TX), seconded by Commissioner W. Theriault (ME). Motion failed.
- Motion to amend section (b) to strike "at," and add "not later than" made by Commissioner M. DePeitro (NY), seconded by Commissioner W. Emmer (ND). Motion carried.
- Motion to add language to (b) "All comments received by the Rules Committee on proposed rules shall be posted on the Commission's website upon receipt." made by Commissioner K. Winckler (TX), seconded by Commissioner W. Theriault (ME). Motion carried.
 - Friendly amendment to add "bulletin board" offered by Commissioner A. Bird (PR). Not accepted.
 - Friendly amendment to add "written" before "comments" made by Commissioner W. Emmer. Accepted.

RULE 2.109 Adoption of rules; amendment

Proposed new rules or amendments to the rules shall be adopted by majority vote of the members of the Interstate Commission in the following manner.

- (a) Proposed new rules and amendments to existing rules shall be submitted to the Interstate Commission office for referral to the Rules Committee in the following manner:
 - (1) Any Commissioner may submit a proposed rule or rule amendment for referral to the Rules Committee during the annual Commission meeting. This proposal would be made in the form of a motion and would have to be approved by a majority vote of a quorum of the Commission members present at the meeting.
 - (2) Standing ICAOS Committees may propose rules or rule amendments by a majority vote of that committee.
 - (3) ICAOS Regions may propose rules or rule amendments by a majority vote of members of that region.

(b) The Rules Committee shall prepare a draft of all proposed rules and provide the draft to all Commissioners for review and comments. All written comments received by the Rules Committee on proposed rules shall be posted on the Commission's website upon receipt. Based on the comments made by the Commissioners the Rules Committee shall prepare a final draft of the proposed rule(s) or amendments for consideration by the Commission not later than the next annual meeting.

(c) Prior to the Commission voting on any proposed rule or amendment, the text of the proposed rule or amendment shall be published by the Rules Committee not later than 30 days prior to the meeting at which vote on the rule is scheduled, on the official web site of the Interstate Commission and in any other official publication that may be designated by the Interstate Commission for the publication of its rules. In addition to the text of the proposed rule or amendment, the reason for the proposed rule shall be provided.

(d) Each proposed rule or amendment shall state—

- (1) The place, time, and date of the scheduled public hearing;
- (2) The manner in which interested persons may submit notice to the Interstate Commission of their intention to attend the public hearing and any written comments; and
- (3) The name, position, physical and electronic mail address, telephone, and telefax number of the person to whom interested persons may respond with notice of their attendance and written comments.

(e) Every public hearing shall be conducted in a manner guaranteeing each person who wishes to comment a fair and reasonable opportunity to comment. No transcript of the public hearing is required, unless a written request for a transcript is made, in which case the person requesting the transcript shall pay for the transcript. A recording may be made in lieu of a transcript under the same terms and conditions as a transcript. This subsection shall not preclude the Interstate Commission from making a transcript or recording of the public hearing if it so chooses.

(f) Nothing in this section shall be construed as requiring a separate public hearing on each rule. Rules may be grouped for the convenience of the Interstate Commission at public hearings required by this section.

(g) Following the scheduled public hearing date, the Interstate Commission shall consider all written and oral comments received.

(h) The Interstate Commission shall, by majority vote of a quorum of the commissioners, take final action on the proposed rule or amendment by a vote of

yes/no or by referring the rule back to the Rules Committee for further action. The Commission shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

- (i) Not later than sixty days after a rule is adopted, any interested person may file a petition for judicial review of the rule in the United States District Court of the District of Columbia or in the federal district court where the Interstate Commission's principal office is located. If the court finds that the Interstate Commission's action is not supported by substantial evidence, as defined in the federal Administrative Procedures Act, in the rulemaking record, the court shall hold the rule unlawful and set it aside. In the event that a petition for judicial review of a rule is filed against the Interstate Commission by a state, the prevailing party shall be awarded all costs of such litigation, including reasonable attorneys' fees.
- (j) Upon determination that an emergency exists, the Interstate Commission may promulgate an emergency rule that shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided in the compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety days after the effective date of the rule. An emergency rule is one that must be made effective immediately in order to--
 - (1) Meet an imminent threat to public health, safety, or welfare;
 - (2) Prevent a loss of federal or state funds;
 - (3) Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or
 - (4) Protect human health and the environment.

Rules Committee Report

Rule 1.101

- (ff) Victim: Motion to accept the proposed amendment made by Commissioner M. Gilliam (OK), seconded by Commissioner J. D'Amico (NJ). Motion carried.
- (ii) Relocate: Motion to adopt the proposed definition made by Commissioner M. Gilliam (OK), seconded by Commissioner J. D'Amico (NJ). Motion carried.
 - Discussion of "90 days"
 - Discussion of consecutive vs non-consecutive days
 - Motion to send (ii) relocate back to the Rules Committee. Motion carried.
- (jj) Compact: Motion to adopt the proposed definition made by Commissioner M. Gilliam (OK), seconded by Commissioner J. D'Amico (NJ). Motion carried.
- (r) Resident: Motion to accept the proposed amendment made by Commissioner M. Gilliam (OK), seconded by Commissioner J. D'Amico (NJ). Motion carried.

- (ee) Travel Permit: Motion to accept the proposed amendment made by Commissioner M. Gilliam (OK), seconded by Commissioner J. D'Amico (NJ). Motion carried.
- Motion made to rescind the vote adopting the definition of "relocate" made by Commissioner K. Winckler (TX), seconded by Commissioner J. Sachwald (MD). Motion was ruled out of order.

RULE 1.101 Definitions

(ff) "**Victim**" means a natural person or the family of a natural person who has incurred direct or threatened physical or psychological harm as a result of an act or omission of an offender.

(ii) "**Relocate**" means to remain in another state for more than 90 days in any 12 month period.

(jj) "**Compact**" means the Interstate Compact for Adult Offender Supervision.

(r) "**Resident**" means a person who—

- (1) has continuously inhabited a state for at least one year prior to the commission of the offense for which the offender is under supervision;
and
- (2) intends that such state shall be the person's principal place of residence;
and
- (3) has not, unless incarcerated, remained in another state or states for a continuous period of six months or more with the intent to establish a new principal place of residence.

(ee) "**Travel permit**" means the written permission granted to an offender authorizing the offender to travel from one state to another.

Rule 2.110

- Motion to accept the proposed amendment made by Commissioner M. Gilliam (OK), seconded by Commissioner J. D'Amico (NJ). Motion carried unanimously.

RULE 2.110 Transfer of offenders under this compact

- (a) No state shall permit an offender who is eligible for transfer under this compact to relocate to another state except as provided by the Compact and these rules.
- (b) An offender who is not eligible for transfer under this Compact is not subject to these rules and remains subject to the laws and regulations of the state responsible for the offender's supervision.

Rule 3.101, 3.101-1, & 3.101-2

- Motion to approve the proposed amendment made by Commissioner M. Gilliam (OK), seconded by Commissioner J. D'Amico (NJ). Motion carried.
 - Commissioner K. Winckler (TX) noted there were numbering problems with Rule 3.101.
 - Discussion of “visible” vs “viable.” It was noted that the issue may be brought up under New Business.
 - Discussion of Rule 3.101-2

RULE 3.101 Mandatory transfer of supervision

At the discretion of the sending state, an offender shall be eligible for transfer of supervision to a receiving state under the compact, and the receiving state shall accept transfer, if the offender:

- (a) has more than 90 days or an indefinite period of supervision remaining; and
- (b) has a valid plan of supervision; and
- (c) is in substantial compliance with the terms of supervision in the sending state; and
- (d) is a resident of the receiving state; or
- (e) (1) has resident family in the receiving state who have indicated a willingness and ability to assist as specified in the plan of supervision; and
- (2) can obtain employment in the receiving state or has a visible means of support.

RULE 3.101-1 Mandatory Transfers of Military, Families of Military, and Family Members Employed;

- (a) *Transfer of Military members-* An offender who is a member of the military and has been deployed by the military to another state, shall be immediately eligible for reporting instructions and transfer of supervision.
- (b) *Transfer of Offenders who live with family who are members of the military-* An offender who meets the other criteria specified in Rules 3.101 (3) and 3.101 (5)(B) and who lives with a family member who has been deployed to another state, shall be immediately eligible for reporting instructions and transfer of supervision, provided that the offender will live with the military member in the receiving state.
- (c) *Employment transfer of family member to another state-* An offender who meets the other criteria specified in Rules 3.101(3) and 3.101(5)(B), and whose family member, with whom he or she resides, is transferred to

another state by their full-time employer, shall be immediately eligible for reporting instructions and transfer of supervision, provided that the offender will live with the family member in the receiving state.

RULE 3.101-2 Discretionary transfer of supervision

- (a) A sending state may request transfer of supervision of an offender who does not meet the eligibility requirements in Rule 3.101
- (b) The sending state must provide sufficient documentation to justify the requested transfer.
- (c) The receiving state shall have the discretion to accept or reject the transfer of supervision in a manner consistent with the purpose of the compact.

Rule 3.103

- Motion to approve the proposed amendment made by Commissioner M. Gilliam (OK), seconded by Commissioner J. D'Amico (NJ). Motion was never brought to a vote.
 - Discussion of signed forms remaining in the sending state.
 - Discussion of (E) "jail" as a form of probation
 - Discussion of (F) "released from prison."
- Motion to refer proposed amendment back to the Rules Committee made by Commissioner H. Hageman (OH), seconded by Commissioner J. Yukins (MI). Motion carried.

RULE 3.103 Acceptance of the offender by receiving state; exception

- (a) A sending state shall not allow an offender ~~under supervision in the sending state~~ to relocate to a receiving state without the receiving state's acceptance of the transfer of supervision.
- (b) Exception—
 - ~~(1)(A) A sending state may grant a travel permit to an offender who was living in the receiving state at the time of sentencing.~~
 - (1)(A) A sending state may request reporting instructions from a receiving state through the electronic information system and may grant a seven day travel permit to an offender who was living in the receiving state at the time of sentencing. Prior to granting a travel permit to an offender, the sending state shall verify that the offender is living in the receiving state.

~~(B) This exception is not applicable to offenders released to supervision from prison.~~

(B) The receiving state shall issue reporting instructions no later than two business days following receipt of such a request from the sending state.

(C) The sending state shall ensure that the offender sign all forms requiring the offender's signature under Rule 3.107 (a) prior to granting a travel permit to the offender. Signed forms shall be maintained in the sending state until termination of compact supervision.

(D) The sending state shall transmit a departure notice to the receiving state per Rule 4.105 (a).

(E) This exception is applicable to offenders sentenced to jail as a condition of probation and released to probation supervision from a jail facility.

(F) This exception is not applicable to offenders released to supervision from prison.

(2) The sending state retains supervisory responsibility until the offender's arrival in the receiving state.

(3) A receiving state shall assume responsibility for supervision of an offender who is granted reporting instructions ~~during the investigation of the offender's plan of supervision~~ upon the offender's arrival in the receiving state. The receiving state shall submit an arrival notice to the sending state per Rule 4.105.

(4) A sending state shall transmit a completed transfer request for an offender granted reporting instructions no later than 15 calendar days following the granting to the offender of the reporting instructions.

(5)(A) If the receiving state rejects the transfer request for an offender granted ~~a travel permit reporting instructions~~, or if the sending state fails to send a completed transfer request by the 15th day following the granting of ~~a travel permit reporting instructions~~, the sending state shall, upon receiving notice of rejection or upon failure to timely send a required transfer request from the receiving state, direct the offender to return to the sending state ~~by a date specified by the sending state~~ within 30 calendar days after the receipt of notification of the rejection of the transfer request.

(B) If the offender does not return to the sending state, as directed, the sending state shall initiate the retaking of the offender by issuing a warrant or an order to return no later than 10 calendar days following the offender's failure to appear in the sending state.

(C) The receiving state shall continue to supervise the offender until a warrant is issued or notice is given by the sending state as required under Rule 4.105.

Rule 3.104-1

- Motion to approve the proposed amendment made by Commissioner M. Gilliam (OK), seconded by Commissioner J. D'Amico (NJ). Motion carried
 - Discussion of 120 days
 - Discussion of paroling offenders

RULE 3.104-1 Acceptance of offender; issuance of reporting instructions

- (a) If a receiving state accepts transfer of the offender, the receiving state's acceptance shall include reporting instructions.
- (b) Upon notice of acceptance of transfer by the receiving state, the sending state shall issue a travel permit to the offender and notify the receiving state of the offender's departure as required under Rule 4.105.
- (c) An acceptance by the receiving state shall be valid for 120 calendar days. If the sending state has not sent a Departure Notice to the receiving state in that time frame, the receiving state may withdraw its acceptance and close interest in the case. This does not apply to paroling offenders. See Rule 3.105 (c)(1).

Rule 3.106

- Motion to approve the proposed amendment made by Commissioner M. Gilliam (OK), seconded by Commissioner J. D'Amico (NJ). Motion was never brought to a vote.
- Motion to refer proposed amendment back to the Rules Committee made by Commissioner D. Ege (AZ), seconded by Commissioner M. DePietro (NY). Motion carried.

RULE 3.106 Request for expedited reporting instructions

- (a)(1) A sending state may request that a receiving state agree to expedited transfer reporting instructions of an offender if the sending state believes that emergency circumstances exist and the receiving state agrees with that

determination. If the receiving state does not agree with that determination, the offender shall not proceed to the receiving state until an acceptance is received under Rule 3.104-1.

(2) (A) A receiving state that agrees to expedited transfer reporting instructions of an offender shall immediately issue reporting instructions for the offender, and a sending state shall immediately issue a travel permit transmit a departure notice.

(B) The sending state shall ensure that the offender signs all forms requiring the offender's signature under Rule 3.107 (a) prior to granting a travel permit reporting instructions to the offender. The sending state shall immediately transmit the signed forms electronically or by telefax to the receiving state. Signed forms shall be maintained in the sending state until termination of compact supervision.

~~(C) At the time of transmission of the signed forms, the sending state shall provide the receiving state with a copy of the offender's orders and conditions, documentation of the offender's residency, copy of any available pre-sentence report, copy of any order of protection, where applicable, and whether the offender is subject to sex offender registration in the sending state.~~

(b) A receiving state shall assume responsibility for supervision of an offender who is granted reporting instructions during the investigation of the offender's plan of supervision upon the offender's arrival in the receiving state. The receiving state shall submit an arrival notice to the sending state per Rule 4.105.

(c) A sending state shall transmit a completed transfer request for an offender granted a travel permit reporting instructions no later than the seventh calendar day following the granting to the offender of the travel permit reporting instructions.

(d)(1) If the receiving state rejects the transfer request for an offender granted a travel permit reporting instructions, or if the sending state fails to send a completed transfer request by the 7th seventh calendar day following the granting of a travel permit reporting instructions, the sending state shall, upon receiving notice of rejection or upon failure to timely send a required transfer request, direct the offender to return to the sending state by a date specified by the sending state within 30 calendar days after receipt of notification of the rejection of the transfer request.

(2) If the offender does not return to the sending state as directed, the sending state shall initiate the retaking of the offender no later than 10 calendar days following the offender's failure to appear in the sending state.

- (3) The receiving state shall continue to supervise the offender until a warrant is issued or notice is given by the sending state as required under Rule 4.105.

Rule 3.107

- Motion to accept the proposed amendment made by Commissioner M. Gilliam (OK), seconded by Commissioner J. D'Amico (NJ). Motion carried.

Rule. 3.107 Transfer Request

- (a) A Transfer request for an offender shall be transmitted through the electronic information system authorized by the commission and shall contain—
 - (1) transfer request form;
 - (2) instant offense in sufficient detail to describe the type and severity of offense and whether the charge has been reduced at the time of imposition of sentence;
 - (3) photograph of offender;
 - (4) conditions of supervision;
 - (5) any orders restricting the offender's contact with victims or any other person;
 - (6) any known orders protecting the offender from contact with any other person;
 - (7) information as to whether the offender is subject to sex offender registry requirements in the sending state along with supportive documentation;
 - (8) pre-sentence investigation report, if available;
 - (9) supervision history, if available;
 - (10) information relating to any court-ordered financial obligations, including but not limited to, fines, court costs, restitution, and family support; the balance that is owed by the offender on each; and the address of the office to which payment must be made.
- (b) The Offender Application for Interstate Compact Transfer shall be maintained in the sending state.
- (c) Additional documents, such as the Judgment and Commitment, and any other information may be requested from the sending state following acceptance of the offender. The sending state shall provide the documents if available.

Rule 4.103

- Motion to accept the proposed amendment made by Commissioner M. Gilliam (OK), seconded by Commissioner J. D'Amico (NJ). Motion carried.

- R. Masters, Legal Counsel, noted that special conditions cannot be imposed in the receiving state until acceptance. Therefore, case cannot be denied for such reasons.

Rule 4.103 Special conditions

- (a) At the time of acceptance or during the term of supervision, the compact administrator or supervising authority in the receiving state may impose a special condition on an offender transferred under the interstate compact if that special condition would have been imposed on the offender if sentence had been imposed in the receiving state.
- (b) A receiving state shall notify a sending state that it intends to impose or has imposed a special condition on the offender, the nature of the special condition, and the purpose.
- (c) A sending state shall inform the receiving state of any special conditions to which the offender is subject at the time the request for transfer is made or at any time thereafter.
- (d) A receiving state that is unable to enforce a special condition imposed in the sending state shall notify the sending state of its inability to enforce a special condition at the time of request for transfer of supervision is made.

Rule 4.105

- Motion to accept the proposed amendment made by Commissioner M. Gilliam (OK), seconded by Commissioner J. D'Amico (NJ). Motion carried.

RULE 4.105 Arrival and departure notifications; withdrawal of reporting instructions***(a) Departure notifications***

At the time of an offender's departure from any state pursuant to a transfer of supervision or the granting of reporting instructions, the state from which the offender departs shall notify the intended receiving state, and, if applicable, the sending state, through the electronic information system of the date and time of the offender's intended departure and the date by which the offender has been instructed to arrive.

(b) Arrival notifications

At the time of an offender's arrival in any state pursuant to a transfer of supervision or the granting of reporting instructions, or upon the failure of an offender to arrive as instructed, the intended receiving state shall immediately notify the state from which the offender departed, and, if applicable, the sending state, through the electronic information system of the offender's arrival or failure to arrive.

- (c) A receiving state may withdraw its reporting instructions if the offender does not report to the receiving state as directed.

Rule 4.110

- Motion to accept the proposed amendment made by Commissioner M. Gilliam (OK), seconded by Commissioner J. D'Amico (NJ). Motion carried.

RULE. 4.110 Transfer to a subsequent receiving state

- (a) At the request of an offender for transfer to a subsequent receiving state, and with the approval of the sending state, the sending state shall prepare and transmit a request for transfer to the subsequent state in the same manner as an initial request for transfer is made.
- (b) The receiving state shall assist the sending state in acquiring the offender's signature on the "Application for Interstate Compact Transfer" and any other forms that may be required under Rule 3.107 (a), and shall transmit these forms to the sending state.
- (c) The receiving state shall submit a statement to the sending state summarizing the offender's progress under supervision.
- (d) The receiving state shall issue a travel permit to the offender when the sending state informs the receiving state that the offender's transfer to the subsequent receiving state has been approved.
- (e) Notification of offender's departure and arrival shall be made as required under Rule 4.105.
- (f) Acceptance of the offender's transfer of supervision by a subsequent state and issuance of reporting instructions to the offender terminate the receiving state's supervisory obligations for the offender.

- It was noted that any proposed rules or amendments may be brought to the floor during New Business. The 1st order of the day for Wednesday will be implementation dates for the new rules and amendments.
- The Commission recessed for the day at 5:45 p.m. PST

Wednesday, September 14, 2005

Call to Order

- The meeting reconvened and was called to order by Chairman D. Guntharp at 8:05 a.m. PST.

Roll Call

- Roll was called by Executive Director D. Blackburn. 48 of 52 members were present, thereby constituting a quorum.

| | |
|-------------------------|-------------------|
| 1. Alabama | Robert Oakes |
| 2. Alaska | Leitoni Tupou |
| 3. Arizona | Dori Ege |
| 4. Arkansas | David Guntharp |
| 5. California | Karen Stoll |
| 6. Colorado | Jeaneene Miller |
| 7. Delaware | Karl Hines |
| 8. District of Columbia | Paul Quander, Jr. |
| 9. Florida | R. Beth Atchison |
| 10. Georgia | Joe Kuebler |
| 11. Hawaii | Ronald Hajime |
| 12. Illinois | Michelle Bushcher |
| 13. Indiana | Jenny Bauer |
| 14. Iowa | Jeanette Bucklew |
| 15. Kansas | Keven Pellant |
| 16. Kentucky | Lelia VanHoose |
| 17. Louisiana | Gregg Smith |
| 18. Maine | Wayne Theriault |
| 19. Maryland | Judith Sachwald |
| 20. Michigan | Joan Yukins |
| 21. Minnesota | Ken Merz |
| 22. Missouri | Wanda LaCour |

| | |
|--------------------|-------------------|
| 23. Montana | Mike Ferriter |
| 24. Nebraska | James McKenzie |
| 25. Nevada | Amy Wright |
| 26. New Hampshire | Mike McAlister |
| 27. New Jersey | John D'Amico |
| 28. New Mexico | Edward Gonzales |
| 29. New York | Michael DePietro |
| 30. North Carolina | Robert Lee Guy |
| 31. North Dakota | Warren Emmer |
| 32. Ohio | Harry Hageman |
| 33. Oklahoma | Milton Gilliam |
| 34. Pennsylvania | Benjamin Martinez |
| 35. Puerto Rico | Alexis Bird |
| 36. Rhode Island | A. T. Wall |
| 37. South Carolina | D. Ann Hyde |
| 38. South Dakota | Ed Ligtenberg |
| 39. Tennessee | Gary Tullock |
| 40. Texas | Kathie Winckler |
| 41. Utah | Leo Lucey |
| 42. Vermont | Jacqueline Kotkin |
| 43. Virginia | James Camache |
| 44. Virgin Islands | Arline Swan |
| 45. Washington | Doreen Geiger |
| 46. West Virginia | Henry Lowery |
| 47. Wisconsin | William Rankin |
| 48. Wyoming | Les Pozsgi |

- Motion to move New Business on the agenda to before Region Elections made by Vice-Chairman H. Hageman (OH), seconded by Commissioner H. Lowery (WV). 2/3rd s of the Commission's vote was needed to pass the motion. Motion carried unanimously.

Compliance Report

- Compliance Chair W. Emmer (ND) presented the Compliance Committee report which was handed out to the Commission at the meeting. Commissioner W. Emmer (ND) gave an overview of the Committee's mission, legal actions, and the 4 strategies that have been developed.
- Commissioner W. Emmer (ND) recommended the Commission form a formal audit group to assist states for compliance purposes.
- Motion to accept the Compliance Committee report made by Commissioner W. Emmer, seconded by Commissioner W. Theriault (ME). Report was adopted and the Executive Committee will appoint the ad-hoc Audit Committee.

Training & Education Committee Report

- Training Committee Chair, A. Hyde (SC) delivered the Training Committee report and will be posted on the ICAOS website. The report overviewed the past year's training sessions, curriculum available, publications, and who the Committee plans to reach out to in the next year.
- Commissioner A. Hyde (SC) distributed a worksheet developed by Margaret Thompson, PA, regarding eligibility criteria for Compact transfers. The national office will have it available to send to officers.
- Chairman D. Guntharp (AR) stated without any objection the Commission will accept the Training Report.

Award Presentations

- Executive Chair Award was presented to Vice-Chairman H. Hageman (OH) by Chairman D. Guntharp (AR).
 - Executive Director Award was presented to Charles Placek (ND) by Executive Director D. Blackburn.
 - Peyton Tuthill Award was accepted by Commissioner M. Ferriter (MT) on behalf of Anita Richards (Victim's Advocate Montana State Council).
- Commissioner K. Winckler (TX) noted she was not present for roll call and requested the record be corrected.

New Business

- Motion to refer Rule 2.105 *Misdemeanants* to the Rules Committee to be amended to include "drug offenders" and "felonies reduced to misdemeanants" made by Commissioner J. McKenize (NE), seconded by Commissioner E. Gonzales (NM). Motion carried.
- Motion for an emergency amendment to Rule 2.102 *Data Collection and Reporting* made by Commissioner M. Gilliam (OK), seconded by J. D'Amico (NJ). Motion carried.
- Motion to adopt the proposed amendment to Rule 2.102 *Data Collection and Reporting* extending the expiration date until the electronic information system is implemented and functional made by Commissioner M. Gilliam (OK), seconded by J. D'Amico (NJ). Motion carried.
 - Friendly amendment offered by Commissioner D. Ege (AZ) to make the amendment effective December 31, 2005. Accepted.
- Motion for effective dates for Rules 1.101, 2.110, 3.101, 3.104-1, 4.103 to be January 1, 2006 made by Commissioner M. Gilliam (OK), seconded by J. D'Amico (NJ). Motion carried.

- Motion for effective dates for Rules 3.104, 3.107, 4.105, and 4.110 to be when electronic system is fully functional made by Commissioner M. Gilliam (OK), seconded by J. D'Amico (NJ). Motion carried.
 - Discussion of not having set dates.
 - Discussion of “fully functional”
 - Friendly amendment offered by Vice-Chair H. Hageman (OH) to make effective date “date to be determined by the Executive Committee. Accepted.
- Motion to refer Rule 3.103 & 3.106 to the Rules Committee for a vote by the Commission in 120 days made by Commissioner J. Kuebler (GA), seconded by M. DePeitro (NY). Motion carried.
- Motion to refer Rule 3.103 section (b)(1)(F) to the Rules Committee for a vote by the Commission in 120 days made by Vice-Chair H. Hageman (OH), seconded by Commissioner B. Martinez (PA). Motion carried.
- Motion to refer Rule 1.101 (ii) *Relocate* to the Rules Committee for a vote by the Commission in 120 days made by Commissioner M. DePeitro (NY), seconded by Commissioner E. Gonzales (NM). Motion carried.
- Motion to refer Rule 3.105 *Request for transfer of a paroling offender* to specify how long a parole plan is valid made by Commissioner A. Hyde (SC), seconded by Commissioner J. Kuebler (GA). Motion carried unanimously.
- Motion to have the Commission Chairman appoint an ad hoc committee to research rules specific to sex offenders made by Commissioner D. Ege (AZ), seconded by Commissioner J. Miller (CO). Motion carried.
 - Chairman D. Guntharp (AR) stated that anyone interested in serving on the committee should contact Executive Director D. Blackburn. Anticipates getting the committee appointed in the next 3 weeks.
- Motion to use data from the first 6 months of transactions through NACIS to reformulate the dues structure made by Commissioner A. Bird (PR), seconded by Commissioner A. Swan (VI). Motion failed.
 - Discussion to 6 months being too short of time
 - Discussion of “transactions”
 - Friendly amendment to change “transactions” to “transferred” offered by Commissioner W. Theriault (ME). Accepted.
 - Point of Order from R. Masters, Legal Counsel, that the dues are currently formulated differently.
 - Commissioner J. Kuebler (GA) suggested appointing an ad hoc committee to research the dues structure. Chairman D. Guntharp (AR) noted the issue would need to come up at next year’s meeting after NACIS is implemented.
 - Vice-Chair H. Hageman (OH) noted that Puerto Rico and the Virgin Islands are at the bottom of the dues structure.
- Motion to refer a new proposed definition Rule 1.101 (kk) *Formal Communication* for purposes of Rule 2.101 (b) to the Rules Committee made by Commissioner J. Yukins (MI), seconded by Commissioner K. Merz (MN). Motion carried.

- Motion to have signature forms available to the Commission translated to Spanish when NACIS is implemented made by Commissioner A. Bird (PR), seconded by Commissioner K. Winckler (TX). Motion carried.
 - Vice-Chairman H. Hageman (OH) noted this would entail a change order for NACIS.
 - Discussion: Importance of offender understanding what they are signing.
 - Commissioner G. Tullock (TN) noted that Tennessee has already translated forms.
 - Friendly amendment offered by Commissioner D. Ege (AZ) to have the forms created immediately. Accepted.
 - Chairman D. Guntharp (AR) stated that the national office will have the translations validated and posted on the website.
 - Commissioner J. Sachwald (MD) suggested forming an ad hoc committee to research future translations.
 - Survey was requested by Commissioner M. DePeitro to poll the Commission for recommendations for the “relocate” definition. 30 days-10 votes, 45 days-11 votes, 60 days-8 votes, 90 days-13 votes, and None of the above-1 vote
 - Motion to refer Rule 3.101 *Mandatory Transfer of Supervision* to the Rules Committee in regards to “visible” vs “viable” made by Commissioner B. Martinez (PA), seconded by Commissioner A.T. Wall (RI). Motion carried.
 - Motion to refer Rule 3.108 (1) & 4.111 (b) back to the Rules Committee to make language consistent in regards to victim notification made by Commissioner B. Martinez (PA), seconded by Commissioner P. Quander (DC). Motion carried.
 - Motion to refer Rule 4.112 *Closing of Supervision by the Receiving State* made by Commissioner B. Martinez (PA), seconded by Commissioner J. Yukins (MI). Motion failed.
- The Commission broke for region sessions at 10:00 a.m. PST and reconvened at 11:00 a.m. PST.
- Chairman D. Guntharp (AR) complimented the new rule adoption/amending process set forth by Rule 2.109.

Public Comment

- Compliments were delivered to the Commission and its staff for its accomplishments.

West Region Report

- Commissioner D. Ege (AZ) handed out the West Region Report to the Commission. It was noted that the region meets every 60 days to work out issues.

South Region Report

- Commissioner J. Kuebler (GA) introduced the new Region Chair, Commissioner R. Oakes (AL). It was noted the region plans to meet every 60 days and hopes to hold a possible face-to-face meeting in the future.

East Region Report

- Commissioner B. Martinez (PA) introduced the new Region Chair, Commissioner M. DePietro (NY), and complimented his efforts. The east region plans to hold meetings on a regular basis. It was also noted that the east region is most populated and the region will be looking at the fees paid by the Virgin Islands.

Midwest Region Report

- Commissioner E. Ligtenberg (SD) handed out a report to the Commission and introduced the new Region Chair, Commissioner K. Merz (MN). The importance of solving issues with border states is important to the region.
- The Region Representatives were sworn in by Chairman D. Guntharp (AR)
- Commissioner D. Ege (AZ) noted that Commissioner A. Wright (NV) will be retiring.
- Motion to adjourn made by Commissioner B. Martinez (PA), seconded by M. Ferriter (MT). Meeting adjourned at 11:25 a.m. PST.