



## Interstate Commission for Adult Offender Supervision

### South Region Meeting NOTES

March 7, 2023 @ 1 pm ET  
Video conference

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

1. Julie Kempker (MO), Chair
2. Tom Langer (AL)
3. Chris Moore (GA)
4. Jamie Lee (LA)
5. Martha Danner (MD)
6. Chris Hill (TN)
7. David Gutierrez (TX)
8. Diann Skiles (WV)
9. Jim Parks (VA)

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

10. Vacant (AR)
11. Richard Tischner (DC)
12. Joe Winkler (FL)
13. Steve Turner (KY)
14. Nathan Blevins (MS)
15. Vacant (NC)
16. James Rudek (OK)
17. Jerry Adger (SC)

#### **Guests:**

1. Elizabeth Powell (DC)
2. Tim Strickland (FL)
3. Sharon Davis (FL)
4. Joe Kuebler (GA)
5. Don Werner (KY)
6. Darla Hood (LA)
7. LaShonda Lee-Campbell (MD)
8. Deanna Laird (MO)
9. Alison Woodruff (MO)
10. Richie Spears (MS)
11. Melanie Collins (NC)
12. Emily Keefer (OK)
13. Deborah Romine (OK)
14. Chris Harris (SC)
15. Tawanna Davis (SC)
16. Taylor Wayland (TN)

17. Cindy Stout (TX)
18. Julie Lohman (VA)
19. Jordan McKinley (WV)

### **Staff**

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

### **Call to Order**

Chair J. Kempker (MO) called the meeting to order at 11:00 am ET. Nine out of seventeen members were in attendance, but one left early, thus a quorum was not established.

### **Discussion**

Chair J. Kempker (MO) informed the region that the Rules Committee discussed the South Region's rule proposals. While they support the idea behind the changes to Rule 5.101-2, the Rules Committee was concerned about the way this rule was written, which was inconsistent with other rules. They voted to return the proposal to the South region for further consideration and work.

#### **Rule 5.101-2**

#### **DISCRETIONARY PROCESS FOR DISPOSITION OF VIOLATION IN THE SENDING STATE FOR A NEW CRIME CONVICTION**

Notwithstanding any other rule, a sentence imposing a period of incarceration and/or supervision 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.

- a) Unless waived by the offender, the sending state shall conduct, at its own expense, an electronic or in-person violation hearing. The offender does not have to be incarcerated for this hearing.
- b) The sending state shall send the violation hearing results to the receiving state within 10 business days.
- c) If the offender's sentence ~~to incarceration~~ for the new crime fully satisfies the incarceration sentence for the violation imposed by the sending state for the new crime, the sending state is no longer required to retake if Rules 5.102 and 5.103 apply.
- d) If the offender's sentence to incarceration for the new crime only partially satisfies the sentence for the violation imposed by the sending state for the new crime, the sending state is required to retake if Rules 5.102 and 5.103 apply.
- e) If the offender's sentence to supervision for the new crime only partially satisfies the supervision sentence for the violation imposed by the sending state for the

new crime, the sending state is no longer required to retake if Rules 5.102 and 5.103 apply and the offender will remain on supervision in the receiving state.

- f) The receiving state may close the case under Rule 4.112 (a)(3).

#### Justification

Why rule is needed [rule proposal versus addressing as a training issue]: With the expansion of remote sentencing during the pandemic many states have become use to remote/electronic hearings and sentencing. When offenders are convicted of a new crime where supervision in the receiving state is the sentence, the receiving state has determined that the offender is suitable for continued community supervision. This update will provide an alternative mechanism for disposition of a VOP due to a new crime conviction outside of the sending state where supervision is the sentence. In these cases revocation is not likely and this rule change will provide clarity that the offender does not have to currently be incarcerated to utilize the electronic hearing alternative process to dispose of a VOP where incarceration or supervision is ordered in the new conviction.

After discussion, the region decided to continue working on this proposal and vet it through the DCAs in the region. The region will submit a revised proposal in the next rules year.

Chair J. Kempker (MO) informed the region that the Rules Committee expressed reservations about the South Region proposal to create a new Rule 4.101-1 and did not recommend its approval by the Commission.

#### **New Rule 4.101-1**

##### OFFENDER ELECTRONIC MONITORING IN RECEIVING OR SENDING STATE

A receiving state shall require that an offender transferred under the interstate compact comply with any electronic monitoring requirements in accordance with the laws or policies of the receiving state and shall assist the sending state in retrieval of electronic monitoring equipment worn by the offender from the sending state by removal of the equipment from the offender upon arrival and shipping the equipment back to the sending state. The sending state shall be responsible for the cost of shipping.

#### Justification

Similar to the requirement to assist with DNA collection, some members will not assist with electronic monitoring equipment unless it is required in the receiving state. Some members perceive a liability issue by voluntarily assisting a sending state. The new rule will provide receiving states protection against any financial liability that may be perceived while providing the support sending states need in recovery of equipment.

As electronic monitoring can be a required element of supervision, either by order or statute, the sending state has a ministerial duty to enforce the condition until the receiving state assumes responsibility for supervision upon an offender's arrival in the receiving state as outlined in Rule 3.104-1. As such, a sending state must have the offender maintain the electronic monitoring equipment while in transit to the receiving state. Offenders should not be in possession of deactivated or removed electronic monitoring equipment as it provides unfettered access to inspect the equipment and possibly develop

a means of circumventing the equipment. Additionally, if an offender physically removes the equipment this could be a violation of the conditions of supervision.

The region decided to conduct an email vote to withdraw the two South Region rule proposals from consideration due to a lack of quorum. At its next meeting, the region will affirm the email vote.

*National Office Update:* Executive Director A. Lippert informed the region that the 2023 Annual Business Meeting will take place in Norfolk, VA. The ABM Planning Workgroup met in February and drafted the ABM agenda. The Executive Committee will review and approve the agenda at its face-to-face meeting on March 14.

The Rules Committee is working on reviewing submitted rule proposals. The proposals will be posted on the Commission's website for comments later this spring. She asked the region members to leave comments even if they were in support of the proposals.

The national office is working on the FY23 annual report that will be completed by this fall.

The national office is working with Appriss and Optimum Technology to migrate ICOTS from its current hosting environment and redeploy ICOTS' existing functionality and data to a new environment. The process should see little to no downtime for users of the ICOTS system when the migration is complete.

### **Adjourn**

The meeting adjourned at 1:46 pm ET.