



## Interstate Commission for Adult Offender Supervision

### Midwest Region Meeting MINUTES

January 30, 2019 · 2:00 PM ET  
Teleconference

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#### **Members in Attendance:**

1. Russell Marlan (MI), Chair
2. Dara Matson (IL)
3. Mary Kay Hudson (IN)
4. Charles Lauterbach (IA)
5. Allen Godfrey (MN)
6. Amy Vorachek (ND)
7. Sara Andrews (OH)
8. Doug Clark (SD)
9. Joselyn Lopez (WI)

#### **Members not in Attendance:**

1. Hope Cooper (KS)
2. Jacey Rader (NE)

#### **Guests:**

1. Simona Hammond (IA)
2. Joel Gruber (IN)
3. Matt Billinger (KS)
4. Tracy Hudrlik (MN)
5. Janice Young (ND)
6. Blair Hofeldt (NE)
7. Sally Reinhardt-Stewart (NE)
8. Sarah Ball (SD)
9. Charles Frieberg (SD)
10. Cheryl Frost (SD)
11. Mary Evans (WI)

#### **Staff:**

1. Ashley Lippert, Executive Director
2. Allen Eskridge, Policy and Operations Director
3. Barno Saturday, Logistics and Administrative Coordinator
4. Kevin Terry, Website Analyst
5. Mindy Spring, Administrative and Training Coordinator
6. Xavier Donnelly, ICOTS Project Manager

#### **Call to Order**

Commissioner R. Marlan (MI) called the meeting to order at 2:02 pm ET. Eight voting members were present, a quorum was established.

## Approval of Agenda and Minutes

**Commissioner S. Andrews (OH) moved to approve the meeting agenda and minutes from the last meeting on January 8, 2019. Commissioner D. Clark (SD) seconded. Agenda and minutes were approved.**

## Discussion

*ND Absconder Rule Proposal:* At the last meeting, the region discussed amendments to Rule 1.101 Definition of Absconder and Rule 4.109-2 Absconding Violation proposed by North Dakota. The region agreed with the intent behind the amendments and tasked Commissioner A. Vorachek (ND) to refine the proposals' language.

Commissioner A. Vorachek (ND) presented revised proposals to the region.

The region had no comments on the proposal to rule 1.101 Definition of Absconder.

### Rule 1.101 Definitions

“**Abscond**” means to be absent from the offender’s approved place of residence ~~or~~ and employment; and ~~avoiding supervision~~ failing to comply with reporting requirements.

**Justification:** the term “avoiding supervision” is open for interpretation. The revision defines more clearly and clarifies when receiving state knows offender is in the area but does not report as directed.

The region discussed the revised proposal to Rule 4.109-2 Absconding Violation.

### Rule 4.109-2 Absconding Violation

- (a) If there is reasonable suspicion to believe that an offender has absconded, the receiving state shall attempt to locate the offender. Such activities shall include, but are not limited to:
- (1) Communication attempts directly to the offender, including dates of each attempt;
  - (2) Conducting a field contact at the last known place of residence;
  - (3) Contacting the last known place of employment, if applicable;
  - (4) Contacting known family members and collateral contacts, which shall include contacts identified in original transfer request.
- (b) If the offender is not located, the receiving state shall submit a violation report pursuant to Rule 4.109(b) (8).

Commissioner A. Vorachek (ND) stated that the term “reason to believe” in section (a) could be better defined. The proposed language was more consistent with policy language and legal terminology. She noted that section (a)(1) identified a contact that was oftentimes completed, but not necessarily reported to the receiving state. The proposed language validates absconder status. In section (a)(4), the inclusion of “contacts identified in original transfer” identifies another contact that may be overlooked and have been proven successful in locating offender.

DCA J. Young (ND) added that the intent behind the proposals was to clarify the absconding violation and not to change the behavior violation practices.

Commissioner D. Matson (IL) supports the proposed change.

DCA T Hudrlik (MN) agrees on the importance of documenting communication attempts with the offender. She suggested adding “communication attempts directly to offender, including dates of each attempt” in (a)(1). She added that this amendment should be addressed in rule trainings and no changes to ICOTS were necessary.

**Commissioner D. Matson (IL) moved to forward proposals to rule 1.101 and 4.109-2 to the Rules Committee for consideration. Commissioner S. Andrews (OH) seconded. Motion passed.**

### **Old Business**

Commissioner D. Clark (SD) suggested revisiting the Midwest proposals to Rule 5.102 and Rule 5.103-1 approved at the last Midwest Region meeting. He stated that the West Region submitted a similar proposal to Rule 5.103-1 with a 15 day timeframe. He expressed his concern with the proposed word *request* instead of *issue* in Rule 5.103-1 (a).

Commissioner D. Clark (SD) stated that current Rule 5.102 was purposely vague and covered a lot of transfer cases with different outcomes. He suggested withdrawing the Midwest Region proposals as they would have significant unintended consequences.

### **Rule 5.103-1 Mandatory retaking for offenders who abscond**

- (a) ~~Upon~~ No later than 10 days after receipt of an absconder violation report and case closure, the sending state shall ~~issue request~~ request a warrant and, upon apprehension of the offender, file a detainer with the holding facility where the offender is in custody.
- (b) If an offender who has absconded is apprehended on a sending state’s warrant within the jurisdiction of the receiving state that issued the violation report and case closure, the receiving state shall, upon request by the sending state, conduct a probable cause hearing as provided in Rule 5.108 (d) and (e) unless waived as provided in Rule 5.108 (b).
- (c) Upon a finding of probable cause, the sending state shall retake the offender from the receiving state.
- (d) If probable cause is not established, the receiving state shall resume supervision upon the request of the sending state.
- (e) The sending state shall keep its warrant and detainer in place until the offender is retaken pursuant to paragraph (c) or supervision is resumed pursuant to paragraph (d).

### **Rule 5.102 Mandatory retaking for a new felony or new violent crime conviction**

- (a) Upon a request from the receiving state, a sending state shall retake an offender from the receiving state or a subsequent receiving state after the offender's conviction for a new felony offense or new violent crime and:
- (1) completion of a term of incarceration for that conviction; or
  - (2) placement under supervision for that felony or violent crime offense.
- (b) When a sending state is required to retake an offender, the sending state shall ~~issue~~ request a warrant within 10 business days of the response to the violation report and, upon apprehension of the offender, file a detainer with the holding facility where the offender is in custody.

Chair R Marlan (MI) supported Commissioner D. Clark's recommendation. He noted that the wording in the proposals creates conflict with other rules.

Commissioner C. Lauterbach (IA) spoke against the proposal to Rule 5.102 urging the Commission to not pass rules that it could not comply with.

**Commissioner A. Godfrey (MN) moved to withdraw Midwest Region proposals to Rule 5.102 and 5.103-1. Commissioner D. Clark (SD) seconded. Motion passed.**

#### Adjourn

**Commissioner S. Andrews (OH) made a motion to adjourn. Commissioner D. Clark (SD) seconded.**

The meeting adjourned at 2:36 pm ET.