



2019 ANNUAL BUSINESS MEETING MINUTES

Interstate Commission for Adult Offender Supervision

Wyndham San Diego Bayside Hotel • 1355 N Harbor Dr. • San Diego, California
October 9, 2019

Call to Order

Chair J. Stromberg (OR) called the meeting to order at 8:30 a.m. PT. The Richard J. Donovan Correctional Facility Honor Guard presented the flags.

Roll Call

Executive Director A. Lippert called the roll. Fifty-one out of fifty-three members were present, thereby constituting a quorum.

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| 1. Alabama | Tom Langer, Commissioner |
| 2. Alaska | Rebecca Brunger, Commissioner |
| 3. Arizona | Dori Littler, Commissioner |
| 4. Arkansas | Kevin Murphy, Commissioner |
| 5. California | Jeff Green, Commissioner |
| 6. Colorado | Merideth McGrath, Commissioner |
| 7. Connecticut | Gary Roberge, Commissioner |
| 8. Delaware | Terra Taylor, Commissioner |
| 9. District of Columbia | Richard Tischner, Commissioner |
| 10. Florida | Joe Winkler, Commissioner |
| 11. Georgia | Chris Moore, Commissioner |
| 12. Hawaii | Dwight Sakai, Commissioner |
| 13. Idaho | Denton Darrington, Commissioner |
| 14. Illinois | Dara Matson, Commissioner |
| 15. Indiana | Mary Kay Hudson, Commissioner |
| 16. Iowa | Charles Lauterbach, Commissioner |
| 17. Kansas | Hope Cooper, Commissioner |
| 18. Kentucky | Steve Turner, Commissioner |
| 19. Louisiana | Gregg Smith, Official Designee |
| 20. Maine | Patrick Delahanty, Commissioner |
| 21. Massachusetts | Gloriann Moroney, Commissioner |
| 22. Maryland | Martha Danner, Commissioner |
| 23. Michigan | Russell Marlan, Commissioner |
| 24. Minnesota | Allen Godfrey, Commissioner |
| 25. Mississippi | Christy Gutherz, Commissioner |
| 26. Missouri | Julie Kempker, Commissioner |

27. Montana	Cathy Gordon, Commissioner
28. Nebraska	Jacey Rader, Commissioner
29. Nevada	Sheri Sliva, Commissioner
30. New Hampshire	Benjamin Jean, Commissioner
31. New Jersey	Samuel Plumeri, Commissioner
32. New Mexico	Roberta Cohen, Commissioner
33. New York	Robert Maccarone, Commissioner
34. North Carolina	<i>Not in attendance</i>
35. North Dakota	Amy Vorachek, Commissioner
36. Ohio	Katrina Ransom, Commissioner
37. Oklahoma	Frank Mesarick, Official Designee
38. Oregon	Jeremiah Stromberg, Commissioner
39. Pennsylvania	Alan Robinson, Official Designee
40. Puerto Rico	Raquel Colon, Commissioner
41. Rhode Island	Ingrid Siliezar, Official Designee
42. South Carolina	Jerry Adger, Commissioner
43. South Dakota	Doug Clark, Commissioner
44. Tennessee	<i>Not in attendance</i>
45. Texas	Brody Burks, Commissioner
46. Utah	Dan Blanchard, Commissioner
47. Vermont	Dale Crook, Commissioner
48. Virginia	Jim Parks, Commissioner
49. Virgin Islands	Wynnie Testamark, Commissioner
50. Washington	Mac Pevey, Commissioner
51. West Virginia	Diann Skiles, Commissioner
52. Wisconsin	Joselyn Lopez, Commissioner
53. Wyoming	Coltan Harrington, Commissioner

Executive Director A. Lippert recognized ex-officio members:

- American Probation and Parole Association (APPA) – Veronica Cunningham
- American Jail Association (AJA) – *Not in attendance*
- Association of Paroling Authorities International (APAI) – Lonzo Henderson
- Association of Prosecuting Attorneys (APA) – David LaBahn
- Conference of State Court Administrators (COSCA) – Sally Holewa
- Interstate Commission for Juveniles (ICJ) – Tony DeJesus
- International Association of Chiefs of Police (IACP) – *Not in attendance*
- National Governors Association (NGA) – *Not in attendance*
- National Conference of State Legislatures (NCSL) – *Not in attendance*
- Conference of Chief Justices (CCJ) – *Not in attendance*
- National Association of Attorneys General (NAAG) – Amie Ely
- National Institute of Corrections (NIC) – *Not in attendance*
- National Organization for Victim Assistance (NOVA) – *Not in attendance*
- National Association for Public Defense (NAPD) – *Not in attendance*
- National Association of Police Organizations (NAPO) – *Not in attendance*
- National Sheriffs' Association (NSA) – Gabe Morgan

Approval of Agenda and Minutes

Commissioner G. Roberge (CT) moved to approve the agenda as presented. Commissioner D. Crook (VT) seconded. Agenda approved.

Commissioner B. Burks (TX) moved to approve the ABM 2018 minutes as drafted. Commissioner R. Maccarone (NY) seconded. Minutes approved.

Welcome & Overview

Chair J. Stromberg (OR) welcomed the Commission members to San Diego, California.

Chair J. Stromberg (OR) introduced Jeff Green, Commissioner of the State of California to deliver the welcome address.

Commissioner J. Green (CA) welcomed the Commission and introduced Ralph Diaz, Secretary of the California Department of Corrections and Rehabilitation to deliver the keynote speech and an overview of criminal justice reforms in California.

Ex-officio Members Panel

Ex-officio members Veronica Cunningham (APPA), Lonzo Henderson (APAI), David LaBahn (APA), Sally Holewa (COSCA), Antonio DeJesus (ICJ), Amie Ely (NAAG), Michael Buenger (NCSC), Chris Aspen (NCJA), and Gabe Morgan (NSA) spoke about their organizations, current projects, and collaboration with ICAOS.

ABM Planning Workgroup Report

Commissioner H. Cooper (KS), vice-chair and the ABM Planning Workgroup chair, presented the workgroup report to the Commission. She thanked the workgroup members: Dori Littler (AZ), Jerry Powers (CA), Natalie Latulippe (CT), Matthew Billinger (KS), Roberta Cohen (NM), Suzanne Brooks (OH), Jeremiah Stromberg (OR), and Alisha James (TN).

The workgroup recommends an annual business meeting agenda to the Executive Committee for the upcoming year. They do this by reviewing feedback from previous annual business meetings (ABM) and considering input from regions or committees and emerging trends in supervision. Further, they provide support to the hosting state and engagement activities at the ABM.

Commissioner H. Cooper (KS) noted that this year's agenda was primarily built on the recommendations from the post 2018 ABM survey. The workgroup incorporated six out of seven suggested topics as well as four unaddressed issues from the 2017 feedback.

She encouraged all attendees to complete the post meeting survey to develop next year's agenda. The workgroup will meet in the winter to address the 2019 ABM feedback and work on the 2020 Annual Business Meeting and the DCA Training Institute.

Chair J. Stromberg (OR) accepted the ABM Planning Workgroup Report on behalf of the Commission.

Compliance Committee Report

Commissioner A. Godfrey (MN), the Compliance Committee chair, expressed his appreciation for the national office staff and committee members' commitment and hard work throughout the year. He recognized the committee members: Commissioner Jacey Rader (NE), Commissioner Dale Crook (VT), Commissioner Cathy Gordon (MT), Commissioner Amy Vorachek (ND), Commissioner Mike McAlister (NH), Commissioner Hope Cooper (KS), Commissioner James Berry (DC), Commissioner M. McGrath (CO), DCA Suzanne Brooks (OH), and DCA Tina Balandran (TX).

He stated that based on the compliance dashboard reports, the Commission continued to maintain high level of excellence. States' adherence to the outcomes measured across the compliance dashboard continued to trend upward in three of the six primary categories. Between FY2015 and FY2019, significant compliance increases occurred in Case Closure Replies (3.6%), Violation Responses (5.2%) and Transfer Replies at (3.4%). Requested Progress Report compliance has dipped in recent years, possibly due to rule changes, prompting the committee to monitor and evaluate this standard. While Case Closure Notices and RFRI Replies have leveled, they remain relatively high for compliance.

In the past year, the Compliance Committee addressed two formal complaints for failure to retake an offender and failure to issue a compact compliant warrant. The committee made a recommendation to require the state to complete a corrective action plan while holding a \$10K fine in abeyance.

The committee revised the following ICAOS administrative policies: 03-2008 Guidelines for Resolving Compliance Issues, 01-2019 Compliance Sanctioning Guidelines, and 05-2009 Compliance Audit.

The committee continues to monitor the compliance dashboards on an annual basis. Three out of six states that had fallen below 80% compliance rate for the year improved their standing. The committee was working with the national office to put the remaining three states above the 80% compliance rate.

Commissioner A. Godfrey (MN) stated that in the upcoming year, the committee would focus on states compliance with warrants. The FY 2020 audit focused on review of state procedures for issuing compact compliant warrants in accordance with ICAOS rules for absconders and retaking. Consequently, the Executive Committee formed a workgroup consisting of Compliance Committee and Rules Committee members to analyze the audit results and make a recommendation for the FY2021 audit.

Commissioner D. Clark (SD) moved to accept the Compliance Committee report as presented. Commissioner G. Roberge (CT) seconded. Motion passed unanimously.

DCA Liaison Committee Report

DCA T. Hudrlik (MN), the DCA Liaison Committee chair, presented her report to the Commission. She thanked the national office staff and the committee members for their work: Natalie Latulippe (CT), Matthew Billinger (KS), Julie Lohman (VA), Judy Mesick (ID), Margaret Thompson (PA), Simona Hammond (IA), Timothy Strickland (FL), and Pat Odell (WY). She

introduced the new committee members: Tanja Gilmore (WA), Elizabeth Powell (DC), and Dennis Clark (ME).

DCA T. Hudrlik (MN) stated that the DCA Liaison Committee's mission was to provide a mechanism for Deputy Compact Administrators (DCAs) to communicate concerns or needs and act as a liaison to improve the communication and relationship between Commissioners and DCAs.

She encouraged DCAs to reach out to their DCA Region Chairs. She introduced the DCA Region chairs:

- Natalie Latulippe (CT), East Region DCA Chair
- Matthew Billinger (KS), Midwest Region DCA Chair
- Timothy Strickland (FL), South Region DCA Chair
- Tanja Gilmore (WA), West Region DCA Chair

In the past year, the committee approved and forwarded recommended ICOTS enhancements to the Technology Committee and clarified rule interpretations. In addition, the committee produced a quarterly DCA-focused newsletter that included items such as compact office staff highlights and recognition, new staff and retirement announcements, region reports, tip of the quarter and best practices, and highlights of difficult cases and resolutions between states. She encouraged DCAs to submit their topic suggestions or ICOTS questions or concerns to address in future editions.

DCA T. Hudrlik (MN) reminded the Commission about the DCA Mentoring Program. The mentoring program is designed to coach, train, and counsel new and existing DCAs on the operations of a compact office and to provide guidance to DCAs in need of assistance when resolving difficult compliance issues in their state. The mentoring program encourages active participation in the Commission and regions, as well as collaboration with member states to promote successful strategies and best practices.

In the upcoming year, the committee will assist with planning and implementing the DCA Training Institute at the 2020 Annual Business Meeting.

Commissioner D. Littler (AZ) moved to accept the DCA Liaison Committee report as presented. Commissioner M. Pevey (WA) seconded. Motion passed unanimously.

Finance Committee Report

Commissioner G. Roberge (CT), Treasurer and the Finance Committee Chair, thanked the Connecticut Interstate Compact team, the national office staff, and the Finance Committee members. The committee members include: Commissioner Tom Langer (AL), Commissioner Mary Kay Hudson (IN), Commissioner Christy Gutherz (MS), Commissioner Sheri Sliva (NV), Commissioner Charles Lauterbach (IA), and DCA Debbie Duke (TN).

In the past year, the Finance Committee met four times to track the Commission's expenditures, review the current budget, and prepare the FY 2021 budget.

Commissioner G. Roberge (CT) stated that the Commission was in a good financial health. Its cash balance of \$1,581,915.63 was maintained in a savings account with 1.5% annual interest.

The Commission finished FY 2019 4.3% under budget carrying \$59,655 into reserves. The Commission's total expenses in FY 2019 were \$1,522,024.

The Commission maintains investments in two long-term Vanguard investment accounts. These funds include an investment grade bond fund and a total stock market index fund. The balance in the Vanguard funds as of June 30, 2019 totals \$1,782,623.70. In FY 2019, the rate of return on these investments for the fiscal year was 7.5%. The Commission stopped making new contributions to the long-term investment program in FY 2015.

The Commission has not needed to increase membership dues since 2008 and no dues increase is recommended for FY 2021. The Commission collects \$1,516,253 in dues assessments annually and estimates spending for FY 2020 to total \$1,546,850.

Commissioner G. Roberge (CT) stated that the Commission successfully completed a financial audit by an independent auditor. The auditor found the Commission in good financial status and provided a clean and unmodified report. The audit report is included in the FY 2019 Annual Report.

Commissioner G. Roberge (CT) presented the FY2021 budget for Commission's vote. The budget was consistent with prior years with modest economical increases.

Commissioner R. Maccarone (NY) moved to approve the FY 2021 budget as presented. Commissioner B. Burks (TX) seconded. Motion passed unanimously.

Commissioner D. Crook (VT) moved to accept the Finance Committee report as presented. Commissioner D. Matson (IL) seconded. Motion passed unanimously.

Information Technology Report

Commissioner C. Moore (GA), the Information Technology Committee Chair, thanked the national office staff and the Information Technology Committee members for their service: Dan Blanchard (UT), Mac Pevey (WA), Joselyn Lopez (WI), Matthew Billinger (KS), Candice Alfonso (NJ), Daryn Cobb (MI), and Julie Lohman (VA).

In the past year, the committee worked on the following projects:

FBI NDex Data Sharing - Each month, the national office exports over 200,000 compact records, which includes offender case and offense information, to the FBI NDex data center.

Fusion Center Data Sharing - The national office made a concerted effort to expand the number of fusion centers participating in the ICOTS data sharing program. Through these efforts and with assistance from SEARCH, the National Consortium for Justice Information and Statistics, the number of fusion centers receiving ICOTS data doubled in FY 2019. The national office will continue to pursue expansion of the data sharing project with more fusion centers in FY 2020.

ICOTS White Paper - The Information Technology Committee recommended the Executive Committee publish a white paper detailing the use of ICOTS documents and data in court proceedings. On behalf of the Commission, the Executive Committee approved and published this white paper, titled “Legal Implications of the Interstate Compact Offender Tracking System (ICOTS)” on December 19, 2018.

ICOTS Helpdesk Support - The ICOTS Helpdesk received approximately 736 ICOTS support tickets throughout the 2019 fiscal year, which is around a 16.3% decrease from FY 2018, in which the helpdesk received 879 tickets. The decrease of 143 tickets this year can be mainly attributed to the effective training and documentation provided prior to the ICOTS enhancement releases during the year. FY 2018 saw a significant number of training related tickets involving the new functionality added to ICOTS.

ICOTS Enhancement Policy - The Information Technology Committee approved and recommended to the Executive Committee the adoption of a new administrative policy for *Enhancement Requests for Electronic System Authorized by the Commission*. The policy defines procedures for referring and managing ICOTS enhancement requests authorized by the Commission and outlines the responsibilities for the request originator, Technology Committee, ICAOS National Office, and Commission. The policy was published on December 19, 2018.

ICOTS FY 2019 Enhancements - During FY 2019, Apriss produced and implemented four new code releases to the ICOTS production environment. Those four releases accounted for 14 new functional enhancements to the ICOTS system. Only two minor bugs were reported during the code releases and each bug was resolved within hours of being reported. A few of the highlights from this past year’s enhancements include:

1. New Workflow Process for Return to Sending State RFRI
2. Generate Notifications when Notice of Arrival is Due for Returning Offenders
3. Allow State Administrators to Edit Compact Office Information
4. Allow Supervisor to Inherit Direct Reports
5. Generate Notifications when Offender Changes Primary Residence

ICAOS Dashboards - The national office added eight new dashboards to the repository of visualization tools available to commissioners and compact offices, bringing the total to 45. The new dashboards cover violation summary information, last transmitted activities, and compliance summary reports by fiscal year. The framework behind the dashboards was also updated to the latest version, which allowed the new compliance dashboards to be built with automatic email notifications. Commissioners and DCAs now receive a quarterly email of their state’s progress on all six compliance standards in the fiscal year to date.

Goals and challenges for FY 2020- In the upcoming year, the committee will continue to provide guidance to the Commission with respect to future ICOTS enhancements; continue to explore options to expand and enhance data sharing opportunities with federal and local criminal justice agencies; ensure that data exports and notifications to external stakeholders contain accurate and timely information; and continue to work on the NCIC initiative to improve the Wanted Person File related to Interstate Compact warrants and bond information for re-taking purposes.

Commissioner C. Moore (GA) thanked the Commission for continued support of the technology projects.

Commissioner J. Adger (SC) moved to accept the Information Technology Committee Report as presented. Commissioner B. Jean (NH) seconded. Motion passed unanimously.

Training, Education & Public Relations Committee Report

Commissioner J. Rader (NE), the Training Committee Chair, recognized the committee members: Roberta Cohen (NM); Dara Matson (IL); Russell Marlan (MI); Amy Vorachek (ND); Patricia Coyne-Fague (RI); Jim Parks (VA); and ex-officio Sally Reinhardt-Stewart (NE), ex-officio Mark Patterson (OR), and ex-officio Tanja Gilmore (WA). She thanked the national office staff for its support.

The Training Committee continues to improve and expand training efforts to assist states in educating criminal justice professionals involved in interstate compact business. This year, the committee provided trainings for compact staff with participation from nearly every member state. Topics for these trainings were ICOTS enhancements, ICOTS process for Reporting Instructions for Returning Offenders, review of compliance and administrative dashboards, ICOTS Whitepaper, and user administration tips.

The committee presented at the American Probation and Parole Association (APPA) and the Association of Paroling Authorities International (APAI) conferences, as well as three states per the Commission's Training and Technical Assistance Policy. She added that the Training and Technical Assistance Policy supported states' in-state training initiatives and opportunities and encouraged commissioner to utilize the policy.

Commissioner J. Rader (NE) stated that in conjunction with the DCA Liaison Committee, the Training Committee prepared two sessions for this year's Annual Business Meeting. These sessions focused on supervision in the receiving state and best practices for DCAs.

Commissioner J. Rader (NE) stated that the Training Committee engaged regularly with the DCA Liaison Committee to support training initiatives and DCA Liaison Committee goals.

Other notable committee accomplishments included promoting the Commission as a whole with professional partners including APPA & APAI, adding several new ICOTS resources to ICAOS Support, and providing training to more than 5,000 individuals.

The committee's ongoing focus was:

- To look toward the ICOTS Training Integration Project Plan; a tool that will provide on-demand resources when ICOTS users require help or have questions while using ICOTS, increase the probability of data integrity, and provide real-time connection to rules
- To support state compact offices' responsibilities to train and involve stakeholders in their state on ICAOS rules, purposes and authority to provide the same level of supervision afforded to local offenders

- To turn attention to supporting states in creating their own in-state training opportunities for staff and local offices, stakeholders, judges, law enforcement, district attorneys, and jail administrators; and
- To continue to innovate ways to promote each state's unique initiatives and educate around the idea of treating all offenders as we do our own

Commissioner M. Pevey (WA) moved to accept the Training, Education & Public Relations Committee Report as presented. Commissioner J. Lopez (WI) seconded. Motion passed unanimously.

Rules Committee Report

Commissioner D. Clark (SD), the Rules Committee Chair, thanked the Rules Committee members and the national office staff for their hard work in the past two years. Since the last business meeting, the committee met seven times via phone and one time face-to-face. The Rules Committee members were Dori Littler, Vice Chair (AZ), Joe Winkler (FL), Chris Moore (GA), Robert Maccarone (NY), Linda Rosenberg (PA), Brody Burks (TX), Joselyn Lopez (WI), DCA Timothy Strickland (FL), DCA Tracy Hudrlik (MN), DCA Margaret Thompson (PA), and DCA Patricia Odell (WY).

Commissioner D. Clark (SD) presented the 2019 rule proposals:

ICAOS Bylaws, Section 2 – Ex-Officio Members

Commissioner D. Clark (SD) presented a proposal to amend ICAOS Bylaws, Article II, Section 2 submitted by the Executive Committee. The proposal's intent was to add the National Criminal Justice Association (NCJA) to the Commission's Ex-Officio member list.

Section 2. Ex-Officio Members

The Commission membership shall also include but are not limited to individuals who are not commissioners and who shall not have a vote, but who are members of interested organizations. Such non-commissioner members must include a representative of the National Governors Association, the National Conference of State Legislatures, the Conference of Chief Justices, the National Association of Attorneys General and the National Organization for Victim Assistance. In addition, representatives of the National Institute of Corrections, the American Probation and Parole Association, Association of Paroling Authorities International, the Interstate Commission for Juveniles, the Association of Prosecuting Attorneys, the Conference of State Court Administrators, the National Sheriff's Association, the American Jail Association, the National Association of Police Organizations, the National Association for Public Defense, the National Criminal Justice Association and the International Association of Chief of Police may be ex-officio members of the Commission.

Justification:

This amendment updates and expands the ex-officio organizations/members.

Effect on other rules, advisory opinions or dispute resolutions:

None.

ICOTS impact:

None.

Commissioner D. Clark (SD) moved to amend ICAOS Bylaws, Article II, Section 2 as presented. Commissioner D. Littler (AZ) seconded. Motion passed unanimously.

Chair J. Stromberg (OR) welcomed Chris Aspen, NCJA representative, to the Commission.

Rule 1.101- Definition of ‘Abscond’ and amend Rule 4.109 Absconding Violation

Commissioner D. Clark (SD) presented a proposal to amend Rule 1.101- Definition of ‘Abscond’ and Rule 4.109 Absconding Violation submitted by the Midwest Region. The proposal required additional documentation validation for reporting absconders. He advised the Commission that the proposal had an ICOTS impact of \$2,850.

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) Documenting 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).

Justification:

Section (a): the term “reason to believe” could be better defined. The revision is more consistent with policy language and legal terminology.

Section (a)(1): identifies a contact that is oftentimes completed but not necessarily reported to the receiving state. This further validates absconder status.

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.

ICOTS impact:

Yes. \$2,850

- Change definition of Absconder in the Add Violation screen
- Change text of Detail how the offender was determined to be an absconder field.

Scope and Metric

In 2018, 8,463 absconders were reported in ICOTS. Currently, 60% of violation reports in ICOTS are reports of absconders.

Commissioner D. Clark (SD) moved to adopt the proposal to amend Rule 1.101- Definition of ‘Abscond’ & Rule 4.109 Absconding Violation as presented. Commissioner A. Vorachek (ND) seconded. Motion passed by vote 50 to one.

Rule 1.101-Revise Definition of ‘Sex Offender’ & 3.101-3 Transfer of supervision of sex offenders; investigation; additional documents and reporting instructions; 3.107 Transfer Request

Commissioner D. Clark (SD) presented proposals to amend Rule 1.101 - Definition of ‘Sex Offender’; Rule 3.101-3 Transfer of supervision of sex offenders; and 3.107 Transfer Request submitted by the Rules Committee.

Commissioner D. Clark (SD) informed the Commission that the Executive Committee charged the Rules Committee to review and update existing sex-offender rules. The Rules Committee assembled this proposal package by addressing various issues identified through regions and committees.

Commissioner D. Clark (SD) added that this package had ICOTS impact of \$27,150.

Commissioner D. Littler (AZ) stated that the AZ State Council supported this proposal package. At first, the council was concerned with striking Rule 1.101-3(b)(4) “~~law enforcement report that provides specific details of sex offense;~~”, then it understood, that 99% cases involved registered offenders in the sending state where the law enforcement report would be captured under Rule 3.107.

Commissioner D. Littler (AZ) stated that her state council agreed that this proposal package further defined sex-offenders in time of internet and did not preclude the receiving states from imposing necessary registration or supervision requirements on offenders.

Rule 1.101 Definitions

“**Sex offender**” means an adult placed under, or made subject to, supervision as the result of the commission of a criminal offense and released to the community under the jurisdiction of courts, paroling authorities, corrections, or other criminal justice agencies, and who is registered or required to register as a sex offender either in the sending or receiving state or is under sex offender terms and conditions in the sending state and who is required to request transfer of supervision under the provisions of the Interstate Compact for Adult Offender Supervision.

Rule 3.101-3 Transfer of supervision of sex offenders: eligibility and reporting instructions, investigation, and supervision

(a) *Eligibility for Transfer*-At the discretion of the sending state a sex offender shall be eligible for transfer to a receiving state under the Compact rules. A sex offender shall

not be allowed to leave the sending state until the sending state's request for transfer of supervision has been approved, or reporting instructions have been issued, by the receiving state. In addition to the other provisions of Chapter 3 of these rules, the following criteria will apply.

- (b) *Application for Transfer and Investigation*-In addition to the information required in an application for transfer pursuant to Rule 3.107, ~~in an application for transfer of supervision of a sex offender~~ the sending state shall provide the following information, if available, to assist the receiving state in the investigation of the transfer request of a sex offender supervising the offender:
- ~~(1)~~ (1) All assessment information completed by the sending state; including sex offender specific assessments;
 - ~~(2)~~ social history;
 - ~~(3)~~ information relevant to the sex offender's criminal sexual behavior;
 - ~~(4)~~ law enforcement report that provides specific details of sex offense;
 - ~~(5)~~ (2) victim information if distribution is not prohibited by law
 - (A) the name, sex, age and relationship to the offender;
 - (B) the statement of the victim or victim's representative; and
 - ~~(6)~~ (3) the sending state's current or recommended supervision and treatment plan.
- (c) Additional documents necessary for supervision in the receiving state, such as a law enforcement report regarding the offender's prior sex offense(s), sending state's risk and needs score, or case plan may be requested from the sending state following acceptance of the offender. If available, the sending state shall provide the documents within 30 calendar days from the date of the request unless distribution is prohibited by law.
- (d) A sending state shall provide the following for reporting instructions requests submitted pursuant to this section:
- (1) A narrative description of the instant offense in sufficient detail to describe the circumstances, type and severity of offense and whether the charge was reduced at the time of imposition of sentence;
 - (2) Conditions of supervision;
 - (3) Any orders restricting the offender's contact with victims or any other person; and
 - (4) Victim information to include the name, sex, age and relationship to the offender, if available and if distribution is not prohibited by law.
- (e) No travel permit shall be granted by the sending state until reporting instructions are issued by the receiving state; except as provided in Rule 3.102 (c).
- (f) *Reporting instructions for sex offenders living in the receiving state at the time of sentencing, transfers of military members, families of military members, employment transfer of the offender or family member, or veterans for medical or mental health services* - Rules 3.101-1 & 3.103 ~~and 3.106~~ apply to the transfer of sex offenders, as defined by the compact, except for the following:
- ~~(1)~~ The receiving state shall have issue reporting instructions no later than 5 business days following the receipt of such a request from the sending state unless similar sex offenders sentenced in the receiving state would not be permitted to live at the proposed residence. to review the proposed residence to ensure compliance with local policies or laws prior to issuing reporting instructions.

- (2) ~~If the proposed residence is invalid due to existing state law or policy, review the proposed residence. to ensure compliance with local policies or laws prior to issuing reporting instructions.~~
- (3) ~~No travel permit shall be granted by the sending state until reporting instructions are issued by the receiving state; except for Rule 3.102 (e).~~
- (g) Expedited reporting instructions for sex offenders – Rule 3.106 applies to the transfer of sex offenders, as defined by the compact; except, the receiving state shall provide a response to the sending state no later than 5 business days following receipt of such a request.

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) A narrative description of the instant offense in sufficient detail to describe the circumstances, type and severity of offense and whether the charge ~~has been~~ was reduced at the time of imposition of sentence;
 - (2) photograph of offender;
 - (3) conditions of supervision;
 - (4) any orders restricting the offender’s contact with victims or any other person;
 - (5) any known orders protecting the offender from contact with any other person;
 - (6) information as to whether the offender is subject to sex offender registry requirements in the sending state along with supportive documentation;
 - (7) pre-sentence investigation report, unless distribution is prohibited by law or it does not exist;
 - (8) information as to whether the offender has a known gang affiliation, and the gang with which the offender is known to be affiliated;
 - (9) supervision history, if the offender has been on supervision for more than 30 calendar days at the time the transfer request is submitted;
 - (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.
 - (11) summary of prison discipline and mental health history during the last 2 years, if available, unless distribution is prohibited by law.
- (b) A copy of the signed Offender Application for Interstate Compact Transfer shall be attached to the transfer request.
- (c) Additional documents necessary for supervision in the receiving state, such as the Judgment and Commitment, may be requested from the sending state following acceptance of the offender. If available, the sending state shall provide the documents within 30 calendar days from the date of the request unless distribution is prohibited by law. ~~The sending state shall provide the documents within no more than 30 calendar days from the date of the request, unless distribution is prohibited by law or a document does not exist.~~

Justification:

Rule 1.101-Definition of “Sex Offender”: The current definition is often misinterpreted. It is not clear whose responsibility it is to determine registration in the receiving state; often offenders are allowed to proceed if they were living in the receiving state at the time of sentencing and not required to register in the sending state. The receiving state would still be able to impose registration requirements and sex offender conditions (Rule 4.101).

Rule 3.101-3-(b): Clarify this section is applicable to information to be provided for the investigation of a transfer request for a sex offender, remove undefined and vague terms and move requests for documents that may be needed to supervision to new section (c)

(c): Breaks out documentation that may be needed to supervision consistent with Rule 3.107 versus an investigation to ensure investigation is not delayed.

(d): Require relevant information related to the offender's crime, conditions, restrictions and victim information when reporting instructions are requested.

(e): Consistent with current rule, no travel permits are allowed for sex offenders without reporting instructions.

(f): Clarify that the 5 days to respond to a request for reporting instructions for sex offenders who meet mandatory criteria for transfer is for the receiving state to review the proposed residence. The new language ensures that denials of reporting instructions are only transmitted when the receiving state documents that a similar sex offender convicted in the receiving state would not be permitted to live at that residence. This will assist an offender in coming up with a new plan for a resubmittal.

(g): Clarify that Rule 3.106 applies to sex offenders except that the receiving state has 5 days to respond to a request for reporting instructions.

Rule 3.107 (a)(1)-Grammatical change

Rule 3.107 (c)-Make language consistent with new language as proposed to Rule 3.101-3.

Effect on other rules, advisory opinions or dispute resolutions:

Title change for Rule 3.101-1: *Mandatory reporting instructions and transfers of military members, families of military members, employment transfer of the offender or family member, s-employed, employment transfer and/or veterans for medical or mental health services*

ICOTS impact:

Yes. \$27,150

- Remove Receiving State Sex offender screen from RI Reply and TREQ
- Alter definition of Sex Offender on other screens in ICOTS to be SENSTA only.
- Alter definition of Sex Offender on PDFs to be SENSTA only.

Scope and Metric

As of April 24, 2019, 'sex offenders' (as currently defined) make up 9,160 (or 8%) of all compact offenders under active supervision in the receiving state.

As of July 8, 2019 there are 10,572 active cases in which the offender is a registered sex offender in either just the sending state or both the sending and receiving states (as currently defined.) There are currently 16 active compact cases in which the offender is a registered sex offender in the receiving state, but not in the sending state.

Commissioner D. Clark (SD) moved to adopt the proposal to amend Rule 1.101-Definition of 'Sex Offender', 3.101-3 Transfer of supervision of sex offenders, and 3.107 Transfer

Request as presented. Commissioner G. Roberge (CT) seconded. Motion passed by vote 48 to three.

Rule 1.101-Remove Definition of ‘Victim-Sensitive’ & ‘Temporary Travel Permit,’ Rule 3.108 Victims’ right to be heard and comment; Rule 3.108-1 Victim Notification & requests for offender information; and Rule 4.111 Returning Offenders.

Commissioner D. Clark (SD) noted that at the last business meeting, the Commission voted to discontinue the use of IVINS and instructed the Rules Committee to evaluate the effectiveness of victim notification and recommend rule changes. The proposed revisions were the result of the Rules Committee’s efforts to meet this charge.

The Rules Committee relied on three key areas in the review of the effectiveness of the current victim related definitions and rules: the 2018 ABM decision to discontinue the use of IVINS; the 2018 IVINS Survey Results; and how the current rules fit in with the purpose of the Compact.

The majority of surveyed states indicated that there should be effective communication between the receiving states and sending states but that the sending states were solely responsible for victim notification as prescribed by processes they had established. The Compact supported this communication between states by the very nature of business of tracking offender movement and providing active supervision via the authorized electronic information system (ICOTS).

Commissioner D. Clark (SD) presented the proposals to the Commission for review and discussion.

Rule 1.101 Definitions

~~“Temporary travel permit” means, for the purposes of Rule 3.108 (b), the written permission granted to an offender, whose supervision has been designated a “victim sensitive” matter, to travel outside the supervising state for more than 24 hours but no more than 31 calendar days. A temporary travel permit shall include a starting and ending date for travel.~~

~~“Victim sensitive” means a designation made by the sending state in accordance with its definition of “crime victim” under the statutes governing the rights of crime victims in the sending state. The receiving state shall give notice of offender’s movement to the sending state as specified in Rules 3.108 and 3.108-1.~~

Rule 3.108-1 Victims’ right to be heard and comment

- (a) When an offender submits a request to transfer to a receiving state or a subsequent receiving state, or to return to a sending state, the victim notification authority in the sending state shall, ~~at the time of notification to the victim as required in Rule 3.108 (a);~~ inform victims of the offender of their right to be heard and comment. Victims of the offender have the right to be heard regarding their concerns relating to the transfer request for their safety and family members’ safety. Victims have the right to contact the sending state’s interstate compact office ~~at any time by telephone, telefax, or conventional or electronic mail~~ regarding their concerns relating to the transfer request for their safety and family members’ safety. The victim notification authority in the sending state shall provide victims of the offender with information regarding how to respond and be heard if the victim chooses.

- (b)
- (1) Victims shall have 15 business days from receipt of notice required in Rule 3.108-1(a) to respond to the sending state. Receipt of notice shall be presumed to have occurred by the 5th business day following its sending.
 - (2) The receiving state shall continue to investigate the transfer request while awaiting response from the victim.
- (c) ~~Upon receipt of the comments from victims of the offender, the sending state shall consider comments regarding their victim related concerns relating to the transfer request for their safety and family members' safety. Victims' comments shall be confidential and shall not be disclosed to the public. The sending state or receiving state may impose special conditions of supervision on the offender to address victim related concerns, if the safety of the offender's victims or family members of victims is deemed to be at risk by the approval of the offender's request for transfer.~~
- (d) The sending state shall respond to the victim no later than 5 business days following receipt of victims' related concerns. ~~comments, indicating how victims' concerns will be addressed when transferring supervision of the offender.~~

Rule 3.108-1 Victim notification and requests for offender information

- (a) *Notification to victims upon transfer of offenders-* Within 1 business day of the issuance of reporting instructions or acceptance of transfer by the receiving state, the sending state shall initiate notification procedures to victims of the transfer of supervision of the offender in accordance with its own laws ~~to known victims in the sending state, and the receiving state shall initiate notification procedures of the transfer of supervision of the offender in accordance with its own laws to victims in the receiving state.~~
- (b) The receiving state shall respond to requests for offender information from the sending state no later than the 5th business day following the receipt of the request.
- (c) *Notification to victims upon violation by offender or other change in status-*
- (1) ~~The receiving state is responsible for reporting information to the sending state when an offender-~~
 - (A) Engages in behavior requiring retaking;
 - (B) Changes address;
 - (C) Returns to the sending state where an offender's victim resides;
 - (D) Departs the receiving state under an approved plan of supervision in a subsequent receiving state; or
 - (E) Is issued a temporary travel permit where supervision of the offender has been designated a victim sensitive matter.
 - (2) ~~Both the sending state and the receiving state shall notify known victims in their respective states of this information in accordance with their own laws or procedures.~~

Rule 4.111 Offenders returning to the sending state

- (a) For an offender returning to the sending state, the receiving state shall request reporting instructions, unless the offender is under active criminal investigation or is charged with a subsequent criminal offense in the receiving state. The receiving state

shall provide the sending state with the reason(s) for the offender's return. The offender shall remain in the receiving state until receipt of reporting instructions.

- (b) If the receiving state rejects the transfer request for an offender who has arrived in the receiving state with approved reporting instructions under Rules 3.101-1, 3.101-3, 3.103 or 3.106, the receiving state shall, upon submitting notice of rejection, submit a request for return reporting instructions within 7 business days, unless 3.104 (b) or (c) applies or if the location of the offender is unknown, conduct activities pursuant to Rule 4.109-2.
- (c) Except as provided in subsection (e), the sending state shall grant the request no later than 2 business days following receipt of the request for reporting instructions from the receiving state. The instructions shall direct the offender to return to the sending state within 15 business days from the date the request was received.
- (d) The receiving state shall provide the offender reporting instructions and determine the offender's intended departure date. If unable to locate the offender to provide the reporting instructions, the receiving state shall conduct activities pursuant to Rule 4.109-2.
- (e) ~~In a victim sensitive case, the sending state shall not provide reporting instructions until the victim notification provisions of Rule 3.108 (b)(1)(C) have been followed.~~
- (f) The receiving state retains authority to supervise the offender until the offender's directed departure date or issuance of the sending state's warrant. Upon departing, the receiving state shall notify the sending state as required in Rule 4.105 (a) and submit a case closure as required by Rule 4.112 (a)(5). The sending state shall notify the receiving state of the offender's arrival or failure to arrive as required by Rule 4.105 (b) prior to validating the case closure notice.
- (g) If the offender does not return to the sending state as ordered, the sending state shall issue a warrant no later than 10 business days following the offender's failure to appear in the sending state.

Justification:

Rules 1.101 Definitions of "Victim sensitive" and "Temporary travel permit": Proposal to strike both definitions because they only occur in subsection (b) of Rule 3.108.

Justification: These definitions only occur in subsection (b) of Rule 3.108 so the recommendation to strike them must be included in the proposal package.

Rule 3.108-1 Victims' right to be heard and comment: Proposal to revise the rule number to 3.108 and minor suggestions to simplify and clean up antiquated language.

Justification: Simplify language and clean up antiquated language such as "telefax."

Rule 3.108 Victim notification: Proposal to revise the rule number to 3.108-1 and add "requests for offender information" to the title. Proposal to strike subsection (b) in its entirety, including any definitions contained solely therein.

Justification: The proposals to strike subsection (b) and the definitions contained therein relies heavily on the facts that victim notification involving compact offenders has been and remains the responsibility of the sending states and that 4 out of 5 of the notifications to the sending states contained in (b) are not necessary since they are governed under separate rules. The receiving state need not know which sending state cases involve a victim since notification of the activities listed are provided in “all” cases under existing rules.

For example, when an offender engages in behavior requiring retaking, notification is made to the sending state under Rule 5.103 and via a violation report in ICOTS; notification to the sending state of changes to the offender’s primary address occurs via automated ICOTS email notifications; offenders returning to the sending state is governed under Rule 4.111; offenders departing to a subsequent receiving state is governed under Rule 4.110. Sending states are currently making required victim notifications when any of these activities are received under these existing rules.

Rule 4.111 Offenders Returning to the Sending State: Proposal to strike section (e)

Justification: With the removal of the ‘victim sensitive’ definition/special status and clarification that the sending state is responsible to manage and provide victim notification, section (e) should be struck.

Effect on other rules, advisory opinions or dispute resolutions:

No

ICOTS impact:

Yes. \$18,015

- Remove all references to Victim Sensitive Details from TREQ and RFRI and responses.
- Remove all references to Victim Sensitive Details on other screens in ICOTS.
- Remove all references to Victim Sensitive Details on PDFs.

Scope and Metric

Currently (as of 8-15-2019), there at 15,000 cases marked ‘victim sensitive’ (21% of active cases) However, states report the indicator is not used consistently as defined in the rules.

Commissioner R. Maccarone (NY) was in support of the package stating that it served the interests of victims. He noted his concern with striking definition of victim sensitive and urged to reconsider.

Chair J. Stromberg (OR) stated that the Rules Committee and the Executive Committee had a number of robust and difficult conversations around these issues. He thanked the Rules Committee for their work on this proposal. He added that Oregon would vote in support of this proposal.

Commissioner D. Clark (SD) moved to adopt proposals to amend Rule 1.101-Definition of ‘Victim-Sensitive’ & ‘Temporary Travel Permit,’ Rule 3.108 Victims’ right to be heard and comment; Rule 3.108-1 Victim Notification & requests for offender information; and Rule

4.111 Returning Offenders as presented. Commissioner S. Sliva (NV) seconded. Motion passed by vote 47 to four.

Rule 3.110 Travel Permits

Commissioner D. Clark (SD) presented a proposal to create a new Rule 1.110 Travel Permits submitted by the Rules Committee. The proposed rule would require the receiving state to notify the sending state of the issuance of a travel permit that allowed travel back to the sending state. The notification must be made prior to the issuance of the permit and exceptions were made for border travel similar to exceptions outlined in Rule 3.102 during the transfer investigation.

New Rule 3.110 Travel Permits

- (a) Notification of travel permits - The receiving state shall notify the sending state prior to the issuance of a travel permit for an offender traveling to the sending state.
- (b) This rule does not apply to offenders who are employed or attending treatment or medical appointments in the sending state, provided that the following conditions are met:
- (1) Travel is limited to what is necessary to report to work and perform the duties of the job or to attend treatment or medical appointments; and
 - (2) The offender shall return to the receiving state immediately upon completion of the appointment or employment.

Justification: This new rule would replace subsection (b) (1) (E) of existing Rule 3.108 and would make this notification stand alone. This proposal is in keeping with the purposes of the compact and with providing effective communication about offender movement between states. If a sending state is notified that their offender is traveling back to their state on a travel permit, the sending state is better equipped to notify any victims associated with the case. This proposal limits the notification to travel permits issued for travel to the sending state only and is not required for known travel for employment or medical appointments; this is not believed to be burdensome on the receiving states.

Effect on other rules, advisory opinions or dispute resolutions:

No

ICOTS impact:

Yes. \$18,015 *To be decided by Commission vote as separate motion*

- Remove all references to Victim Sensitive Details from TREQ and RFRI and responses.
- Remove all references to Victim Sensitive Details on other screens in ICOTS.
- Remove all references to Victim Sensitive Details on PDFs.

Scope and Metric

Currently (as of 8-15-2019), there at 15,000 cases marked 'victim sensitive' (21% of active cases) However, states report the indicator is not used consistently as defined in the rules.

Commissioner D. Littler (AZ) stated that the new rule was instrumental for a sending state to comply with victim notification requirements adding that the rule also enhanced officers' safety. She noted that the AZ State Council was in support of this rule and urged the Commission to pass it.

Commissioner D. Clark (SD) moved to adopt new Rule 1.110 Travel Permits as presented. Commissioner D. Littler (AZ) seconded. Motion passed by vote 45 to six.

Victim Sensitive indicator in ICOTS

Commissioner D. Clark (SD) stated that the Rules Committee specifically decided to ask Commission for a separate vote on removal of victim sensitive indicator in ICOTS. Based on rule proposal comments, the committee found out that some states use this indicator for internal processes. In addition, the Rules Committee did not find anything procedurally wrong with leaving the indicator in ICOTS. The cost for removal of victim sensitive indicator from ICOTS was \$18,015.

Commissioner D. Littler (AZ) and Commissioner B. Burks (TX) will vote in support of leaving the indicator in ICOTS.

Commissioner R. Maccarone (NY) stated that leaving the indicator in ICOTS enhanced victims' rights.

Commissioner D. Clark (SD) moved to adopt ICOTS impact changes and remove Victim Sensitive indicator priced for \$18,015. Commissioner H. Cooper (KS) seconded. Motion failed by vote seven to 44.

3.101-1(a)(1) & (a)(2)- Mandatory reporting instructions and transfers of military, families of military, family members employed, employment transfer, and veterans for medical or mental health services

Commissioner D. Clark (SD) presented the proposal to the Commission. The proposal replaced 'deployed by the military' to 'under orders; "Under orders" applies to a permanent change of station.

Rule 3.101-1 Mandatory reporting instructions and transfers of military, families of military, family members employed, employment transfer, and veterans for medical or mental health services

- (a) 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 for:
- (1) *Transfers of military members-* An offender who is a member of the military and ~~is under orders in has been deployed by the military to~~ another state, shall be eligible for reporting instructions and transfer of supervision. A copy of the military orders ~~or other proof of deployment for the military member~~ shall be provided at the time of the request.
 - (2) *Transfer of offenders who live with family who are members of the military-* An offender who meets the criteria specified in Rules 3.101 (a), (b), & (c) and (e)(2)

and who lives with a family member who ~~is under orders in has been deployed to~~ another state, shall be eligible for reporting instructions and transfer of supervision, provided that the offender will live with the military member in the receiving state. A copy of the military orders ~~or other proof of deployment for the military member~~ shall be provided at the time of the request.

- (3) *Employment transfer of family member to another state*- An offender who meets the criteria specified in Rules 3.101 (a), (b), & (c) and (e)(2) and whose family member, with whom he or she resides, is transferred to another state by their full-time employer, at the direction of the employer and as a condition of maintaining employment, shall be eligible for reporting instructions and transfer of supervision, provided that the offender will live with the family member in the receiving state. Documentation from the current employer noting the requirements shall be provided at the time of the request.
- (4) *Employment transfer of the offender to another state* – An offender who meets the criteria specified in Rules 3.101 (a), (b), & (c) and is transferred to another state by their full-time employer, at the direction of the employer and as a condition of maintaining employment shall be eligible for reporting instructions and transfer of supervision. Documentation from the current employer noting the requirements shall be provided at the time of the request.
- (5) *Transfers of veterans for medical or mental health services*- An offender who meets the criteria specified in Rules 3.101 (a), (b), & (c) and who is a veteran of the United States military services who is eligible to receive health care through the United States Department of Veterans Affairs, Veterans Health Administration and is referred for medical and/or mental health services by the Veterans Health Administration to a regional Veterans Health Administration facility in the receiving state shall be eligible for reporting instructions and transfer of supervision provided:
- (A) the sending state provides documentation to the receiving state of the medical and/or mental health referral; and
- (B) the transfer of supervision will be accepted if the offender is approved for care at the receiving state Veterans Health Administration facility.
- (b) The receiving state shall issue reporting instructions no later than 2 business days following receipt of such a request from the sending state.
- (c) If the receiving state rejects the transfer request for an offender who has been granted reporting instructions and has arrived in the receiving state, the receiving state shall initiate the offender's return to the sending state under the requirements of Rule 4.111.
- (d) If the sending state fails to send a completed transfer request by the 15th business day for an offender who has been granted reporting instructions and has arrived in the receiving state, the receiving state may initial the offender's return to the sending state under the requirements of Rule 4.111.

Justification:

Deployed as a term left too much up to interpretation, and in military terms is actually used for combat assignments/temporary stations in a combat zone. "Under orders" applies to a Permanent Change of Station (a more "permanent" assignment to a base in a non-combat situation) and more clearly delineates that it is based upon where the military has stationed them and not that they were necessarily deployed from a sending state to a receiving state.

ICOTS impact:

None.

Scope and Metric

In 2018, 29 compact transfers were submitted under reason 'Military Member' of which 24 were accepted by the states. In 2018, 125 compact transfers were submitted under reason 'Family of Military Member' of which 108 were accepted by the states.

Commissioner D. Clark (SD) moved to adopt the proposal to Rule 3.101 - 1 (a) (1) & (a) (2)-Mandatory reporting instructions and transfers of military, families of military, family members employed, employment transfer, and veterans for medical or mental health services as presented. Commissioner D. Littler (AZ) seconded. Motion passed unanimously.

3.101 - 1 (a) (5) (A) - Mandatory reporting instructions and transfers of military, families of military, family members employed, employment transfer, and veterans for medical or mental health services

Commissioner D. Clark (SD) presented the proposal to the Commission for consideration. The proposal intended to streamline the referral and acceptance process for VA treatment and decrease any delay with an offender obtaining the necessary treatment and/or services.

Rule 3.101 - 1 Mandatory reporting instructions and transfers of military, families of military, family members employed, employment transfer, and veterans for medical or mental health services

- (e) 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 for:
- (1) *Transfers of military members*- An offender who is a member of the military and has been deployed by the military to another state, shall be eligible for reporting instructions and transfer of supervision. A copy of the military orders or other proof of deployment for the military member shall be provided at the time of the request.
 - (2) *Transfer of offenders who live with family who are members of the military*- An offender who meets the criteria specified in Rules 3.101 (a), (b), & (c) and (e)(2) and who lives with a family member who has been deployed to another state, shall be eligible for reporting instructions and transfer of supervision, provided that the offender will live with the military member in the receiving state. A copy of the military orders or other proof of deployment for the military member shall be provided at the time of the request.
 - (3) *Employment transfer of family member to another state*- An offender who meets the criteria specified in Rules 3.101 (a), (b), & (c) and (e)(2) and whose family member, with whom he or she resides, is transferred to another state by their full-time employer, at the direction of the employer and as a condition of maintaining employment, shall be eligible for reporting instructions and transfer of supervision, provided that the offender will live with the family member in the receiving state. Documentation from the current employer noting the requirements shall be provided at the time of the request.
 - (4) *Employment transfer of the offender to another state* – An offender who meets the criteria specified in Rules 3.101 (a), (b), & (c) and is transferred to another state

by their full-time employer, at the direction of the employer and as a condition of maintaining employment shall be eligible for reporting instructions and transfer of supervision. Documentation from the current employer noting the requirements shall be provided at the time of the request.

- (5) *Transfers of veterans for medical or mental health services*- An offender who meets the criteria specified in Rules 3.101 (a), (b), & (c) and who is a veteran of the United States military services who is eligible to receive health care through the United States Department of Veterans Affairs, Veterans Health Administration and is referred for medical and/or mental health services by the Veterans Health Administration to a regional Veterans Health Administration facility in the receiving state shall be eligible for reporting instructions and transfer of supervision provided:
- (A) the sending state provides documentation to the receiving state of the medical and/or mental health referral or acceptance; and
 - (B) the transfer of supervision will be accepted if the offender is approved for care at the receiving state Veterans Health Administration facility.
- (f) The receiving state shall issue reporting instructions no later than 2 business days following receipt of such a request from the sending state.
- (g) If the receiving state rejects the transfer request for an offender who has been granted reporting instructions and has arrived in the receiving state, the receiving state shall initiate the offender's return to the sending state under the requirements of Rule 4.111.
- (h) If the sending state fails to send a completed transfer request by the 15th business day for an offender who has been granted reporting instructions and has arrived in the receiving state, the receiving state may initial the offender's return to the sending state under the requirements of Rule 4.111.

Justification:

This rule was passed to assist veterans, with obtaining the necessary treatment/services, as to assistance with completing the terms of supervision. This amendment will streamline the referral and acceptance process for VA treatment and decrease any delay with an offender obtaining the necessary treatment and/or services. The amendment cuts down on duplicating efforts, while still providing supporting documentation of acceptance, for services. The majority of acceptances are based on a referral from another state's VA Hospital. It can be somewhat difficult gathering information from any VA Hospital, in addition to gathering possible duplicated information. The majority of the VA hospitals will only hold a bed for a short period of time. Any delay may result in an offender losing that bed space. The acceptance letter covers the length and type of treatment and the sending state may add information addressing the sending state's VA hospital referral.

Effect on other rules, advisory opinions or dispute resolutions:

None

ICOTS impact:

None. Documentation is added as a general attachment.

Scope and Metric

In 2018, 141 compact transfers were submitted under reason 'Transfer of Military Veteran for medical or mental health services' of which 127 were accepted by the states.

Commissioner D. Clark (SD) moved to adopt the proposal to amend Rule 3.101-1 (a) (5) (A)-Mandatory reporting instructions and transfers of military, families of military, family members employed, employment transfer, and veterans for medical or mental health services as presented. Commissioner P. Delahanty (ME) seconded. Motion passed unanimously.

4.106 - Progress Reports on offender compliance and non-compliance

Commissioner D. Clark (SD) presented the proposal to the Commission. The proposal required additional documentation validation for reporting imposition of sanctions and incentives on Progress Reports. He noted the ICOTS impact of \$4,155.

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 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.

Justification:

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 4.109, but not 4.106. This proposal will mandate the same requirements for specifics and documentation in both rules when reporting compliant, non-compliant or behavior requiring retaking behaviors.

Effect on other rules, advisory opinions or dispute resolutions:

None.

ICOTS impact:

Yes. \$4,155

- Add History of Incentive textbox to Progress Report on Incentives and Corrective Actions
- Add attachments to Progress Report on Incentives and Corrective Actions

Scope and Metric

In 2018, 61,170 Progress Reports were transmitted by states.

Commissioner D. Clark (SD) moved to adopt the proposal to amend Rule 4.106-Progress Reports on offender compliance and non-compliance as presented. Official Designee G. Smith (LA) seconded. Motion passed by vote 50 to one.

Rule 4.111 Offenders returning to the sending state proposed

Commissioner D. Clark (SD) presented the proposal to the Commission. Current language restricted the ability for a receiving state to initiate return of an offender with any pending charges, this change would allow for offenders to be returned when new charges were non-violent misdemeanants.

Rule 4.111 Offenders returning to the sending state

- For an offender returning to the sending state, the receiving state shall request reporting instructions, unless the offender is under active criminal investigation or is charged with a subsequent ~~criminal offense~~ felony or violent crime in the receiving state. The receiving state shall provide the sending state with the reason(s) for the offender's return. The offender shall remain in the receiving state until receipt of reporting instructions.
- If the receiving state rejects the transfer request for an offender granted reporting instructions under Rules 3.101-1, 3.101-3, 3.103 or 3.106, the receiving state shall, upon submitting notice of rejection, submit a request for return reporting instructions within 7 business days.
- Except as provided in subsection (d), the sending state shall grant the request and provide reporting instructions no later than 2 business days following receipt of the request for reporting instructions from the receiving state. The sending state shall direct the offender to return to the sending state within 15 business days of the reporting instructions request.
- In a victim sensitive case, the sending state shall not provide reporting instructions until the victim notification provisions of Rule 3.108 (b)(1)(C) have been followed.
- The receiving state retains authority to supervise the offender until the offender's directed departure date or issuance of the sending state's warrant. Upon departing, the receiving state shall notify the sending state as required in Rule 4.105 (a) and submit a case closure as required by Rule 4.112 (a)(5).
- If the offender does not return to the sending state as ordered, the sending state shall issue a warrant no later than 10 business days following the offender's failure to appear in the sending state.

Justification:

This rule amendment would align rule 4.111(a) and Rule 5.101-1 so that the language matched regarding eligible returns. It is believed that it was an oversight that rule 4.111 was not amended when Rule 5.101-1 was adopted. The way rule 4.111(a) is currently written would suggest that an offender could not return to the sending state if charged with any new offense, not just felonies and violent crimes. This leads to confusion when requesting and responding to reporting instructions.

Effect on other rules, advisory opinions or dispute resolutions:

None.

ICOTS impact:

None.

Scope and Metric

N/A

Commissioner B. Burks (TX) stated that the South Region had a concern that the proposal created a loophole for offenders to seek a return to the sending state to avoid prosecution for a non-violent misdemeanor offense.

He added that Texas would vote for the proposal.

Commissioner D. Clark (SD) moved to adopt the proposal to Rule 4.111 Offenders returning to the sending state as presented. Commissioner R. Cohen (NM) seconded. Motion passed by vote 45 to six.

5.101 - Discretionary retaking by the sending state

Commissioner D. Clark (SD) presented the proposal to the Commission for consideration. The proposal established additional requirements and timeframes for discretionary return and retake of offenders by the sending state.

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.

Justification:

The current rule is silent on notification and tracking of offenders who are retaken by sending states at their own discretion. The result is the loss of tracking of offenders returning to sending states either on their own or via a warrant. This can pose risks to the public, to officers and to victims. The proposed revisions to this rule will close the notification and tracking loopholes that exist and that have been previously addressed by the Commission in other retaking rules, such as Rule 5.103.

Effect on other rules, advisory opinions or dispute resolutions:

None. This proposal will make this rule consistent with others.

ICOTS impact:

None.

Scope and Metric

N/A

Commissioner D. Littler (AZ) stated that the proposal was a great addition to the rule by closing loopholes in the current process. The AZ State Council was in support of this proposal.

Commissioner D. Clark (SD) moved to adopt the proposal to Rule 5.101 - Discretionary retaking by the sending state as presented. Commissioner M. Pevey (WA) seconded. Motion passed by vote 47 to four.

5.103 (d)- Offender behavior requiring retaking

Commissioner D. Clark (SD) presented the proposal to the Commission. The proposal clarified the receiving state's responsibility to serve warrants issued by the sending state for retaking. When offenders were not located, the receiving state must follow absconder protocol (Rule 4.109-2).

Rule 5.103 Offender behavior requiring retaking

- (a) Upon a request by the receiving state and documentation that the offender's behavior requires retaking, a sending state shall issue a warrant to retake or order the return of an offender from the receiving state or a subsequent receiving state within 15 business days of the receipt of the violation report.
- (b) If the offender is ordered to return in lieu of retaking, the receiving state shall request reporting instructions per Rule 4.111 within 7 business days following the receipt of the violation report response.
- (c) The receiving state retains authority to supervise until the offender's directed departure date. 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.
- (d) If the sending state issues a warrant under subsection (c) of this rule, the receiving state shall attempt to apprehend the offender on the sending state's warrant and provide notification to the sending state. If the receiving state is unable to locate the offender to affect the apprehension, the receiving state shall follow Rule 4.109-2 (a) and (b).

Justification:

Receiving states are not attempting to arrest offenders who have warrants issued by the sending state under Rule 5.103. The warrants stay active and often times CARS are sent stating that the offender cannot be located. Rule 5.103 should give direction on what to do next when a warrant is issued and then when the offender is not located to be arrested. This will close the loophole currently in this rule.

Effect on other rules, advisory opinions or dispute resolutions:**ICOTS impact:**

Training only: Receiving state should use addendums to report custody status when offenders are arrested for retaking. Violation Addendums are designed to allow the receiving state to communicate changes in location, availability and PC status.

Scope and Metric

N/A

Commissioner D. Clark (SD) moved to adopt the proposal to Rule 5.103 (d) - Offender behavior requiring retaking as presented. Commissioner R. Maccarone (NY) seconded. Motion passed by vote 47 to four.

5.103-1(a) - Mandatory retaking for offenders who abscond

Commissioner D. Clark (SD) presented the proposal to the Commission. The proposal established a timeframe for a warrant to be issued for an absconder within 15 business days of Violation Report receipt.

Rule 5.103-1 Mandatory retaking for offenders who abscond

- (a) ~~Upon~~ Within 15 business days of receipt of an absconder violation report and case closure, the sending state shall issue 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).

Justification:

The current language of “upon receipt” is a mandate that is hard to comply with, especially with probation cases. “Upon receipt” is also open to interpretation. Other ICAOS Rules provide time frames for warrants (Rule 5.103, within 15 business days, for example). A time frame for the warrant should be clear in this rule.

Effect on other rules, advisory opinions or dispute resolutions:

ICOTS impact:

None.

Scope and Metric

In 2018, 8,463 absconders were reported in ICOTS. Currently, 60% of violation reports in ICOTS are reports of absconders.

Commissioner R. Maccarone (NY) stated that New York was in support of the proposal because it increased offenders’ accountability. He added that it was important for the Commission to recognize the challenge presented by this rule, since many states across the country would have difficulty complying with it.

Commissioner D. Littler (AZ) noted that the proposal would close many loopholes associated with the current rule. One of them was the multiple interpretations of the word “upon”. The Arizona State Council was in support of this amendment.

Commissioner B. Burks (TX) stated that Texas had substantial concerns about this proposal. He urged the Commission to vote against the proposal. He stated based on the FY2020 audit results, most of the states would be in gross non-compliance. He added that the proposal had good value, but the Commission was not ready to implement these changes.

Texas will vote against the proposal.

Commissioner M. Danner (MD) agreed with Texas. She added that Maryland would not be able to meet the proposed timeframe. Maryland will vote against the proposal.

Commissioner D. Clark (SD) moved to adopt the proposal to 5.103-1 (a)- Mandatory retaking for offenders who abscond as presented. Commissioner D. Skiles (WV) seconded. Motion failed by vote 24 to 27.

Chair J. Stromberg (OR) encouraged commissioners to review, comment, and express their concerns about future rule proposals throughout the rule proposal process, months prior to the voting.

Commissioner D. Crook (VT) made a motion to set April 1, 2020 as the effective date for all adopted rule proposals. Commissioner J. Lopez (WI) seconded. Motion passed unanimously.

Legal Counsel Report

General Counsel R. Masters advised the Commission to enter executive session to discuss litigation matters.

Commissioner B. Burks (TX) moved to enter the executive session to discuss ongoing litigation matters involving the Commission. Commissioner D. Blanchard (UT) seconded. Motion passed unanimously.

The Commission exited the executive session.

Chair J. Stromberg (OR) accepted the legal counsel's report on behalf of the Commission.

Liability Session

Chair J. Stromberg (OR) introduced the panelists to the Commission.

Richard Masters, ICAOS General Counsel, was a principal author of the ICAOS legislation and had published writings and opinions extensively on the subject of interstate compacts.

Michael Buenger, formerly the administrative director for the Ohio Supreme Court, was now the executive vice-president and chief operating officer for the National Center for State Courts. He had consulted on numerous rule of law projects and been a co-author and contributor to books on the American court system, American federalism, the law of interstate agreements, and the politics of international law.

James Markham graduated from Harvard College before serving in the US Air Force as an intelligence officer and foreign area officer. He earned a juris doctorate from Duke University, where he was the editor-in-chief of the Duke Law Journal. Following law school, Professor Markham joined the School of Government faculty at UNC. He was an extensively published and nationally respected scholar in criminal law and procedure, with a focus on the law of sentencing, corrections, and the conditions of confinement. He was the author of the liability chapter in the recently revised ICAOS Bench Book for Judges.

The panelists discussed the legal responsibilities of ICAOS states and individual commissioners.

The Commission recessed for face-to-face committee meetings at 3:00 pm PT.

The Commission resumed the general session at 4:15 pm PT.

Award Presentations

Executive Chair Award presented to Commissioner A. Godfrey (MN) by Chair J. Stromberg (OR).

Executive Director Award presented to DCA T. Strickland (FL) by Executive Director A. Lippert and Commissioner J. Winkler (FL).

Peyton Tuthill Award presented to Victim Advocate Lori King (OH) in recognition of her service and commitment to victims by Chair J. Stromberg (OR), and Commissioner K. Ransom (OH).

Region Chairs Recognition

Chair J. Stromberg (OR) recognized the region chairs for their service and dedication: Dale Crook – East Region Chair, Russell Marlan – Midwest Region Chair, Brody Burks – South Region Chair, and Roberta Cohen – West Region Chair.

General Counsel R. Masters administered the oath of office to newly elected region chairs: Dale Crook – East Region Chair, Russell Marlan – Midwest Region Chair, Julie Kempker – South Region Chair, and Roberta Cohen – West Region Chair.

Chair J. Stromberg (OR) announced that the 2020 Annual Business Meeting was scheduled for September 14-16, 2020 in Milwaukee, WI.

Adjourn

Commissioner D. Matson (IL) moved to adjourn. Commissioner M. Pevey (WA) seconded.

The meeting adjourned at 4:41 pm PT.