



Interstate Commission for Adult Offender Supervision

Midwest Region Meeting MINUTES

April 11, 2023 · 1 pm ET
Video Conference

Members in Attendance:

1. Amy Vorachek (ND)
2. Mary Kay Hudson (IN)
3. Jason Garnett (IL)
4. Sally Kreamer (IA)
5. Jeannie Wark (KS)
6. Sally Reinhardt-Stewart (NE)
7. Katrina Ransom (OH)
8. Bradley Lewandowski (SD)
9. Joselyn López (WI)

Members Not in Attendance

1. Russell Marlan (MI)
2. Allen Godfrey (MN)

Guests:

1. Holly Kassube (IL)
2. Simona Hammond (IA)
3. Juli Christensen (IA)
4. Nataly Sevilla (IN)
5. Nita Wright (IN)
6. Joel Gruber (IN)
7. April Simmons (IN)
8. Fareeda Washington (KS)
9. Tracy Hudrlik (MN)
10. Susan Barnard (NE)
11. Jacey Rader (NE)
12. Alyssa Miller (ND)
13. Suzanne Brooks (OH)
14. Sarah Ball (SD)
15. Brenna Kojis (WI)

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

Approved on 09/19/2023. B.S.

5. Mindy Spring, Administrative and Training Coordinator
6. Drake Greeott, Web Development Manager

Call to Order

Chair A. Vorachek (ND) called the meeting to order at 1:00 pm ET. Nine out of 11 commissioners were in attendance, a quorum was established.

Approval of Agenda and Minutes

Commissioner M. Hudson (IN) moved to approve the meeting agenda. Commissioner K. Ransom (OH) seconded. Agenda approved as presented.

Commissioner M. Hudson (IN) moved to approve the minutes from January 4, 2023, meeting. Commissioner B. Lewandowski (SD) seconded. Minutes approved as drafted.

Discussion

ICAOS Workgroup to Consider Language Change: Chair A. Vorachek (ND) stated that the Executive Committee discussed the criminal justice terminology used by the Compact at its face-to-face meeting earlier this month. In recent years, members of the Commission have expressed interest in removing the word "offender" from the Compact's terminology in favor of more person-centered language.

The Executive Committee decided to establish a workgroup to explore this possibility and seeks to appoint two representatives from each region to serve as members. The goal of the workgroup is to study this issue and provide a recommendation to the Executive Committee on whether a change is appropriate. If recommending a change, the workgroup will also propose alternative language options and recommend the scope of this change.

Executive Director A. Lippert noted that the initial meeting of the workgroup would be sometime in May. Past chair J. Stromberg (OR) will chair the workgroup.

Commissioner M. Hudson (IN) suggested asking Commissioner J. Stromberg (OR) to invite DCAs to participate in the workgroup as they were familiar with language use and its impact on the local level.

Executive Director A. Lippert encouraged interested commissioners and DCAs to reach out to the national office by the end of next week.

FY 2024 Compliance Audit: Chair A. Vorachek (ND) stated that the Executive Committee approved the FY 2024 audit, which will be a follow-up review of states that did poorly in the FY 2023 audit.

Executive Director A. Lippert stated that only a select number of states would be re-audited along with any states who request to be re-audited. The national office will send the FY 2024 audit information letter in the coming weeks.

2023 Proposed Rule Amendments: Chair A. Vorachek (ND), Rules Committee member, stated that the Rules Committee discussed the Midwest Region proposals to amend Rule 1.101 Supervision, Rule 5.105, and Rule 5.108. Both committees agreed with the intent of the proposals but decided they needed additional work before. The committee recommended revising the language and vetting the proposals further before bringing to the full Commission.

Commissioner K. Ransom (OH) moved to withdraw proposals to amend Rule 1.101 Supervision, Rule 5.105, and Rule 5.108 from Commission’s consideration at 2023 Annual Business Meeting. Commissioner J. López (WI) seconded. Motion passed.

Rule 5.108 proposed by the West Region: The region reviewed the proposal to amend Rule 5.108 proposed by the West Region.

RULE 5.108-PROBABLE CAUSE HEARING IN RECEIVING STATE

(a) An offender subject to retaking that may result in a revocation shall be afforded the opportunity for a probable cause hearing before a neutral and detached hearing officer in or reasonably near the place where the alleged violation occurred.

(b) No waiver of a probable cause hearing shall be accepted unless accompanied by an admission by the offender to 1 or more violations of the conditions of supervision that would result in the pursuance of revocation of supervision in the receiving state and require retaking.

(c) A copy of a judgment of conviction regarding the conviction of a new criminal offense by the offender shall be deemed conclusive proof that an offender may be retaken by a sending state without the need for further proceedings.

(d) The offender shall be entitled to the following rights at the probable cause hearing:

1. Written notice of the alleged violation(s);
2. Disclosure of non-privileged or non-confidential evidence regarding the alleged violation(s);
3. The opportunity to be heard in person and to present witnesses and documentary evidence relevant to the alleged violation(s);
4. The opportunity to confront and cross-examine adverse witnesses, unless the hearing officer determines that a risk of harm to a witness exists.

(e) The receiving state shall prepare and submit to the sending state a written report within 10 business days of the hearing that identifies the time, date and location of the hearing; lists the parties present at the hearing; and includes a clear and concise summary of the testimony taken and the evidence relied upon in rendering the decision. Any evidence or record generated during a probable cause hearing shall be forwarded to the sending state.

(f) If the hearing officer determines that there is probable cause to believe that the offender has committed the alleged violations of conditions of supervision that would result in the pursuance of revocation of supervision, the receiving state ~~shall~~ may hold the offender in custody, and the sending state shall, within 15 business days of receipt of the hearing officer’s report, notify the receiving state of the decision to retake or other action to be taken.-

(g) If probable cause is not established, the receiving state shall:

1. Continue supervision if the offender is not in custody.
2. Notify the sending state to vacate the warrant, and continue supervision upon release if the offender is in custody on the sending state's warrant.
3. Vacate the receiving state's warrant and release the offender back to supervision within 24 hours of the hearing if the offender is in custody.

Justification:

The "shall" requirement in subsection f. of Rule 5.108 is not a requirement of the Supreme Court decision that Rule 5.108 is based upon and it puts some compact member states in violation of the requirement because they have no statutory authority to hold a person in custody pending the decision from the sending state. Holding an offender in custody following the outcome of a probable cause hearing or signed waiver should be at the discretion of the hearing officer or authority in the receiving state in accordance with local procedures. Revising the verbiage from "shall" to "may" will still allow states the option to hold an offender in custody.

Commissioner K. Ransom (OH) expressed her concerns that changing language from *shall* to *may* could result in receiving states choosing the easier route and not incarcerating offenders.

Executive Director A. Lippert stated that the national office would post rule proposals for comments in the next few weeks. She encouraged all region members to leave their comments.

2023 Annual Business Meeting: Chair A. Vorachek (ND) stated that the national office posted the Annual Business Meeting's agenda on the Commission's website last week. The meeting registration will open on June 1, 2023.

DCA Region Chair Election: Chair A. Vorachek (ND) informed the region about the upcoming DCA region chair elections. The deadline to submit chair nominations is June 30.

Old/New Business

There was no old/new business.

Adjourn

Commissioner S. Kreamer (IA) motioned to adjourn. Commissioner S. Reinhardt-Stewart (NE) seconded.

The meeting adjourned at 1:31 pm ET.