



Interstate Commission for Adult Offender Supervision

East Region Meeting MINUTES

April 18, 2024 · 11 am ET
Teleconference

Members in Attendance:

1. Dale Crook (VT), Chair
2. Gary Roberge (CT)
3. Heidi Collier (DE)
4. Tina Hurley (MA)
5. Susan Gagnon (ME)
6. David Cady (NH)
7. Samuel Plumeri (NJ)
8. Matthew Charton (NY)
9. Raquel Colon (PR)
10. Wynn Timer Testamark (VI)

Members not in Attendance:

11. Christian Stephens (PA)
12. Wayne Salisbury (RI)

Guests:

1. Melissa Kearney (DE)
2. Jeanne Stewart (NH)
3. Alexandra Modica (CT)
4. Joseph Garibaldi (CT)
5. Keara Kelley (MA)
6. Kelly Palmateer (NY)
7. Scott Hurteau (NY)
8. Shyra Bland (NJ)
9. Dina Rogers (NJ)
10. Matthew Reed (PA)
11. Rickey Plank (VT)

Staff

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

Call to Order

Chair D. Crook (VT) called the meeting to order at 11:03 am ET. Ten out of twelve voting members were present. A quorum was established.

Agenda and Minutes

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

Commissioner G. Roberge (CT) moved to approve the minutes from February 13, 2024, meeting as drafted. Commissioner T. Hurley (MA) seconded. Minutes approved as drafted.

Discussion

Follow up on New York's request for advisory opinion: At the last meeting, the discussed seeking an advisory opinion to clarify timeframes around probable cause hearings and issuing warrants. New York prepared questions to be addressed in the advisory opinion. Pennsylvania submitted revisions and additional questions to also be considered.

1. When a violation report requiring retaking is submitted by the receiving state per rule 5.103, is it the receiving state's responsibility to conduct the probable cause hearing or, does the responsibility fall on the sending state to request the hearing?
2. If a probable cause hearing is requested by the sending state per rule 5.108 upon receipt of a violation report submitted per rule 5.103, do the time frames outlined in rule 5.103 and 5.108 start after receipt of the probable cause hearing results?
3. When an absconder is incarcerated in the original receiving state solely on the sending state's warrant and a request for a probable cause hearing has been made by the sending state, does the 30 days to retake an offender per rule 5.105 start upon receipt of the probable cause hearing results? -
4. *(additional question by PA)* Does the Compact have any timeliness requirements for a receiving state to conduct a probable cause hearing when requested by the sending state?
5. Is a probable cause hearing required to be conducted by the receiving state when notified that a sending state invokes rule 5.101? If not, is the sending state permitted to make such a request for a probable cause hearing?
6. *(additional question by PA)* Regarding Rule 5.108(g): When an absconder is incarcerated in the original receiving state solely on the sending state's warrant, and the receiving state conducts a probable cause hearing and finds probable cause for technical violations but not for absconding (by definition), is the sending state required to retake or does 5.108(g) apply? [Text of 5.108(g): *If probable cause is not established, the receiving state shall...*"]. Did the Commission mean to apply this to absconding? (*"If probable cause for absconding is not established, the receiving state shall..."*)]

DCA M. Reed (PA) noted that Pennsylvania was in the process of drafting an amendment to Rule 5.108 that addresses questions #4 and #6. He noted that New York's questions could be addressed better via a rule proposal instead of an advisory opinion. He will work with DCA K. Palmateer (NY) to address New York's concerns in Pennsylvania's rule proposal.

Executive Director A. Lippert agreed with Pennsylvania that New York's request did not rise to the level of an advisory opinion. She stated that the Training Committee is revising and updating

the Hearing Officer Guide and suggested including questions #1 and #2 in the FAQ part of the guide. She noted that legal counsel will review the guide prior to publishing.

Proposed amendment to Rule 3.103 Reporting instructions; offender living in the receiving state at the time of sentencing or after disposition of a violation or revocation proceeding. The region discussed a proposal to amend Rule 3.103 as presented by the State of New York .

Rule 3.103 - Reporting instructions; offender living in the receiving state at the time of sentencing or after disposition of a violation or revocation proceeding following the mandatory or discretionary retaking of the offender from the receiving state

(a)

1. A request for reporting instructions for an offender who was living in the receiving state at the time of initial sentencing, or after disposition of a violation or revocation proceeding following the mandatory or discretionary retaking of the offender from the receiving state, shall be submitted by the sending state within 7 business days of the initial sentencing date, disposition of violation, revocation proceeding or release from incarceration to probation supervision. The sending state may grant a 7 day travel permit to an offender who was living in the receiving state at the time of initial sentencing or disposition of violation or revocation proceeding following the mandatory or discretionary retaking of the offender from the receiving state. Prior to granting a travel permit to an offender, the sending state shall verify that the offender is living in the receiving state.
2. The receiving state shall issue reporting instructions no later than 2 business days following receipt of such a request from the sending state.
3. The sending state shall ensure that the offender signs all forms requiring the offender's signature under [Rule 3.107](#) prior to granting a travel permit to the offender. Upon request from the receiving state, the sending state shall transmit all signed forms within 5 business days.
4. The sending state shall transmit a departure notice to the receiving state per [Rule 4.105](#).
5. This section is applicable to offenders incarcerated for 6 months or less and released to probation supervision.

(b) The sending state retains supervisory responsibility until the offender's arrival in the receiving state.

(c) A receiving state shall assume responsibility for supervision of an offender who is granted reporting instructions upon the offender's arrival in the receiving state. The receiving state shall submit an arrival notice to the sending state per [Rule 4.105](#).

(d) A sending state shall transmit a completed transfer request for an offender granted reporting instructions no later than 15 business days following the granting ~~to the offender~~ of the reporting instructions by the receiving state.

(e) 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 and sending states shall initiate the offender's return to the sending state under the requirements of [Rule 4.111](#).

(f) 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 initiate the offender's return to the sending state under the requirements of [Rule 4.111](#).

Justification

In 2015, the Commission voted and approved the addition of “*or after disposition of a violation or revocation proceeding*” in Rule 3.103, at that time the intent was to allow those individuals who had transferred their supervision to a receiving state under the ICAOS rules to be eligible for mandatory Reporting Instructions (RI) after being retaken by the sending state to face violation proceedings and subsequently restored to supervision as the disposition of the that proceeding. The addition of this new language was not intended to apply to those compact eligible individuals who absconded to a receiving state or relocated to the receiving state outside of the compact and were then extradited or returned to the sentencing state and then were continued on supervision as the disposition of the violation proceeding. The addition of the proposed “following the mandatory or discretionary retaking of the offender from the receiving state” language in Rule 3.103 will clarify the population of individuals who qualify for mandatory reporting instructions after the disposition of a violation or revocation proceeding in the sending state.

It is important to note the significance of the “*mandatory or discretionary*” language in this proposal. If the proposal were not to include this terminology and were to simply state, “following the retaking of the offender from the receiving state” the proposal would not clarify the population of individuals who qualify for mandatory reporting instructions after the disposition of a violation or revocation proceed in the sending state. The compact defines receiving state as the state to which an offender *requests transfer of supervision* or is transferred. The intent of this change is to clarify that only those individuals who had ***transferred*** their supervision to a receiving state under the ICAOS rules, were retaken by the sending state to face revocation and continued supervision as the disposition of the violation/revocation proceeding are eligible for the mandatory reporting instructions.

Allowing individuals who have relocated to a receiving state outside of the compact to qualify for mandatory reporting instructions at the time of disposition of a violation or revocation proceeding in the sending state is contradictory to the purpose of the compact and disadvantageous to public safety. Such a practice may place victims at risk and diminishes accountability. The new proposed language promotes the purpose of the compact and the orderly transfer of individuals from one state to another while enhancing victim and public safety. Furthermore, this proposal may afford the receiving state the opportunity to investigate the proposed plan and provide the receiving state the discretion to grant reporting instructions for an individual who has relocated to their state outside of the compact rules.

It is important to note that the intent of this rule change is not to provide receiving states with an automatic denial of Reporting Instructions for those individuals who may have absconded to or moved to a receiving state outside of the Compact. It will force a sending state to provide a justification for the expedited RI request. States should not be forced to accept a request without explanation or the ability to evaluate what is best for their state/community or victim safety.

The changes proposed in 3.103(d) will clarify the timeframe in which the sending state must submit the complete transfer request to the receiving state.

The changes proposed in 3.103(e) will reinforce the sending state's obligation to grant return to sending state reporting instructions as outlined in Rule 4.111.

Commissioner M. Charton (NY) stressed the importance of this amendment for victims' safety.

Commissioner G. Roberge (CT) asked whether New York was amending the rule due to a recent disagreement in a retaking case between Connecticut and New York. He expressed his opinion that the proposal did not address the CT-NY case situation.

DCA M. Reed (PA) stated that Rule 4.111 (b) already covers section (e) of New York's proposal "and sending state".

DCA K. Palmateer (NY) noted that it was listed in the proposal as it was important that both states complied in this situation.

Training Coordinator M. Spring noted a training concern with the proposal. She stated that Rule 3.103 is about who is allowed to return to their residence in a receiving state upon sentencing to immediate supervision. She asked whether it was about the way ICOTS is designed. She clarified that ICOTS does not force an acceptance of Reporting Instructions because 'Box 1' is clicked.

Commissioner M. Charton (NY) moved to submit an amendment to Rule 3.103 for the Commission's consideration at the 2025 Annual Business Meeting.

The motion died from lack of a second.

Commissioner G. Roberge (CT) stated that he will reach out to east region commissioners and their DCAs to gain a better understanding of the supervision process when violations occur. He continued that Connecticut was serious about victims' safety and will have further conversations with New York to address these concerns.

Old/New Business

Executive Director A. Lippert provided a Commission update. The Executive Committee had a face-to-face meeting the previous week. The committee approved the 2024 Annual Business Meeting agenda. The agenda will be published on the website on May 1. The meeting registration will be launched on June 3, 2024. The meeting will take place on Sept 9-11, 2024, in Scottsdale, AZ.

The Executive Committee asked the region members to nominate victims' advocates for the Peyton Tuthill Award. The award winner will be recognized at the upcoming Business Meeting. Nominations deadline is August 1st.

The Executive Committee approved the DCA Liaison Committee's recommendation to revise the Spirit Sighting Award. The award recognizes field officers, Compact Office staff members and other stakeholders who went "above and beyond to reach the best solution" with the Compact case. She noted that Commissioners and DCAs are not eligible for this award. The Commission will recognize one individual nominated in the year at the Annual Business Meeting. Their travel and

attendance at the ABM will be covered by the Commission. Additionally, selected nominations will be featured in the Commission's newsletter.

Executive Director A. Lippert noted that the Executive Committee is working with the Risk, Needs, Responsivity (RNR) Workgroup on FY2025 Compliance Assessment. The national office will assess the states for various retaking and retransfer elements to improve Compact processes.

The Commission is working on a project to rewrite ICOTS, upgrade user experience, and modernize the framework. ICOTS was launched in 2008. More information on the project and its funding will be provided prior to the annual business meeting.

Adjourn

Commissioner G. Roberge (CT) moved to adjourn, Commissioner D. Cady (NH) seconded.

The meeting adjourned at 12:07 pm ET.