



## Interstate Commission for Adult Offender Supervision

### Rules Committee Meeting MINUTES

February 17, 2022 - 1:00 pm ET

Video Conference

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

1. Mary Kay Hudson (IN), Chair
2. Dori Littler (AZ), Vice-Chair
3. Susan Gagnon (ME)
4. Amy Vorachek (ND)
5. Robert Maccarone (NY)
6. Christina Stephens (PA)
7. Tim Strickland (FL), Ex-Officio
8. Tracy Hudrlik (MN), Ex-Officio
9. Margaret Thompson (PA), Ex-Officio
10. Pat Odell (WY), Ex-Officio
11. Thomas Travis, Legal Counsel

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

1. Rebecca Brunger (AK)
2. Amber Schubert (AR)
3. Chris Moore (GA)

#### **Guests:**

1. Matthew Charton (NY)

#### **Staff:**

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

#### **Call to Order**

Chair M. Hudson (IN) called the meeting to order at 1:02 pm ET. Executive Director A. Lippert called the roll. Six out of nine voting members were present, a quorum was established.

#### **Approval of Agenda and Minutes**

**Commissioner D. Littler (AZ) moved to approve the agenda as presented. Commissioner R. Maccarone (NY) seconded. Agenda approved.**

**Commissioner A. Vorachek (ND) moved to approve the minutes from the August 19, 2021 meeting as drafted. Commissioner C. Stephens (PA) seconded. Minutes approved.**

## **Discussion**

*Discuss implementation 2021 Rule Amendments:* Executive Director A. Lippert stated that last year, the Commission approved several Rule Amendments and ICOTS enhancements to be implemented on April 1, 2022. Appriss informed the national office they had to delay the delivery of the 2021 ICOTS enhancements until June 1, 2022. The delay is due to COVID and the widespread Log4J vulnerability. Since these enhancements were not directly connected to the approved rule proposals, the rule proposals' effective date would not change. The national office will inform the Commission about the changes to the training schedule.

Training Coordinator M. Spring added that she updated the ICAOS Rules Training Presentation & Resources on the support site with 2021 Rules and ICOTS amendments. States should use this information to train their Compact and field staff. Currently, she is working on updating the on-demand sessions.

*Review committee calendar & establish deadline for 2023 rule proposals:* The committee reviewed FY 2022-23 Rules Committee calendar. The committee supports the 60-day initial comment period. The national office will update the calendar with the 2023 Annual Business Meeting dates and post it on the Commission's website.

*Review 2022 committee goals:* The committee reviewed its 2022 goals. The committee decided to add the fourth goal - *Review prevailing issues to determine rule amendment needs.*

### **2022 Goals:**

1. Review rule amendment proposals and make recommendations to the proposing entity to adopt, revise, or withdraw, as appropriate.
2. Review public comment on proposed rules.
3. Present the proposed rule amendments for Commission's consideration at the 2023 Annual Business Meeting.
4. Review prevailing issues to determine rule amendment needs.

Chair M. Hudson (IN) advised to use a different approach with the Compact's mission and suggested removing "offender" word from the Compact's circulation.

Executive Director A. Lippert noted that the Executive Committee had previous discussions on this matter. The Commission can update its website and rules. She continued that if the Commission decides to change its title, it will require legislatures of all 50 states and three territories to make changes to their state statues which presents difficulties. She recommended bringing the issue to the Executive Committee for consideration.

**Commissioner R. Maccarone (NY) moved to approve FY 2022-2023 Rules Committee goals as amended. Commissioner S. Gagnon (ME) seconded. Motion passed.**

## **Old Business**

There was no old business.

## **New Business**

*Remote hearings:* Chair M. Hudson (IN) noted there was confusion among states about remote hearings. She asked the DCA Liaison Committee to review the issue and advise if the issue needs to be addressed via a rule change, an advisory opinion, etc.

Chair M. Hudson (IN) asked the committee whether it was the issue about efficiency or public safety.

Commissioner D. Littler (AZ) noted it was business as usual until the Commission decides to change the rules.

DCA T. Strickland (FL) suggested revisiting *Rule 5.101-2 Discretionary process for disposition of violation in the sending state for a new crime conviction: "a sentence imposing a period of incarceration on an offender convicted of a new crime which occurred outside the sending state during the compact period may satisfy or partially satisfy the sentence imposed by the sending state for the violation committed. This requires the approval of the sentencing or releasing authority in the sending state and consent of the offender."* He asked why the Commission did not have in place a discretionary process for disposing of these violations for the new convictions. He added that rules were clear in all other instances.

Commissioner D. Litter (FL) agreed with Florida. Most of the time, Arizona sent new convictions with supervision via a progress report and let the sending state decide if they want to retake.

Commissioner R. Maccarone (NY) expressed his concerns for due process and importance of putting proper regulations in place. He suggested looking at the data around the issue. He noted that New York had about 1,800 violations per month with only 400 sustained. With implemented changes on behavior requiring retaking, the number of violations was reduced to about 400 a month.

DCA P. Odell (WY) brought up a question how to deal with hearings for absconders who were arrested in the receiving state.

Chair M. Hudson (IN) suggested the national office to pull reports relevant to the issue.

*Tolling feature in ICOTS:* Commissioner A. Vorachek (ND) raised a question around the process of tolling in ICOTS. It is unknown which states use tolling and which states do not. States are informed in ICOTS when the case has been tolled, however no further documentation is required. There is no guidance, definition, or best practice document helping states navigate the tolling process in ICOTS.

She expressed her concerns with having legal authority to supervise during the tolled period as well as the use of resources confirming a state has the authority to supervise a case during the tolled period.

Executive Director A. Lippert presented tolling data from ICOTS:

- Total cases currently in tolling status - 393
- Total cases in tolling status past supervision end date - 226

- Total cases put in tolling status on supervision end date - 55
- Average length of time a case is in tolling status - 236 days
- Total number of states currently tolling cases - 37
- Top three states tolling:
  - Colorado – 40 cases
  - Pennsylvania – 55 cases
  - Illinois – 85 cases

DCA T. Strickland (FL) noted that an individual may be flagged as tolling where supervision continued past the supervision end date, if the sending state had statutory authority to continue to supervise or a specific order from the sentencing/releasing authority to continue to supervise past the scheduled end date of supervision ordered.

DCA T. Hudrlik (MN) noted that Minnesota tolled as they had a statute that allowed them to keep the case open for up to six months past discharge if not already discharged. They trained agents only use toll time with supervisor approval and only if they had the legal authority to continue supervision.

Chair M. Hudson (IN) asked Commissioner D. Littler (AZ) to chair a workgroup to analyze this issue in detail and make a recommendation.

Chair M. Hudson (IN) discussed the need of assessing a range of practices, what states can or cannot do with tolling, and what are their regulations.

Commissioner R. Maccarone (NY), Commissioner A. Vorachek (ND), Commissioner C. Stephens (PA), and DCA T. Strickland (FL) volunteered to serve on the workgroup.

The committee will meet again on April 7, 2022.

**Adjourn**

The meeting adjourned at 2:08 pm ET.