



ASSOCIATION OF JUVENILE COMPACT ADMINISTRATORS
2007 Annual Meeting
August 8, 2007
Lexington, Kentucky

Meeting Minutes

Officers Present:

Michael Lacy, West Virginia, President
Paul Gibson, Kentucky, Vice President
Cindy Pittman, Georgia, Treasurer

Secretariat:

Kristine C. Prince

Members Present:

Barbara Murray, Alaska
Art Gonzales, Arizona
Judy Miller, Arkansas*
Angela M. Stancil, Delaware
Vivian Fulbright Brock, District of Columbia
Jean Hall, Florida
Linda Kiyotoki, Hawaii
Wendell Kikuchi, Hawaii
Jim Clark, Idaho
Alicia Ehlers, Idaho
Larry Caldicutt, Idaho
Barry Black, Idaho
Anthony Ellis, Kansas
Karen King-Jones, Kentucky
Mark Boger, Maine*
Julie Hawkins, Missouri
Michael Reddish, Nebraska
Linda Bowmer, Nevada

Molli Davis, Nevada*
John Gusz, New Jersey Probation
Dale Dodd, New Mexico
Pamela Helbling, North Dakota
Robyn Peterson, Ohio*
Carol Gillespie, Oregon
Natalie Primak, Pennsylvania
Nancy Allard, South Dakota
Sherry Bolden-Rivers, Tennessee
Donna Bonner, Texas
Shana Runyan, Utah
Letta Porter Jones, Virginia
Connie Richardson, Virginia
Dawn Melzo, Washington
Ryan Pinto, Washington*
Randall Wagner, West Virginia
Nell Brown, Wyoming
Lindee Renneisen, Wyoming

*Board Members

Guests:

Michael R. Dossett, Deputy Commissioner, Kentucky Department of Juvenile Justice
Joe Payne, Director, Placement Services, Kentucky Department of Juvenile Justice
John Mountjoy, The Council of State Governments, Lexington, KY
Rick Masters, Special Counsel, The Council of State Governments, Lexington, KY
LaDonna Koebel, Deputy General Counsel, Kentucky Department of Juvenile Justice
Leigh Meredith, Staff Attorney, Kentucky Department of Juvenile Justice

1. WELCOME

President Lacy welcomed everyone to the 2007 Annual Meeting in Lexington. He thanked both Paul Gibson and Karen King-Jones of the Kentucky ICJ office for hosting the meeting. He also thanked John Mountjoy of The Council of State Governments for allowing AJCA the use of their facility to hold the conference. Cindy Pittman offered an invocation and Ryan Pinto led the group in reciting the Pledge of Allegiance. Youth from The Kentucky Cadet Leadership Education Program posted the colors. The secretariat called roll. President Lacy asked each member to introduce him/herself to the group.

Karen King-Jones and Paul Gibson provided a warm welcome to the State of Kentucky, the "Horse Capitol of the World." Deputy Commissioner Mike Dossett provided a welcome and excused Bridget Skaggs-Brown, Commissioner, Kentucky Department of Juvenile Justice, who was unable to meet with the group. Deputy Commissioner Dossett was excited to share information about Kentucky's new streaming video program with the group. Joe Payne, Placement Services Director, discussed Kentucky's virtual records electronic infrastructure. Both gentlemen were thanked by the Association for taking time out of their busy schedules to travel to Lexington to welcome AJCA members to the Annual Meeting.

Molli Davis and Karen King-Jones explained the Silent Auction process and reported that this year's Silent Auction proceeds will be given to the Central Kentucky Riding for Hope project which provides horses for services for developmentally delayed and mentally retarded youth.

2. AJCA RULES AND REGULATIONS

Paul Gibson and Judy Miller, Co-Chairs of the Rules and Regulations Committee, made a presentation on the new rule-making process which was approved at the 2006 Annual Meeting as part of the revision of the Rules and Regulations. They explained that in the past, rule-making has been a somewhat informal process, but with the passage of the new Rules and Regulations, there must be strict compliance with the rule-making procedure. Mr. Gibson explained the following steps for rule changes:

Step 1: All proposed new rules and amendments to existing rules should be submitted to the AJCA office (defined as the AJCA President's home state) for referral to the Rules Committee by the following parties: (1) an ICJ compact administrator; (2) an AJCA Standing Committee; or, (3) any ICJ region.

Step 2: The Rules Committee shall prepare a draft of all proposed rules and provide the draft to the Compact Administrators for review and comments. All written comments received by the Rules Committee on proposed rules shall be posted on the AJCA's website upon receipt (for 30 days).

Step 3: Prior to the AJCA 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 voting on the rule is scheduled on the official web site of the AJCA. Each proposed rule or amendment shall state the place, time and date of the scheduled public hearings (which will be scheduled the day preceding the first day of the Annual Meeting).

Step 4: Every public hearing shall be conducted in a manner guaranteeing each person who wishes to comment a fair and reasonable opportunity to comment.

Step 5: The AJCA shall, by majority vote of a quorum of the Compact Administrators, take final action on the proposed rule or amendment by a vote of yes/no. The AJCA shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

Upon determination that an emergency exists, the AJCA may promulgate an emergency rule that shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided in the compact shall be retroactively applied to the rule as soon as reasonably possible, in no event later than 90 days after the effective date of the rule. An emergency rule is one that must be made effective immediately in order to meet an imminent threat to public health, safety or welfare; prevent a loss of federal

or state funds; meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or protect human health and the environment.

After reviewing this process with the group, Mr. Gibson asked if there were any recommendations for rule changes. Robyn Peterson suggested drafting a rule regarding the transport of juveniles in adult jails to airports for return to their home states. Robyn identified this as a problem in her state because her adult facilities will not release juveniles to juvenile officials for transport to area airports. Because ICJ staff do not have jurisdiction over adult facilities, AJCA Rules and Regulations do not apply to adult facilities and the Rules and Regulations should reflect that. Mr. Gibson asked Robyn to draft a proposed rule change and submit it in writing to the Rules and Regulations Committee for their review.

Larry Caldicutt (Idaho) suggested that AJCA draft a "Gang Affiliation Notification Requirement" rule. Ryan Pinto suggested that, perhaps, a new rule was not necessary, but a better way to get this information would be to add something on one of the forms asking for that information. Representative Jim Clark advised that in order to be in compliance with the new Adam Walsh Law, information about all aliases and monikers must also be included in the packet sent to the receiving state. President Lacy said this could be referred to the Forms Committee for further discussion. However, he suggested that because it is highly likely that the new compact will be enacted after the first of the year, it is his opinion that AJCA should refrain from making any new rules at this time and allow the new national commission to consider any future rule changes.

3. UPDATE AND STATUS OF NEW ICJ LEGISLATION

John Mountjoy, Executive Director, The National Center for Interstate Compacts at The Council of State Governments' Office (CSG), updated the membership regarding the status of the introduction of the Interstate Compact for Juveniles and the passage of this legislation nationally. Mr. Mountjoy reported that thirty-three states have become signatory to the new compact and that the legislatures in the states of Oregon, Illinois and Massachusetts are currently considering the legislation. In order for an interstate compact to be enacted, thirty-five states need to become signatory. At that point, the new compact becomes federal law. CSG anticipates that the passage in the additional two states necessary for this compact to be enacted will likely occur in February or March 2008. If that happens, the first meeting of the new National Commission will probably be in September 2008. The Office of Juvenile Justice and Delinquency Prevention (OJJDP) has earmarked funding for the transition period to the new compact and to cover the costs of the first National Commission meeting and the first committee meetings. Mr. Mountjoy clarified that there are no "sunset" clauses in any legislation passed by any of the thirty-three states who have passed the compact legislation.

Mr. Mountjoy reported that a transition team will be convened with membership representative of all players in the juvenile justice system nationally. He stressed that input from all juvenile justice agencies will be vitally important.

Mr. Mountjoy referred members and state officials to the "State Officials Guide" published on the CSG website (and also placed on AJCA's website). A Legislative Resource Kit is also available on CSG's website.

4. ICAOS STATE COUNCIL SURVEY RESULTS

The Interstate Compact on Adult Offender Supervision (ICAOS) recently performed a survey of its member states regarding their state councils and Mr. Mountjoy presented the survey results. Each state in both the adult compact and in the new juvenile compact are required to create state councils (found in the Adult Compact in Article IV and in the Juvenile Compact in Article IX). Each state council is required to be composed of the compact administrator and representatives from all three branches of government as well as victims' groups. Each state retains the right to determine the qualifications of the compact administrator position. State councils can exercise both oversight and/or advocacy functions. Surveys were sent to all fifty states as well as the District of Columbia, Puerto Rico and the American Virgin Islands. The response rate was 96.2%. The data in the survey results is for those states responding to the survey and is a "snapshot" of what is happening nationally with the state councils.

5. SMALL GROUP MEETINGS

Members were divided into three groups to discuss four questions and report back to the larger group. The four questions each group was asked to address and the answers generated by the three small groups are:

(1) *With the passage of the new compact likely in the next six to twelve months, what are your states' initial steps to prepare for implementation of the new compact? For those who are representing states who have not yet passed the compact legislation, are there plans to file compact legislation in the next year?*

- Ask the governor to appoint a commissioner to the National Commission
- Identify the stakeholders in our state juvenile justice system
- Establish the membership in our state council
- Draft bylaws for our state council
- Recommend to other states that they follow the guidelines written by CSG for forming state councils
- Submit requests for additional funding for the new state dues amount, as well as funding for runaways and for additional office staff
- Talk with our agency's Information Technology Department regarding electronic needs for the national data base
- Suggest that states begin now to establish a working relationship between your ICJ office and your commissioner
- Yes, some states have begun the process of planning how business will be conducted with non-compacting states

(2) *How do you plan to continue doing business with the non-compacting states if your state is in the initial thirty-five states who have become signatory to the compact? If your state has not yet enacted the compact legislation, how does your state envision doing business with the compacting states?*

- Since only a few states have not passed the compact legislation, the compacting states are maintaining a "wait and see" attitude.

(3) *Have any of your states begun implementation of a state advisory group for the new compact and, if so, what have your experiences been (both positive and negative)?*

- Most states have not yet put together a state council.
- Idaho has already established a state council with 10-12 members.
- Idaho has had three state council meetings so far.
- Idaho is willing to talk to other states and share information about developing state councils.
- Idaho recommends that ICJ staff inform their agency's legal advisor about the authority and responsibilities of state councils as soon as possible.
- The suggestion was made that state council's can impose an application fee for ICJ services from juveniles and their families. This fee could help fund the ICJ office.
- A suggestion was made that each state use their judicial college to train judges about the new compact.
- It may be possible to use the same state council that your state has for the adult compact and just add a few members who would represent the juvenile side.

(4) *Are there any lingering questions regarding implementation of the new compact?*

- Yes, we are concerned about how to work out a successful way of interacting with the Interstate Compact on the Placement of Children staff and the adult compact staff in our state.
- There are questions about the continuing confusion of juvenile sex offender registration in each state and how to keep states informed about what those requirements are for each state.
- Should there be information shared with the receiving state about gang affiliations?
- What will be the procedure for supervision of existing cases under the new compact?
- We need information about what should be contained in a "Memorandum of Understanding" between a compacting state and a non-compacting state.

The following individuals reported back to the larger group for their small group: Dale Dodd (NM), Angela Stancil (DE) and Robyn Peterson (OH).

6. **AJCA LEGAL MATTERS**

Rick Masters, Special Counsel, The Council of State Governments was asked to address several questions regarding AJCA legal matters during the transition period to the new compact. He addressed the following issues, giving legal opinions on each:

- The duration of AJCA: AJCA will continue to represent the interests of the non-compacting states until there is only one non-compacting state left. At that point, for all intents and purposes, AJCA will dissolve and cease to exist.
- Effective date of the new compact: The new compact will become effective and binding upon legislative enactment of the compact into law by no less than 35 of the states. The

governors of non-compacting states or their designees will be invited to participate in the activities of the Interstate Commission on a non-voting basis prior to adoption of the compact by all states and territories of the United States.

- Rules and Regulations: For the first twelve months after the initial meeting of the Interstate Commission, the current Rules and Regulations will likely be adopted. However, those existing rules governing the operation of the ICJ shall be null and void twelve months after the first meeting of the Interstate Commission.
- Money left in the AJCA treasury upon a dissolution of AJCA: The current AJCA Bylaws state that upon a dissolution of AJCA, any assets remaining shall be distributed to a like entity that will best accomplish the general purposes for which the Association was organized. Various revenue rulings, tax regulations and court decisions have been applied in such situations to provide that upon a dissolution such distributions are appropriately made to another governmental entity to be used in a manner which will best accomplish the general purposes for which the dissolved entity was organized. In Mr. Masters' opinion, the entity best meeting that criterion is the Interstate Commission.

7. THE ADAM WALSH CHILD PROTECTION AND SAFETY ACT OF 2006 (H.R. 4472)

LaDonna Koebel, Deputy General Counsel, Kentucky Department of Juvenile Justice and Leigh Meredith, Staff Attorney, Kentucky Department of Juvenile Justice were introduced to the group. Paul Gibson thanked them for traveling to Lexington to inform AJCA members about the new Adam Walsh Child Protection and Safety Act.

Ms. Koebel advised that the purpose of the Adam Walsh Act is to protect the public, particularly children, from violent sex offenders via a more comprehensive, nationalized system for registration and tracking of sex offenders. There is a critical need for this tracking system because the National Center for Missing and Exploited Children estimates that more than 556,000 offenders are now listed in state offender registries, but there are at least 100,000 of these sex offenders in the United States "missing" and unregistered as required by law.

The Adam Walsh Act (AWA) creates a National Sex Offender Registry to be maintained by the Attorney General, which will include each person in each state's sex offender registry. It also creates a National Sex Offender Public Website to be maintained by the Attorney General which will include each person in each state's sex offender registry.

Under the AWA, it is now mandatory for certain "convicted" juvenile sex offenders to comply with state and federal sex offender registration requirements. The definition of "convicted" for purposes of the Act, includes juveniles adjudicated of certain offenses. In order to be required to register as a juvenile, three criterion must be met: (1) The offender is 14 years of age or older at the time of the offense; (2) The offender was adjudicated delinquent for that offense; and, (3) The offense was comparable to or more severe than "aggravated sexual abuse" (as in 18 U.S.C. 2241), or was an attempt or conspiracy to commit such offense. "Aggravated sexual abuse" would include state offenses comparable to the federal offense such as engaging in a sexual act with another by force or the threat of serious violence; engaging in a sexual act with another by rendering unconscious or involuntarily drugging the victim; or, engaging in a sexual act with a child under the age of 12. "Convicted" juvenile sex offenders who fit the criterion must, like adult offenders, take the necessary action to comply with state and federal sex offender registration requirements. Juvenile sex offenders convicted in a state court can be subject to federal penalties for failure to register as a sex offender.

Juvenile sex offenders must register in the place where they reside, work or attend school. The juvenile must also register in the jurisdiction where they were convicted, if different from the residence. Any change in status must be reported in person within three business days in the appropriate jurisdiction(s). The juvenile must provide the following information for the registry:

- Name
- Social Security Number (not public)
- Home Address
- Address of Place of Employment (public only if state desires)
- Address of School Where Offender May Be a Student (public only if state desires)
- License Plate Number

The jurisdiction must also add the following information to the registry:

- Physical Description of the Juvenile
- Legal Definition of the Offense Requiring Registration
- Criminal History
- Current Photo
- Fingerprints and Palm Prints
- DNA Sample
- Photocopy of Drivers License

It is now a federal crime for any sex offender who knowingly fails to register as a sex offender. Failure to register is a felony (mandatory in every state) and is punishable by up to ten years.

The National Sex Offender Registration database will be maintained by the Attorney General who will forward the information to relevant jurisdictions. The Attorney General will also maintain a National Sex Offender Website.

In areas where the juvenile sex offender lives, works, and goes to school, all information must be reported to the following: law enforcement, schools, public housing, agencies that conduct background checks, child welfare agencies, volunteer organizations and any organization, company or individual that requests notification.

The Adam Walsh Act was signed into law on July 27, 2006. All jurisdictions must implement the requirements within three years (July 27, 2009). Section 125(a) allows for a ten percent Byrne Justice Assistance Grant fund reduction for any state that fails to substantially implement the requirements by July 27, 2009. Bonus payments to states that promptly comply and implement the requirements shall be ten percent of the total received by the jurisdiction for the preceding fiscal year if the implementation is not later than July 27, 2007 or five percent if the implementation is not later than July 27, 2008.

8. **ADJOURN**

The meeting was then adjourned until the following day.