



Interstate Commission for Adult Offender Supervision

Rules Committee Meeting MINUTES

February 15, 2024 - 1:00 pm ET
Video Conference

Members in Attendance:

1. Susan Gagnon (ME), chair
2. Chris Moore (GA), vice-chair
3. Brook Mamizuka (HI)
4. Amy Vorachek (ND)
5. Deon McDaniel (NV)
6. Mathew Charton (NY)
7. Timothy Strickland (FL), Ex-Officio Matt Reed (PA), Ex-Officio
8. Brenna Kojis (WI), Ex-Officio
9. Tom Travis, Legal Counsel, Ex-Officio

Members not in Attendance:

1. Martha Danner (MD)
2. Katrina Ransom (OH)

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 Grecott, Web Development Manager

Call to Order

Chair S. Gagnon (ME) called the meeting to order at 1:00 pm ET. Executive Director A. Lippert called the roll. Six voting members were present, a quorum was established.

Approval of Agenda and Minutes

Commissioner D. McDaniel (NV) moved to approve the agenda as presented. Commissioner M. Charton (NY) seconded. Agenda approved.

Commissioner C. Moore (GA) moved to approve the minutes from the September 20, 2023, meeting as drafted. Commissioner D. McDaniel (NV) seconded. Minutes approved as drafted.

Discussion

Region or Standing Committee Rule Referrals: Executive Director A. Lippert informed the committee that the South, East, and Midwest regions discussed changes to rules, however, the national office has not received any formal rule proposals yet.

DCA T. Strickland (FL) noted that the South Region DCAs were working on an alternative to the violation rule and an amendment to Rule 3.103 to clarify that this rule does not apply to absconders.

Commissioner M. Charton (NY) stated that New York was working on a proposal to amend Rule 3.103. Once completed, it will submit the proposal to the East Region for review and discussion. He continued, the East Region also discussed clarifying timeframes around probable cause hearings and issuing warrants.

Executive Director A. Lippert noted that this issue came up in the South Region meeting as well. She will contact Legal Counsel Travis to discuss issuing an advisory opinion to clarify the matter.

DCA B. Kojis (WI) noted that the Midwest Region DCAs discussed a potential proposal to change the Compact's supervision of deferred cases.

Executive Director A. Lippert noted that last year, the Executive Committee put together a workgroup on Risk, Needs, and Responsivity (RNR). The workgroup might make a recommendation to amend the rules. She continued that this April, the ABM workgroup will present a 2024 ABM agenda to the Executive Committee for approval. The agenda includes three full working days to review and collaborate on challenging rules and processes. The Rules Committee will have issues to review after the annual business meeting.

Rule Recommendations from Committee: Executive Director A. Lippert reminded the committee that last November, the Executive Committee unanimously approved replacing the term 'offender' with 'supervised individual' in the Commission's publications, rules, and on its official website. This change aims to foster a more person-centered approach while eliminating barriers and biases associated with traditional terminology.

The national office went through the rules and replaced the term 'offender' with 'supervised individual' where appropriate. Because this change is not a simple find and replace, the rules might require additional clarifying language changes. Given the complexities and scope of the work involved, the Rules Committee will hold an in-person meeting to thoroughly discuss and finalize the proposed changes.

Rule 3.103 Recommendations: The committee reviewed Rule 3.103 issues and potential solution document put together by the national office.

Rule 3.103 Reporting Instructions for Offenders Living in the Receiving State at the Time of Sentencing: Core Purpose of the Rule and Applying the Rule to Ensure Seamless Supervision.

Issue: Resolving varying interpretations of rule qualifications: Should the rule simply qualify a supervised individual when a court imposes 'supervision' for either the criminal offense or a violation disposition and the supervised individual has a verified residence in the receiving state at the time of sentencing OR should it be exclusive based on how someone is sentenced and what they were sentenced for?

Potential Solutions:

1. Simplify Rule:
 - a. When supervised individual is the sentenced to 'supervision' and has a verified residence in a receiving state, they should be permitted to return home pending a transfer investigation; the individual's crime and sentence should not disqualify them from this rule.
2. The Rule should exclude absconders/violators that are continued on supervision:
 - a. Develop clear language that excludes absconders/violators from qualifying to return to/continue to reside at their residence in the receiving state upon sentencing.
 - b. Develop training solutions to help states apply this rule in their state.
 - c. If the supervised individual is sentenced remotely, how should states work with their courts to ensure the supervised individual returns to the sending state.
 - d. How does preventing a supervised individual from returning home after sentencing help public safety and rehabilitation if the court has previously handled the violation and sentenced them to probation?

Rule 3.103 Reporting Instructions for Offenders Living in the Receiving State at the Time of Sentencing: Core Purpose of the Rule and Applying the Rule to Ensure Seamless Supervision.

Issue: How the 7-business day timeframe should be tracked and enforced.

Potential Solutions:

1. Conduct an audit using ICOTS data to determine whether 7 business days should be changed.
2. What best practices are sending states using to determine:
 - a. Why delays in the 7-business days occur.
 - b. What corrective actions sending states take when these delays occur.

Rule 3.103 Reporting Instructions for Offenders Living in the Receiving State at the Time of Sentencing: Core Purpose of the Rule and Applying the Rule to Ensure Seamless Supervision.

Issue: Inconsistent Documentation Concerns

Potential Solutions:

1. How are sending state verifying residency?
2. Are sending states documenting whether the supervised individual was sentenced remotely so the receiving state doesn't assume Rule 2.110 or 3.101-3 (sex offender) was violated?
3. Are receiving states timely assisting with getting the application signed for detainer releases or when the supervised individual is sentenced remotely?

Rule 3.103 Reporting Instructions for Offenders Living in the Receiving State at the Time of Sentencing: Core Purpose of the Rule and Applying the Rule to Ensure Seamless Supervision.

Issue: Clarifying when or under what circumstances it would be appropriate for receiving states to deny reporting instructions requiring the supervised individual to return to the sending state pending an investigation

Potential Solutions:

1. Proper communication between DCAs. What would this look like to prevent gaps in supervision?
2. Should failing to meet the 7 business days be an automatic denial?
 - a. What is an acceptable explanation when there is a delay?
 - b. Should the decision be different for an administrative delay versus *allowed to relocate without permission (Rule 2.110 violation)*?
 - c. Should the decision be different for absconders/violators versus being allow to return home/remain at residence after initial sentencing?
3. How should states handle cases where the supervised individual is living with a victim(s)?

Commissioner M Charton (NY) noted that New York's proposal to amend Rule 3.103 pertains only to individuals who have transferred through the Compact and are returning to the receiving state after the deposition of a violation. He added that New York does not intend to exclude states from submitting an expedited request where it is both in the best interest of public safety and the individual to remain in that state pending a transfer request. They believe the state has discretion to review the reporting instructions before accepting them.

Rules Committee Calendar: The committee reviewed its FY24-25 calendar. The committee had no changes to the calendar.

Old/New Business

Commissioner M. Charton (NY) asked the committee to clarify the binding legal nature of the advisory opinions.

DCA B. Kojis (WI) noted that some DCAs had asked her the same question.

Executive Director A. Lippert and Legal Counsel T. Travis stated that the advisory opinions provide clarification and interpretation of a rule.

Chair S. Gagnon (ME) asked Commissioner M. Charton (NY) to send her specific case examples on this matter. The committee will review the documents and discuss the issue at its next meeting.

Adjourn

Commissioner C. Moore (GA) moved to adjourn. Commissioner D. McDaniel (NV) seconded.

The meeting adjourned at 1:35 pm ET.