



Interstate Commission for Adult Offender Supervision

Rules Committee Meeting MINUTES

February 25, 2019

WebEx

Members in Attendance:

1. Doug Clark (SD), Chair
2. Dori Littler (AZ), Vice chair
3. Jenny Nimer (FL)
4. Chris Moore (GA)
5. Robert Maccarone (NY)
6. Linda Rosenberg (PA)
7. Brody Burks (TX)
8. Joselyn Lopez (WI)
9. Tracy Hudrlik (MN), Ex-Officio
10. Margaret Thompson (PA), Ex-Officio
11. Pat Odell (WY), Ex-Officio
12. Rick Masters, Legal Counsel

Members not in Attendance:

1. Tim Strickland (FL), Ex-Officio

Guests:

1. Tina Balandran (TX)

Staff:

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

Call to Order

Chair D. Clark (SD) called the meeting to order at 2:00 pm ET. Eight voting members were present, constituting a quorum.

Approval of Agenda and Minutes

Commissioner J. Nimer (FL) moved to approve the agenda. Commissioner B. Burks (TX) seconded. Agenda approved.

Commissioner D. Littler (AZ) moved to approve the minutes from the January 28, 2019 meeting as drafted. Commissioner R. Maccarone (NY) seconded. Minutes approved.

Discussion

The committee reviewed amendments to Rule 1.101 & 4.109-2 requiring additional documentation validation for reporting absconders proposed by the Midwest Region. Chair D. Clark (SD) stated that the proposed changes were more consistent with policy language and legal terminology. He added that this proposal required changes to ICOTS.

Rule 1.101 Definitions

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

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 D. Littler (AZ) inquired about the proposed change to Rule 1.101 regarding offenders’ employment in cases when an offender was unemployed.

Training Coordinator M. Spring stated that Rule 4.109-2 (3) covered this scenario.

The committee reviewed an ICOTS mockup reflecting the proposed change prepared by the national office.

Commissioner C. Moore (GA) inquired about the language “failing to comply with reporting requirements” and expressed his concerns about offenders who failed to report, but were not absconders.

Commissioner D. Littler (AZ) stated that this definition was in line with Arizona’s local definition of abscond. She added that changes to Rule 4.109-2 prevent this scenario by requiring combination of conditions to determine if the offender had absconded.

Commissioner R. Maccarone (NY) moved to forward and recommend the approval of proposal to Rule 1.101 & 4.109-2 submitted by the Midwest Region. Commissioner J. Lopez (WI) seconded. Motion passed.

The committee reviewed an amendment to Rule 4.106 (b) to require additional documentation validation for reporting the imposition of sanctions and incentives on Progress Reports proposed by the West Region. The amendment requires changes to ICOTS.

Rule 4.106 - Progress reports on offender compliance and non-compliance

(a) A receiving state shall submit a progress report to the sending state within 30 calendar days of receiving a request.

(b) A receiving state may initiate a progress report to document offender compliant or noncompliant behavior that does not require retaking as well as incentives, corrective actions or graduated responses imposed. The receiving state shall provide: date(s), description(s) and documentation regarding the use of incentives, corrective actions, including graduated responses or other supervision techniques to address the behavior requiring retaking in the receiving state, and the offender's response to such actions.

(c) A progress report shall include—

1. offender's name;
2. offender's current residence address;
3. offender's current telephone number and current electronic mail address;
4. name and address of offender's current employer;
5. supervising officer's summary of offender's conduct, progress and attitude, and compliance with conditions of supervision;
6. programs of treatment attempted and completed by the offender;
7. information about any sanctions that have been imposed on the offender since the previous progress report;
8. supervising officer's recommendation;
9. any other information requested by the sending state that is available in the receiving state.

Commissioner D. Littler (AZ) stated that when Rules 4.109 and 4.106 were revised in June 2017 to include the language regarding the use of incentives, corrective actions and graduated responses, the requirement to include specific dates, descriptions and documentation was added to Rule 4.109, but not to Rule 4.106. This proposal will mandate the same requirements for specifics and documentation when reporting compliant, non-compliant and behavior requiring retaking.

The national office presented an ICOTS mockup reflecting proposed rule changes. M. Spring noted that the displayed changes might not be intuitive to the end user.

Commissioner D. Littler (AZ) moved to forward and recommend the approval of proposal to Rule 4.106 (b) submitted by the West Region. Commissioner R. Maccarone (NY) seconded. Motion passed.

The committee reviewed an amendment to Rule 5.101 to establish additional requirements and timeframes for discretionary return and retake of offenders by the sending state proposed by the West Region.

Rule 5.101 Discretionary retaking by the sending state

(a) Except as required in Rules 5.101-1, 5.102, 5.103 and 5.103-1 at its sole discretion, a sending state may ~~retake or~~ order the return of an offender. The sending state must notify the receiving state within 15 business days of their issuance of the directive to the offender to return. The receiving state shall request return reporting instructions under Rule 4.111. If the offender does not return to the sending state as ordered, then the sending state shall issue a

warrant no later than 30 calendar days following the offender's failure to appear in the sending state.

- (b) ~~If the offender does not return to the sending state as ordered, then the sending state shall issue a warrant no later than 10 business days following the offender's failure to appear in the sending state.~~ Except as required in Rules 5.101-1, 5.102, 5.103 and 5.103-1 at its sole discretion, a sending state may retake an offender via warrant. The sending state must notify the receiving state within 15 business days of the issuance of their warrant. The receiving state shall assist with the apprehension of the offender and shall notify the sending state once the offender is in custody on the sending state's warrant.

Commissioner D. Littler (AZ) stated that the current rule was silent on notification and tracking offenders who were retaken by sending states at their own discretion. As the result, the Compact Offices cannot track offenders returning to sending states either on their own or via a warrant posing a public safety risk. She added that the proposed changes would make this rule more consistent with Rule 5.103.

Chair D. Clark (SD) stated that it was a timely discussion. All regions had been discussing the warrant issue in the past year and the FY 2020 compliance audit was focused on tracking and documenting warrants. He advised the committee not to add unnecessary timeframes and requirements to rules making it difficult for the Compact Offices to be in compliance.

Commissioner D. Littler (AZ) added that the West Region had a lengthy discussion on proposed timeframes. The region changed the timeframe to 30 calendar days in "the sending state shall issue a warrant no later than 30 calendar days following the offender's failure to appear in the sending state."

Chair D. Clark (SD) noted that 30 calendar days was not listed as a warrant timeframe in the existing rules.

Commissioner D. Littler (AZ) moved to forward and recommend the approval of proposal to Rule 5.101 submitted by the West Region. Commissioner R. Maccarone (NY) seconded. Motion passed.

The committee reviewed a document prepared by the national office listing warrant timeframes in all ICAOS Rules.

Commissioner D. Littler (AZ) suggested continuing this discussion at the face-to-face meeting in April. She recommended creating a Rules Committee proposal to make all timeframes consistent.

Executive Director A. Lippert stated that many states expressed their concern that 10 business day timeframe was not enough.

Chair D. Clark (SD) stated that the committee will discuss the effectiveness of rules on victim notification, sex-offender rule proposals, domestic violence concept forwarded by the West Region, a proposal to Rule 1.101 & 2.110 proposed by the Midwest Region, and the Rules Committee calendar at its face-to-face meeting.

The committee cancelled its March 25 WebEx meeting and will meet again on April 9, 2019 in Louisville, KY.

Adjourn

Commissioner C. Moore (GA) moved to adjourn. Commissioner R. Maccarone (NY) seconded. The meeting adjourned at 3:00 pm ET.