



INCIDENT REVIEW REPORT

		Report Date February 15, 2010
Offender Name Maurice Clemmons	Offender DOC # 866697	Critical Incident Review # 07309C
Name of Initiator Eldon Vail, Secretary	Team Leaders Anmarie Aylward, Acting Assistant Secretary Community Corrections Division. Scott Blonien, Assistant Secretary Government Community Relations and Regulatory Compliance	Team Members Stefani Meusborn-Marsh, Regional Administrator Mac Pevey, Program Administrator Todd Wiggs, Community Corrections Supervisor Kevin Bovenkamp, Director Organizational Dvelopment

INCIDENT

Date and Time: November 29, 2009

Location: Lakewood, Washington

Brief Description of Incident: The attached document is a critical incident review of Maurice Clemmons, a parolee from Arkansas who was supervised by the Washington State Department of Corrections as part of an interstate compact agreement. On November 29, 2009, Clemmons fatally shot four Lakewood police officers. Two days later Clemmons was fatally shot by a Seattle police officer who was investigating a stolen car.

This review focuses on the period when Clemmons was on community supervision in Washington, beginning in March 2004. It includes a summary of Clemmons' actions and his supervision status as well as recommendations from the authors.

In 1989, Clemmons, then 17, was convicted in Arkansas for aggravated robbery and other charges and was sentenced to 108 years in prison. In 2000, the then-Governor commuted Clemmons' prison sentence and made him eligible for parole. He was released from prison in August 2000 but was sent back to prison on a parole violation - a robbery charge - in July 2001.

He received a 10-year prison sentence and was paroled in March 2004. He requested to move to Washington where his brother lived. Washington State DOC followed the rules established by the Interstate Commission for Adult Offender Supervision and approved the interstate transfer request.

Clemmons was categorized as a low-risk offender upon his arrival in Washington but was overridden to RMB, the second highest level of supervision for the first 2 years after he was on the DOC caseload. For the first five years in this state he had little interaction with law enforcement. Because Clemmons had no serious violations during his first two years of supervision he was transferred from the Seattle Metro Unit to the Offender Minimum Management Unit in February 2006. The community corrections officers in the Offender Minimum Management Unit typically supervised between 250 and 300 offenders each and were not required to regularly contact offenders. Clemmons was required to notify his community corrections officers when he changed addresses. Clemmons last address change was reported on April 27, 2009.

In May 2009, Clemmons' risk level was changed from low risk to moderate risk as the result of a new risk assessment tool. Later, he was reassessed and his classification changed from moderate to high risk.

Clemmons was arrested three times in 2009. He spent time in jail each time. After Clemmons was arrested in July a DOC Hearings Officer recommended that Arkansas take him back, though Arkansas declined and requested that DOC continue to supervise him.

The authors of this review found that DOC followed laws and policies that were in place at the time of Clemmons' supervision. How closely DOC supervised Clemmons depended on his risk classification at the time, which is the policy for all offenders.

This review found gaps in Clemmons early supervision which were systemic agency issues that have been remedied through changes in policies. Since 2005, the Department has made many changes to its community supervision requirements including requirements for home visits by Community Corrections Officers as part of mandatory contact standards. Though Clemmons' case was handled appropriately per policies in place at the time, the Department recognized the need to monitor offenders in high-risk classification more closely and made policy changes as a result.

New laws and policies have also gone into effect since July 2009. ESSB 5288 ended supervision for most low-risk offenders and DOC eliminated its Offender Minimum Management Units - including the one that supervised Clemmons for more than three years - as a result. DOC now has a smaller community corrections caseload that is more focused on supervising high-risk offenders.

This incident review offers additional insight to the challenges of obtaining accurate criminal history information for offenders from out of state. The Department currently uses a validated risk assessment tool that requires a complete criminal history for an accurate risk assessment. Findings from this review indicate that Clemmons' risk level would have been higher if a complete criminal history was available during his reclassification. Though this would not have changed his supervision requirements or increased the level of required CCO contacts, it brings to light the need for accurate criminal histories during the risk assessment and classification process.

This review includes recommendations by the authors to improve the existing laws and policies in the interest of public safety. The authors recommend that DOC work with the Interstate Commission for Adult Offender Supervision to clarify or change the rules for accepting out-of-state offenders, for sending offenders back to their home states, and for providing complete criminal histories. They also recommend that DOC work collaboratively with other law enforcement agencies to develop a statewide alert system that notifies community corrections officers when offenders are released from jail.

Name, Title, and Address of All Employees Involved:

- Robert E. Martin, Community Corrections Officer 3, King County DOSA Unit, 1550 4th Avenue South, Seattle, WA 98134
- Houth Thiem, Community Corrections Officer 2, Northwest OMMU/West Seattle Field Office, 6335 35th Avenue SW, Seattle, WA 98126
- Merlin "Lin" Miller, Interstate Compact Commissioner, Department of Corrections, P.O. Box 41126, Olympia, WA 98504-1126
- Torrey McDonough, Community Corrections Specialist, Community Response Unit, 733 Market Street, 4th Floor, Tacoma, WA 98402
- Marjorie Martin, Interstate Compact Deputy Administrator/Community Corrections Specialist, Department of Corrections P.O. Box 41126, Olympia, WA 98504-112

Name, DOC Numbers of All Offenders Involved: Maurice Clemmons DOC 866697

REVIEW

Chronological Summary of Facts/Events:

On January 21, 2004, the Washington State Department of Corrections (DOC) received an Interstate Compact Transfer Investigation request from the state of Arkansas. DOC conducted an investigation to determine if the transfer of Maurice Clemmons' Arkansas parole to the state of Washington met Interstate Commission for Adult Offender Supervision (ICAOS) standards.

Between February 17, 2004 and March 12, 2004, the Community Corrections Officer (CCO) met with the proposed sponsor, visited the proposed residence, and talked with a potential employer. On February 23,

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2004, the CCO returned the Interstate Placement Report to the DOC Interstate Compact Unit. There was insufficient information to verify that Clemmons would be living with a family member. On March 12, 2004, DOC's Interstate Compact Unit notified the CCO that Clemmons had a brother in Washington. Clemmons' parole transfer to Washington was approved because he had a family member in Washington, a suitable residence and a potential job.¹ On March 15, 2004, DOC's Interstate Compact Unit sent the approval notice to the Arkansas.

On March 18, 2004, Arkansas' Post Prison Transfer Board served Clemmons with an "Order of Conditional Release" and Clemmons signed the order. He reported for parole in Washington on March 29, 2004. During a meeting with Clemmons, the CCO established reporting requirements, discussed his living conditions and advised him to notify DOC if there was a change in his residence. Between March and July 2004 Clemmons reported regularly as required either in person or over the phone.

On July 24, 2004, Clemmons' Risk Management Identification (RMI) worksheet was completed. Based on the information available Clemmons was classified RMD which was the lowest level of supervision. However, due to his Arkansas conviction for Aggravated Robbery, the CCO requested a classification override to supervise him at a higher risk level, RMB, which was approved by the supervisor. After nearly two years without any major violations, Clemmons was reclassified as an RMD offender on February 6, 2006. His supervision was transferred from the Seattle Metro field office to the Offender Minimum Management Unit (OMMU)².

In April 2006, Clemmons provided his new address to his CCO in compliance with his supervision requirements. He also reported that he paid off his Legal Financial Obligation owed to Arkansas. After April 2006 there were no contacts with Clemmons. This is consistent with policy for OMMU caseloads. In June 2008, Clemmons called DOC to verify that his contact information had not changed.

On April 21, 2009, Clemmons' former CCO saw a sketch of a serial robbery suspect on KING TV that resembled Clemmons. The CCO contacted Crime Stoppers Hotline and notified Clemmons' current CCO. His CCO immediately called Clemmons, who did not respond. The CCO then sent a letter instructing Clemmons to contact him. On April 24, 2009, Clemmons contacted the CCO and provided him with information about his employment, income, and living situation. Based on that conversation Clemmons was deemed to be compliant with the terms of his supervision. On April 27, 2009, Clemmons called the CCO to report a change in telephone numbers.

On May 9, 2009, according to Pierce County Sheriff Office's Incident Report, a Pierce County Sheriff Deputy responded to a disturbance after 911 received several calls about an individual throwing rocks at houses and breaking out windows of passing vehicles. When the Deputy arrived, two men were leaning against one of the vandalized vehicles. The individuals were identified as Eddie Davis, Jr. and Joseph Pitts.

¹ According to the rules of the Interstate Commission for Adult Offender Supervision (ICAOS), Washington accepted supervision of Clemmons. ICAOS rule 3.101 provides, "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 at the time the sending state transmits the transfer request; and (b) has a valid plan of supervision; and (c) is in substantial compliance with the terms of supervision in the sending state; and (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 means of support.

² OMMU supervision was reserved for those who score lowest on the risk assessment tool. OMMU supervision doesn't require face-to-face contact, home visits, but the offender is required to check in when any change in contact information or any contact with law enforcement occurs. OMMU caseloads were consistently high and used as a method to manage the workload for Community Corrections officers. Distribution: **ORIGINAL**-Risk Management Office **COPY**-Appointing Authority, Assistant Secretary/Initiator

As the Deputy was questioning them, Davis threatened the Deputy who attempted to detain Pitts. As the Deputy and Pitts were struggling, Clemmons came out of the house and assaulted the Deputy. Clemmons was arrested and taken to jail and charged with two counts of Assault 3rd Degree and six counts of Malicious Mischief.

On May 10, 2009, Clemmons posted bail.³ On May 11, 2009, Clemmons' CCO was informed of the arrest and began searching for him with the assistance of law enforcement. Clemmons was not found at his residence and his wife told staff she was about to file a Missing Persons Report. She disclosed that he withdrew a large sum of money that day.⁴ Based on the unsuccessful attempts to locate Clemmons, DOC considered him an absconder. On May 20, 2009, DOC submitted an Offender Violation Report (OVR) to Arkansas requesting they issue an Abscond Warrant for the arrest of Clemmons.⁵

Arkansas issued the Abscond Warrant on May 28, 2009. DOC received the warrant on June 1, 2009. Washington DOC closed its supervision of Clemmons in accordance with ICAOS rule 4.112(a)(2).

On July 2, 2009, Clemmons was arrested when he appeared at the Pierce County Courthouse for a scheduled hearing for the new crime of Child Rape 2nd Degree, his failure to appear on the Assault 3rd Degree, five counts of Malicious Mischief 2nd Degree, Malicious Mischief 3rd Degree and the Arkansas Fugitive Warrant. Clemmons was placed in jail. Arkansas was notified of Clemmons' arrest and the new felony charge. On July 16, 2009, Arkansas advised Washington DOC that it was rescinding its abscond warrant because of the pending charges. Arkansas asked Washington DOC to re-open the Clemmons' case, place him back on supervision and notify the state once the pending charges had been adjudicated. In late July Clemmons was scheduled for a probable-cause hearing. He also was scheduled to return to court and ordered to have a competency evaluation.

After the warrant was rescinded there was increased communication between the two states in regard to Clemmons' status and Washington's ability to send him back to Arkansas.

On July 21, 2009, DOC conducted a violation hearing for the new charges although DOC had not officially resumed supervision of Clemmons. DOC requested a probable-cause hearing be scheduled and requested an Administrative Dismiss Without Prejudice (DWOP) on the new law violations of Child Rape 2nd Degree, Assault 3rd Degree, and Malicious Mischief 2nd and 3rd Degree. It is common practice to request a DWOP when there is insufficient evidence to prove the violation behavior. A DWOP can be requested on new felony violations so that the violation hearing process does not interfere with the criminal investigation or prosecution. Once the charges are resolved in court DOC may conduct a violation hearing based on the court ruling. The criminal investigation was ongoing and Clemmons' bail was set at \$190,000.

On July 24, 2009, Clemmons posted bail on the new charges. Because Arkansas had rescinded its warrant, the Pierce County judge dismissed the Arkansas fugitive charge. On July 30, 2009, the DOC Hearings

³ On 5/10/09, allegations are brought to police that Clemmons sexually assaulted three children. These charges are referenced in this review as Child Rape 2nd Degree.

⁴ On 12/01/09, The New York Daily News reported that that Clemmons drove to New York in June 2009 to see a minister. According to the article, while in New York, Clemmons disturbed a prayer service on 6/13/09 and then approached the Bishop, Bernard Jordan, the next day. Clemmons did not advise his CCO of this trip, nor did he receive permission to travel outside of his county of residence, per his conditions of supervision.

⁵ ICAOS defines abscond as, "means to be absent from the offender's approved place of residence or employment with the intent of avoiding supervision."

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Officer cancelled the probable cause hearing and advised the CCO to request another warrant from Arkansas for Clemmons' arrest.

Between August 4 and August 6, 2009, the CCO spoke to the Deputy Prosecuting Attorney from Pierce County and a Detective from the Pierce County Sheriff's Office regarding Clemmons. They discussed his status, scheduled court dates and him undergoing a mental health evaluation from Western State Hospital. On August 7, 2009, DOC re-opened Clemmons' supervision because Arkansas and Washington could not reach an agreement about Clemmons' status.

On August 11, 2009, Washington submitted an additional Offender Violation Report on the Child Rape charge to Arkansas. The Washington Interstate Compact Unit also issued a DOC Secretary's Warrant for Clemmons' arrest. On August 20, 2009, members from DOC's Community Response Unit (CRU) apprehended Clemmons and booked him into the Pierce County Jail on the DOC Secretary's Warrant. On September 1, 2009, while Clemmons was in custody pending his DOC violation hearing, the Washington DOC Compact Administrator contacted Arkansas to request another warrant so Clemmons could not be released from custody. Arkansas did not issue the warrant.

On September 10, 2009, DOC conducted a violation hearing at Snohomish County Jail pertaining to the Assault and Malicious Mischief charges. A DOC Hearings Officer found Clemmons guilty of the violations and recommended that he be returned to Arkansas. The Hearings Officer recommended Clemmons serve 120 days in confinement if he was not returned to Arkansas.

On September 16, 2009, DOC sent the hearing report to Arkansas. Arkansas issued a warrant for his arrest on October 5, 2009. The warrant was not entered into National Crime Information Center (NCIC) by Arkansas and the language on the warrant stated it could only be executed in Arkansas.

On October 5, 2009, a Static Risk Reassessment –which replaced the previous risk assessment tool – was completed and Clemmons' classification changed to High Non-Violent. As a result, his case was transferred to a field unit for supervision. The CCO received the file on October 20, 2009 while Clemmons was still in custody. Clemmons completed his 120 day DOC sanction on November 8, 2009 remaining in custody on the Child Rape charge.⁶

A review of the chronological record shows, the CCO made entry on November 29, 2009 that on November 23, 2009 he had checked the status of Clemmons and Pierce County Jail records showed that Clemmons was still in custody.

Clemmons posted bond on November 23, 2009 and was released after 10 p.m. that night.

Classification:

A review of the chronological record and file material indicates Clemmons' supervising CCO did not complete the Level of Service Inventory-Revised (LSI-R) assessment and RMI worksheet to get a classification level established for Clemmons until July 27, 2004. The dates identify that classification was completed, but not within policy timeframes.

⁶ Clemmons was given good-time credit by Pierce County Jail.

Following the completion of the LSI-R assessment, Clemmons' score was determined to be low. In addition to the LSI-R, the RMI worksheet was an assessment used to complete the classification for Clemmons and establish the Risk Management Level of RMD.

DOC reviews an offender's NCIC records as part of the classification process. In reviewing Clemmons' record and the Criminal Conviction Record (CCR) that was entered into the Offender Management Network Information (OMNI), we discovered convictions from the NCIC criminal record history request that were not entered in the CCR.⁷ Convictions for Robbery and Theft of Property in 1988, Burglary in 1989 and a juvenile conviction for Theft of Property were not entered into OMNI.

As part of this critical incident review, we found that Clemmons' risk classification would have been different if the missing CCR information had been entered into OMNI. If Clemmons was classified today using the current static risk assessment tool and all the convictions were entered in the CCR as required, his classification conversion would have resulted in a High Violent (HV) designation, rather than his Moderate (MOD) classification.

Reporting Requirements:

Chronological entries from Clemmons' CCO indicate that he verbally instructed Clemmons to next report during each office visit and phone contact. Clemmons' supervising CCO did not recall having specific days or dates of the months in which his offenders reported. He commented that reporting requirements for offenders were determined on a case-by-case basis.

On occasion, Clemmons did not report in person on the exact days that the CCO specified during their last contact, but Clemmons would either follow up with a phone call to his CCO or report in person within a few days. There were some months, when the CCO did not have face-to-face contact with Clemmons, but spoke to Clemmons on the phone and/or spoke to his employer on at least one occasion each of these months. After Clemmons was transferred to OMMU there were no contacts from April 2006 until June 2008 which was typical for RMD offenders unless a problem was noted.

Violations / Hearings / Warrants Timeline:

- 5/9/09 Clemmons arrested by Pierce County Sheriff's Office and booked into the Pierce County jail for two counts of Assault 3rd Degree and six counts of Malicious Mischief 2nd Degree. Clemmons threw rocks through some of his neighbors' windows and punched the arresting deputy in the face.
- 5/10/09 Clemmons posted bail and was released Pierce County Jail.
- 5/11/09 DOC Community Corrections Specialist (CCS) notifies Clemmons' Community Corrections Officer (CCO) of his arrest for new law violations on May 9, 2009. Additionally, Pierce County Sheriff's Office detectives have probable cause to arrest Clemmons for two new counts of Child Molestation.

⁷ Although it was not an issue in this case, because NCIC does not identify arrests or convictions by docket or cause numbers it is difficult to ascertain whether subsequent entries represent new data or are duplicates. Data is listed by arresting agency, charges, and dispositions; and should further arrest actions occur on a previously listed arrest, the same data is duplicated.

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- 5/12/09 CCS attempts to contact Clemmons at his home. The CCS makes contact with Clemmons' wife who reports that he has not been home and that she intends to file a missing person's report. She indicates that Clemmons withdrew \$700 on May 11, 2009. CCS verifies that Clemmons is not in custody at this time.⁸
- 5/20/09 Offender Violation Report (OVR) submitted via Interstate Compact Offender Tracking System (ICOTS) requesting that Arkansas issue a warrant. Violations include:
1. Failure to obey all laws by striking a Pierce County Deputy Sheriff three times in the face with a closed fist on 5/09/09.
 2. Failure to obey all laws by throwing two rocks through two living room bay windows on 05/09/09.
 3. Failure to obey all laws by throwing a rock through a car window on 5/9/09.
 4. Failure to obey all laws by forcing an 11-year-old girl to take off her clothes on or before 5/10/09.
 5. Failure to obey all laws by throwing a rock through a living room window on 5/9/09.
 6. Failure to obey all laws by throwing a rock breaking a car window on 5/9/09.
 7. Failure to obey all laws by putting a finger inside a 12-year-old girl on or before 5/10/09.
 8. Failure to obey all laws by throwing a rock through a car window on 5/9/09.
 9. Failure to obey all laws by throwing a rock through a 2nd story window on 5/9/09.
 10. Failure to obey all laws by forcing a 12-year-old girl to take off her clothes on or before 5/10/09.
 11. Failure to obey all laws by throwing a rock through a car window on 5/9/09
 12. Failing to report new crimes committed and/or law enforcement contacts on or about 5/9/09 and 5/10/09 to the CCO.
- 5/28/09 Arkansas parole board issues an abscond warrant which was entered into NCIC.⁹
- 5/29/09 DOC receives a response from Arkansas regarding the OVR dated 5/20/09. The response indicates that Arkansas received the OVR submitted by WA DOC and a warrant had been issued by their Parole Board and entered into NCIC on 5/28/09.
- 6/1/09 Washington notifies Arkansas that it is closing interest in the case due to Clemmons' abscond

⁸ It was later discovered that Clemmons had traveled to New York during this period of time. This trip was not known or authorized by DOC. Clemmons also failed to appear for a scheduled court appearance on May 12.

⁹ According to ICAOS rules (4.109(c) (3) upon receiving a violation report that alleges that an offender has absconded the sending state shall issue a warrant, "...that is effective in all states without limit as to a specific geographic area."

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status.¹⁰

7/1/09¹¹

Pierce County Sheriff's Office arrests Clemmons and books him into the Pierce County Jail on the following charges:

- Arkansas fugitive warrant
- Child Rape 2nd Degree
- Assault 3rd Degree (two counts) – Failure to Appear (FTA) warrant
- Malicious Mischief 2nd Degree (five counts) – FTA warrant
- Malicious Mischief 3rd Degree – FTA warrant

7/17/09

Washington receives Compact Action Request (CAR) from Arkansas confirming notification of Clemmons' arrest. Arkansas stated it would rescind its May 28, 2009 abscond warrant. Arkansas requests that DOC reopen Clemmons' case and resume supervision.

DOC starts working this case again on 7/17/09 when it was contacted by Arkansas with a request to reopen the case and resume supervision. The field file is pulled from archives and assigned. There are questions among the Compact Unit as to whether to reopen the case given the ICAOS rules. On 8/7/09 the CCO is given direction from the Compact Unit to reassume supervision of the case. However, between 7/17/09 and 8/7/09, DOC has already begun processing the violations through the DOC hearings process.

7/20/09

CCO requests that all violations from the OVR dated May 20, 2009 be dismissed without prejudice (DWOP), because the CCO did not have adequate evidence available to pursue the violations in a DOC hearing. The remaining violation was scheduled to be addressed at a DOC hearing on 7/30/09.¹²

7/22/09

DOC Hearings Officer authorizes DWOP pending the adjudication of the new law violations.

7/24/09

Arkansas' abscond warrant is dismissed. Clemmons posts bail and was released from the Pierce County Jail.

7/28/09

DOC learns Clemmons' released from Pierce County Jail and resumes efforts to work with Arkansas to.

7/30/09

DOC hearing is cancelled, as Clemmons was no longer in custody.

¹⁰ According to ICAOS rules (4.112(a) (2) a receiving state may close and cease supervision if the offender has absconded.

¹¹ Clemmons was on abscond status and not available for supervision between 5/12/09 and 7/1/09. WADOC determined on 5/12/09 that his whereabouts were unknown, upon which they began the notification process to Arkansas advising them of Clemmons' abscond status. He's not apprehended until 7/1/09.

¹² Failing to report new crimes committed and/or law enforcement contacts on or about 5/9/09 and 5/10/09 to the CCO.

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8/7/09	At the direction of the DOC Interstate Compact Unit, Clemmons' case is formally reopened. DOC's Interstate Compact Unit advises DOC to proceed with the violations process.
8/11/09	OVR sent to Arkansas noting the twelve violations. (See above) DOC requests that Arkansas order Clemmons to return to his home state.
/19/09	DOC issues a Secretary's Warrant for his violations.
8/20/09	DOC and task force members from the US Marshal's Pacific Northwest Fugitive Apprehension Team (PNWFAT) apprehend Clemmons and book him into the Pierce County Jail on the DOC Secretary's Warrant.
8/24/09	Clemmons is transferred from the Pierce County Jail to the Snohomish County Jail. ¹³
8/31/09	A From-Out-of-State (FOS) Probable Cause hearing is held at the Snohomish County Jail based on the Secretary's Warrant. A DOC violation hearing is rescheduled for September 10, 2009.
9/10/09	DOC hearing is held at the Snohomish County Jail. It is recommended by the DOC Hearings Officer that Arkansas retake Clemmons. Should Arkansas decline to retake Clemmons, he should be sanctioned to 120 days in confinement. Findings specific to the violations were as follows: <ul style="list-style-type: none"> • Guilty of all violations pertaining to the Malicious Mischief and Assault of a Police Officer charges that stemmed from Clemmons throwing rocks and causing damage, and for his assault on a police officer. • Violations pertaining to the Child Rape/Molestation charges were DWOP as the CCO did not have adequate evidence available at that time to pursue the violations in a DOC hearing. Additionally, given the severity of the behavior associated with these charges, DOC does not want to interfere or jeopardize the open criminal investigation and prosecution. • The last noted violation for Failure to Report New Crime Committed and/or Law Enforcement Contact to the CCO was dismissed.
9/16/09	DOC forwards OVR and Interstate Hearing Report to Arkansas.
9/25/09	Clemmons is transferred from the Snohomish County Jail back to the Pierce County Jail for the same pending charges he was booked under on July 1, 2009 of: <ul style="list-style-type: none"> • Child Rape 2nd Degree • Assault 3rd Degree (two counts) – Failure to Appear (FTA) warrant

¹³ DOC has contracts with many county jails to house violators. Violators may be transported from county to county when bed capacity issues arise.

- Malicious Mischief 2nd Degree (five counts) – FTA warrant
- Malicious Mischief 3rd Degree – FTA warrant

- 10/5/09 Washington receives a response from Arkansas acknowledging the receipt of the OVR and Interstate Hearing Report, asking DOC to continue supervising Clemmons and to notify Arkansas upon disposition of the pending charges. Arkansas issues a warrant for technical violations, but is only enforceable in Arkansas. Unlike the previous abscond warrant this warrant is not entered into NCIC.
- 11/8/09 Clemmons completes his DOC sanction of 120 days. Clemmons, however, remains in custody on the new charges.¹⁴
- 11/23/09 Clemmons posts bail and is released from Pierce County Jail after 10 p.m.

Dates in Custody:

May 9, 2009 – May 10, 2009

- 5/9/09 - Clemmons arrested by the Pierce County Sheriff's Office (PCSO) and booked into Pierce County Jail (PCJ) on new charges of Assault and Malicious Mischief.
- 5/10/09 - Clemmons posted bail and released from PCJ.

July 1st, 2009 – July 24th, 2009

- 7/1/09 - Clemmons arrested by PCSO and booked into PCJ on a fugitive warrant (Arkansas), FTA on the previous Assault and Malicious Mischief charges and new Rape of a Child charges.
- 7/16/09 - Arkansas rescinded warrant.
- 7/24/09 - Clemmons posted bail and released from PCJ.

August 20th, 2009 – November 23rd, 2009

- 8/20/09 - Clemmons arrested by PCSO and CCS Nicholas Weber. Booked into PCJ on a DOC Secretary's Warrant.
- 8/24/09 - Transferred from PCJ to the Snohomish County Jail (SNJ).
- 9/10/09 - DOC hearing held at SNJ. Recommendation to return to Arkansas, or if declined by Arkansas, 120 days confinement.
- 9/25/09 - Transported from SNJ to PCJ for a warrant on Rape of a Child.
- 11/8/09 - 120 days DOC sanction completed.
- 11/23/09 - Released from PCJ after posting bail for Child Rape, Assault and Malicious Mischief charges.

LIST OF APPLICABLE RCWs/WACs/DOC POLICIES AND PROCEDURES

DOC Policy 310.100 Intake – Effective 1/19/01

Revised 8/4/08

Corresponding Administrative Bulletin AB-05-001 – Effective 10/28/05

Corresponding Administrative Bulletin AB-07-008 – Effective 3/26/07

¹⁴ Note that the granting of good time credits is left to the discretion of the jurisdiction in whose facility the offender is held.

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DOC Policy 320.155 Violation Process / Violations of Conditions – Effective 7/31/00
Revised 7/29/02
Corresponding Administrative Bulletin AB-07-007

DOC Policy 320.400 Risk Assessment Process – Effective 4/15/03
Revised 9/19/05, 12/10/06, 4/30/07, 8/4/08, 9/4/09
Corresponding Administrative Bulletin AB-07-034 – Effective 11/28/07

DOC Policy 320.410 Offender Risk Management – Effective 11/7/02
Revised 9/19/05, 3/27/07, 8/4/08

DOC Policy 320.420 Offender Accountability / Offender Supervision Plans – Effective 6/8/00
Revised 11/21/00, 12/11/00, 2/13/03, 4/23/07, 8/4/08, 5/15/09
Corresponding Administrative Bulletin AB-07-023 – Effective 8/14/07

DOC Policy 350.750 Violations, Warrants and Detainers – Effective 1/3/03
Revised 1/9/06, 2/26/08, 8/4/08, 9/21/09
Corresponding Administrative Bulletin AB-06-002 – Effective 2/14/06
Corresponding Administrative Bulletin AB-06-012 – Effective 10/13/06
Corresponding Administrative Bulletin AB-08-015 – Effective 6/18/08
Corresponding Administrative Bulletin AB-08-025 – Effective 9/23/08

DOC Policy 380.200 Community Supervision of Offenders – Effective 8/2/05
Revised 8/4/08, 9/22/09
Corresponding Administrative Bulletin AB-07-006 – Effective 3/26/07
Corresponding Administrative Bulletin AB-08-009 – Effective 5/16/08
Corresponding Administrative Bulletin AB-08-033 – Effective 11/12/08
Corresponding Administrative Bulletin AB-09-014 – Effective 4/14/09

DOC Policy 380.240 Field Contacts / Field Work Protocols– Effective 8/25/04
Revised 9/19/05, 10/15/08, 7/10/09

DOC Policy 380.600 In-State Transfer for Community Offenders – Effective 7/5/00
Revised 5/28/04, 3/7/07, 8/4/08, 6/5/09

DOC Policy 380.605 Interstate Compact – Effective 12/20/01
Revised 5/7/04, 9/29/04, 5/9/06, 5/9/07, 7/18/08
Corresponding Administrative Bulletin AB-07-018 – Effective 6/14/07
Corresponding Administrative Bulletin AB-07-038 – Effective 12/18/07

DOC Policy 390.600 Imposed Conditions – Effective 2/21/03
Revised 4/22/04, 9/19/05, 7/9/07, 10/15/08, 7/10/09
Corresponding Administrative Bulletin AB-07-030 – Effective 10/16/07
Corresponding Administrative Bulletin AB-08-005 – Effective 3/24/08

DOC Policy 400.110 Reporting of Critical Incidents – Effective 7/2/02
Revised 9/12/06, 12/5/08, 8/17/09
Corresponding Administrative Bulletin AB-07-002 – Effective 1/19/07

DOC Policy 420.380 Drug/Alcohol Testing – Effective 5/27/03
Revised 1/21/05, 12/5/07
Corresponding Administrative Bulletin AB-07-008 – Effective 3/26/07

Interstate Commission for Adult Offender Supervision Rules – Updated 6/1/09

RECOMMENDATIONS

Improvements

Interstate changes

Washington DOC's stance has historically been to accept offenders under supervision from other states because it is better for public safety to have the ability to monitor the offenders who move here. Currently, Washington supervises twice as many offenders from other states than it sends to other states. This inequity is created by several factors including the fact that many states have much longer terms of supervision which keeps offenders on Washington DOC's caseloads for longer periods of time.

Recommendations:

1. Pursue changes in the ICAOS rules. Including:
 - a. Transfer packages must include full criminal histories, offense specifics and treatment history on offenders applying for placement in Washington.
 - b. Grant the receiving state the authority to return an offender when it appears the receiving state is not able to adequately supervise the offender.
 - c. Grant the receiving state the authority to issue a violation warrant as an initial step to returning the offender to the sending state.
2. DOC ICAOS Changes:
 - a. DOC will review our processes regarding the annual progress reports and will develop a practice that ensures the proper reports are submitted according to policy.

Communication changes

There currently is no automatic notification system in place statewide that alerts Community Corrections Officers when an offender is released from jail. There is the Victim Information Notification Everyday (VINE) alert system and a Jail Booking and Reporting System (JBRS) but they are not available in all counties nor are they used by all CCOs.

Recommendation:

1. Work with Washington Association of Sheriffs and Police Chiefs to create a statewide, automated notification system to identify active offenders who are in and out of county jails.
2. In the interim, Assistant Secretary for Community Corrections Division has directed Community Corrections staff to use both VINE and JBRS to better monitor the jail releases of offenders on their caseloads.

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Risk assessment and classification

During the review period, there were changes in the risk assessment and classification process within DOC. DOC currently uses a validated tool developed by the Washington State Institute for Public Policy. This critical incident review offers further example that even with a validated, scientifically developed tool a complete criminal history is needed to identify appropriate risk levels.

Recommendation:

3. Develop a protocol to ensure complete criminal history is included in all risk assessments using the static risk assessment tool.
4. Establish a protocol for documentation that all convictions have been included in the static risk assessment.

Appendix

Definitions

Interstate Commission for Adult Offender Supervision (ICAOS): ICAOS is a cooperative action among the 50 states to promote public safety and protect the rights of victims through the control and regulation of the interstate movement of offenders in the community. Implemented in 2002, every jurisdiction in the United States and two U.S. territories is subject to ICAOS rules. Any felony offender with any supervisory requirement, beyond only the order to pay legal financial obligations and obey all laws, is eligible for an ICAOS transfer. No jurisdiction shall permit an offender who is eligible for transfer under the compact to relocate to another state except as provided in the rules.

Jail Booking and Reporting System (JBRS): JBRS serves as a central repository and instant information source for offender information and statistical data. This system allows the entry and retrieval of real time and historical information on offenders held in each of the state's jails. It will also provide ad-hoc reports and summary data at pre-determined intervals for use in managing the jails within Washington.

Level of Service Inventory - Revised (LSI-R): The LSI-R is a 54 item assessment which provides a quantitative survey of offender attributes and offender situations relevant for making decisions about levels of supervision and treatment. The LSI-R was used by DOC as part of the risk assessment process prior to the implementation of the current Criminal Conviction Record and Static Risk Assessment tools.

Offender Accountability Plan (OAP): The OAP was the primary method for coordination, documentation, and communication of offender risk management activities. It was a means for integrating field and facility offender classification and supervision activities to reduce risk and effect pro-social behavior change for offenders under DOC jurisdiction. The OAP was replaced by a similar method called the Offender Supervision Plan.

Offender Based Tracking System (OBTS): This system was the major repository of information regarding offenders used by DOC. Data includes movements within and between institutions, classification, sentence structure, conditions imposed, counselor or CCO notes, etc. It was acquired from the state of Florida in 1983 and implemented in Washington in 1984. It was extensively modified to meet the changing requirements of

Washington sentencing laws until the implementation of the Offender Management Network Information (OMNI) in 2008. OBTS still retains Health Services, Victim Witness, Resource and Program Management, archive data and incident reporting.

Offender Management Network Information (OMNI): OMNI is a web-based application used for collecting and managing offender records in order to assist in the supervision of offenders while incarcerated and under supervision in the community. OMNI replaced OBTS as DOC's system of record on August 4, 2008.

Risk Management Identification (RMI): The RMI was used in coordination with the LSI-R to determine an offender's risk level by focusing on the specific behavior that was involved in the commission of crimes. Definitions of specific criteria that lead to risk level classification for RMA, RMB, and RMC classification are below:

RMA classification criteria: Score a 41 or higher on the LSI-R and have been convicted of a violent crime, have been designated by the End of Sentence Review Board or local Law Enforcement as a Level III sex offender, having been designated as Dangerously Mentally Ill, having committed a sexual assault or violent act against a stranger, having committed a criminal act that was predatory, having committed a criminal act against a vulnerable victim, having committed a criminal act that was considered to be a hate crime, and those offenders who were considered to be Imminent Threat toward a past or known potential victim.

RMB classification criteria: The offender had been assessed as having "High Needs", score 41 or higher on the LSI-R but not have a violent or serious violent offence, be under the jurisdiction of the ISRB, having been designated as a Level II sex offender, having been designated as a Level I sex offender who is required to participate in sexual deviancy treatment, be an offender who was granted the Special Sex Offender Sentencing Alternative and been in treatment less than six months, having a current conviction for Domestic Violence and an assessment of Imminent Risk has yet to be determined.

RMC classification criteria: Score 24 to 40 on the LSI-R without a serious violent conviction, Level I sex offender who does not meet the criteria for RMA or RMB, offenders who have two or more Domestic Violence related arrests within the past five years, history of committing a violent act resulting in physical injury or sexual assault outside of a domestic relationship.

RMD classification criteria: Offenders who do not meet the criteria to be assigned to RMA, RMB, or RMC, with an LSI-R score of 0 to 23, will be assigned to RMD.

Victim Information Notification Everyday (VINE): VINE is operated by the National Victim Notification Network. This service allows crime victims to obtain timely and reliable information about criminal cases and the custody status of offenders. Victims and other concerned citizens can also register to be notified when an offender's custody status changes.

Interstate Documents Reviewed

5/20/09 Offender Violation Report from Washington to Arkansas
✓ 5/11/09 Indecent Liberties and 5/9/09 Aggressive Assault on a Police Officer/Destruction of Property charges. Booked and released in Pierce County on 5/9/09. Currently being sought by

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	law enforcement for new charges on 5/11/09.
5/29/09	Response from Arkansas to Washington <ul style="list-style-type: none"> ✓ Acknowledged receipt of the 5/20/09 violation report. Warrant issued 5/28/09 and is entered into NCIC.
6/2/09	Case Closure Notice from Washington to Arkansas <ul style="list-style-type: none"> ✓ Closing interest per ICAOS Rule 4.112. Advised that Washington State would not re-open the case upon apprehension, but would conduct the Probable Cause Hearing.
7/16/09	Compact Action Request from Arkansas to Washington <ul style="list-style-type: none"> ✓ Clemmons has been arrested and is being held pending local charges. Arkansas Parole Board has rescinded its abscond warrant and asks that Washington re-open the case and place back on supervision.
8/7/09	Amended Offender Violation Report from Washington to Arkansas <ul style="list-style-type: none"> ✓ Amended to let Arkansas know Clemmons was out on bond of \$150,000 and \$40,000 and recommending return.
8/12/09	Offender Violation Report from Washington to Arkansas <ul style="list-style-type: none"> ✓ Updating Arkansas that on 7/30/09 attempted to conduct a Probable Cause Hearing but Clemmons had bailed, so no hearing took place. Based on advice from the Attorney General's Office, DOC issued a Secretary's Warrant on 8/19/09 and Clemmons was taken into custody on 8/20/09. A PC Hearing was conducted on 8/31/09; however, it was vacated on 9/2/09 after the Hearings Officer learned that Arkansas had not re-issued their warrant. On 9/10/09 a Community Custody Hearing was conducted. Clemmons was sanctioned to return to Arkansas and if Arkansas refused to retake him, he is to serve 120 days.
8/14/09	Response to Violation Report from Arkansas to Washington <ul style="list-style-type: none"> ✓ Acknowledged receipt of the Violation Report and continue to supervise and apply any appropriate sanctions.
9/08/09	Amended Offender Violation Report from Washington to Arkansas <ul style="list-style-type: none"> ✓ Details out the violations and states Clemmons will remain under supervision with the recommended sanctions of 12 weeks of increased reporting, 120 days total confinement and a finding of a Significant Violation for Interstate purposes.
9/11/09	Interstate Hearing Report <ul style="list-style-type: none"> ✓ The Administrative Hearing held on 9/10/09 at the Snohomish County Jail authored by Robert La Lanne, DOC Hearing Officer recommending return to Arkansas for further adjudication. If not returned, 120 days confinement with credit for time served since 8/20/09, instructing Clemmons to report to his CCO within one business day of release from confinement and then weekly as directed for 12 weeks.
9/11/09	Hearing and Decision Appeal filed by Clemmons
9/13/09	DOC Regional Appeals Panel Decision <ul style="list-style-type: none"> ✓ Affirmed the decision of the Hearings Officer
9/14/09	Letter to Hearing and Decision Appeal by from Clemmons <ul style="list-style-type: none"> ✓ Appeal on their 9/13/09 decision
9/16/09	Offender Violation Report from Washington to Arkansas <ul style="list-style-type: none"> ✓ A formal report to follow up for documentation purposes that Clemmons was in custody on the Secretary's Warrant in the Snohomish County Jail on 8/20/09.
10/05/09	Response to Offender Violation Report from Arkansas to Washington <ul style="list-style-type: none"> ✓ Acknowledged receipt of the Violation Report, continue supervision and notify upon disposition of pending charges. Explanation: Attached you will find technical warrant number PB-09004785 dated 10/02/09 issued by the AR Board of Parole. Please continue supervision of this offender pending the disposition of the pending charges. Once the charges have been adjudicated please forward a copy of the Sentencing and Judgment (sic) issued by the Court. AR ISC (Interstate

Compact) will review for possible re-taking of the subject for parole revocation.

10/02/09

Warrant for Retaking Prisoner (Technical Violation) from Arkansas

✓ This warrant was applicable to Arkansas only and was not entered into NCIC by Arkansas.

Team Lead (Print)

Team Lead Signature

Date

Assistant Secretary/designee (Print)

Assistant Secretary/designee Signature

Date

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