INTERSTATE COMMISSION FOR ADULT OFFENDER SUPERVISION
Rules Committee
February 27, 2007
Lexington, KY

Committee Members in Attendance
1. William Rankin (Chair)
2. Judge John D’Amico (Vice-Chair)
3. Dori Ege
4. Jeanette Bucklew
5. Ed Ligtenberg
6. Kathie Winckler
7. Frank Herman
8. Kevin Dunphy (ex-officio)
10. Pat Tuthill (ex-officio)

Staff
1. Don Blackburn
2. Ashley Hassan
3. Nicole Smith
4. Kelli Price
5. Kevin Terry
6. Xavier Donnelly
7. Mindy Spring
8. Rick Masters (legal counsel)

Call to Order
• W. Rankin called the meeting to order at 8:50 a.m.
Roll Call

- D. Blackburn called roll. Seven of eight members were present, establishing a quorum.

Approval of Minutes

- D. Ege asked that typos on pages 3 and 5 of the December 1st minutes be fixed. Minutes approved with changes by acclamation.

Chair Update

- W. Rankin provided an overview of the process to be used to go through the agenda.
- J. D’Amico made a motion to approve the agenda. E. Ligtenberg seconded. Agenda approved.

National Office Update

- D. Blackburn discussed the plans for the May Executive Committee meeting to be held in Lexington, KY. He then gave a brief update of the status of the national database project. He also discussed the upcoming Sex Offender Ad Hoc Committee meeting to be held in Lexington in March.

Consideration of Proposed Rules and Amendments

Referrals from the Commission

- K. Winckler asked that the Committee be sure to look at the Texas letter included in the binder materials. J. D’Amico stated that he would discuss Rule 5.108 as he was on the subcommittee regarding that rule. W. Rankin stated that both issues would be addressed in New Business.
- D. Ege asked for clarification on the process of discussion and proposal. K. Tucker asked if the Committee would look at all suggestions for each individual Rule at once. W. Rankin stated that region proposals would be considered separately from those submitted by Committee members.

Rule 3.103

- W. Rankin stated that this rule had been referred back to the Committee at the Annual Business Meeting without direction, and that the Committee had received several comments regarding the rule. He asked the Committee what it thought should be changed.
- There was discussion of the title of the rule.
- J. D’Amico moved that the title of Rule 3.103 be changed. D. Ege seconded. Motion passed.
• There was discussion of the changes proposed by D. Ege in her Committee member proposal regarding “reinstatement”.

• J. D’Amico moved to change the language in Rule 3.103(a)(1). E. Ligtenberg seconded.

• There was discussion of proposing separate motions for separate changes.

• J. D’Amico moved to add language in Rule 3.103(a)(1). D. Ege seconded. Motion passed.

• There was discussion about paragraph 3 of Rule 3.103.

• D. Ege made a motion to strike the second sentence in Rule 3.103(a)(3).

• There was discussion of transferring language to Rule 3.107.

• D. Ege rephrased her motion and moved that the last sentence in paragraph 3 be stricken and similar language be looked at in Rule 3.107. E. Ligtenberg seconded. Motion passed.

• There was discussion of the term “immediately” and its effect on the continuation of supervision.

• W. Rankin made a motion to change Rule 3.103(e)(1) by striking “…immediately and the supervision responsibility shall return to the sending state” and replacing it with “…sending state within 30 days of receiving notice of rejection. The receiving state retains authority to supervise the offender until the offender’s departure from the receiving state or issuance of the sending state’s warrant.”

• D. Ege asked that “calendar” be added to “30 days”.

• Motion passed.

• The Committee discussed Rule 3.103(e)(2).

• W. Rankin made a motion that Rule 3.103(e)(2) be amended by deleting “…no later than 10 calendar days…” and inserting “immediately upon offender” in its place. D. Ege seconded.

• K. Winckler made a friendly amendment to the proposal to include striking the phrase “compact member”. Amendment accepted by motion and second.

• Motion passed.

**RULE 3.103 Reporting Instructions; Probation Exception to Rule 2.110 Offender Living in the Receiving State at the Time of Sentencing or Disposition of Violation**

(a)(1) A reporting instructions request for an offender who was living in the receiving state at the time of sentencing or continuation on supervision after disposition shall be submitted by the sending state within seven calendar days of the sentencing date, disposition of violation or release from incarceration to probation supervision. The sending state may grant a seven-day travel permit to an offender who was living in the receiving state at the time of sentencing or
disposition of violation. 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 two 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. Signed forms shall be maintained in the sending state until termination of compact supervision. 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 exception 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.

(e) 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 calendar days following the granting to the offender of the reporting instructions.

(e)(1) If the receiving state rejects the transfer request for an offender granted reporting instructions, or if the sending state fails to send a completed transfer request by the 15th calendar day following the granting of reporting instructions, the sending state shall, upon receiving notice of rejection or upon failure to timely send a required transfer request, direct the offender to return to the sending state within 30 calendar days of receiving notice of rejection. The receiving state retains authority to supervise the offender until the offender’s departure from the receiving state or issuance of the sending state’s warrant, immediately and the supervision responsibility shall revert to the sending state.

(2) If the offender does not return to the sending state, as ordered, the sending state shall initiate the retaking of the offender by issuing a warrant that is effective in all compact member states without limitation as to specific geographic area, immediately upon no later than 10 calendar days following the offender’s failure to appear in the sending state.
• E. Ligtenberg asked if the Committee was planning on responding to the comments submitted about each referral from the regions and Commission as a whole. He noted that the Committee had been criticized for not responding to comments in the past.

• W. Rankin stated that he did not believe the Committee was obligated to respond to each individual comment.

• D. Ege noted that the Committee was criticized for not noting if comments were received. W. Rankin stated that he had hoped the Committee members would have reviewed the comments prior to the meeting. He noted that the comments did not produce a clear consensus about the rules, and that none of the comments raised any new issues that were compelling.

• W. Rankin stated that the Committee would not separate the rule changes at this point, and that after the Committee will discuss breaking up the proposals after comments are received.

• J. D’Amico stated that the Committee not recognizing the comments of DCAs would force DCAs to discuss their suggestions through the regions. He noted that DCAs did not have the standing to comment.

• K. Tucker, D. Ege, K. Dunphy and E. Ligtenberg all expressed that they were offended by J. D’Amico’s comments.

• E. Ligtenberg stated that DCAs are very qualified to comment, and that it is sometimes difficult for them to go through their commissioners.

• W. Rankin stated that DCAs are practitioners, and that their opinions and feedback are important as well. He noted that comments do not force the Committee to do anything. J. D’Amico stated that the Committee does not have an obligation to act on comments at this time, and that the comments should be considered if they are relevant to changes initiated by the Committee or referred back by the Commission.

• D. Ege stated that while the Committee does not have an obligation to act, but does have an obligation to review the comments.

• W. Rankin stated that a summary of comments received should be included in the proposal justifications.

• D. Ege voiced support for the comments made by Massachusetts for Rule 3.103. D. Ege made a motion to adopt similar language as suggested by Massachusetts for Rule 3.103.

• K. Winckler noted that the rule was getting very long, and that perhaps the suggestions by Massachusetts should be a rule unto itself. Motion died for lack of second.

• The Committee discussed the drafting of proposal justifications.

• W. Rankin asked who usually drafted the justifications. D. Ege noted that usually it was the chair and vice-chair with the help of counsel.

• W. Rankin stated that he would draft the justifications for all proposals for Rule 3.103.
Rule 3.105-1

- The Committee discussed the proposal from the Sex Offender Ad Hoc Committee that was referred at the 2006 Annual Business Meeting.
- W. Rankin stated that the Committee would harmonize the proposal with other rules at the Spring Committee meeting.
- F. Herman asked how the Committee should approach adapting proposals. He asked if the Committee should make changes while interpreting the intent of the Commissioner or Region that proposed the rule, or if a proposal should be sent back with comments asking that it be changed.
- J. D’Amico stated that the Committee was required to change proposals as necessary to make them consistent with other rules and in proper form. W. Rankin stated that if a proposal contains language, the Committee was bound to carry it forward.
- D. Ege made a motion to send the proposed Rule 3.105-1 as written for comment, and that those comments be summarized and voted on at the 2007 Annual Business Meeting. J. D’Amico seconded. Motion passed.
- D. Ege will summarize the comments.

Rule 3.105-1 Pre-Dispositional Transfer Requests

(a) A sending state may request the transfer for a convicted offender awaiting a pre-sentence report and/or final sentencing disposition 120 calendar days prior to final sentencing in accordance with Rules 3.101, 3.101-1 and 3.103.

(b) A sending state shall immediately notify a receiving state of the offender’s final disposition.

(c) A receiving state may notify the sending state that it is withdrawing its acceptance or discontinuing its investigation if the final disposition results in “ineligibility” for compact services or incarceration for greater than 120 calendar days.

(d) Following withdrawal or discontinuance of the receiving state’s acceptance or investigation, a sending state shall direct the offender to return to the sending state and it may resubmit a request for transfer pursuant to Rule 3.103.

Rule 3.106

- The Committee discussed the response time associated with Rule 3.106.
- D. Ege made a motion to strike the first sentence of Rule 3.106(2)(A) and replace it with “A receiving state shall provide a
response to a request for expedited reporting instructions to the sending state no later than two business days following receipt of such a request. The sending state shall transmit a departure notice to the receiving state upon the offender’s departure.” J. D’Amico seconded. Motion passed.

- There was discussion of expedited reporting instructions and the transfer packet. D. Ege noted that it was a training issue.
- D. Ege made a motion amend Rule 3.106(2)(b) by striking “Signed forms shall be maintained in the sending state until termination of compact supervision.” J. D’Amico seconded. Motion passed.
- The Committee discussed making Rule 3.106(d)(1) and (2) conform to Rule 3.103(e)(1) and (2).
- P. Tuthill stated that 30 days was too long for an expedited transfer. D. Ege agreed.
- W. Rankin stated that this was a training issue, and that making the rules consistent makes it easier for field officers to remember.
- P. Tuthill reiterated that she felt it was a public safety issue.
- There was discussion of the timeline.
- W. Rankin asked the Committee to give a show of hands as to who want to shorten the time from 30 days. E. Ligtenberg noted that the tracking database would help grade states on timelines.
- E. Ligtenberg made a motion to change 30 days to 15 days. K. Winckler seconded. Motion passed.

**RULE 3.106 Request for expedited reporting instructions**

(a)(1) A sending state may request that a receiving state agree to expedited reporting instructions for an offender if the sending state believes that emergency circumstances exist and the receiving state agrees with that determination. If the receiving state does not agree with that determination, the offender shall not proceed to the receiving state until an acceptance is received under Rule 3.104-1.

(2) (A) A receiving state that agrees to expedited reporting instructions for an offender shall immediately issue reporting instructions for the offender, and—A receiving state shall provide a response to a request for expedited reporting instructions to the sending state no later than two business days following receipt of such a request. The sending state shall transmit a departure notice to the receiving state upon the offender’s departure.

(B) The sending state shall ensure that the offender signs all forms requiring the offender’s signature under Rule 3.107 prior to granting reporting instructions to the offender. Signed forms shall be maintained in the sending state until termination of compact supervision. Upon request from the receiving state the sending state shall transmit all signed forms within 5 business days.
(b) A receiving state shall assume responsibility for supervision of an offender who is granted reporting instructions during the investigation of the offender’s plan of supervision 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.

(c) A sending state shall transmit a completed transfer request for an offender granted reporting instructions no later than the seventh calendar day following the granting to the offender of the reporting instructions.

(d)(1) If the receiving state rejects the transfer request for an offender granted reporting instructions, or if the sending state fails to send a completed transfer request by the seventh calendar day following the granting of reporting instructions, the sending state shall, upon receiving notice of rejection or upon failure to timely send a required transfer request, direct the offender to return to the sending state within 15 calendar days of receiving notice of rejection. The receiving state retains authority to supervise the offender until the offender’s departure from the receiving state or issuance of the sending state’s warrant, immediately and the supervision responsibility shall revert to the sending state.

(2) If the offender does not return to the sending state as ordered, the sending state shall initiate the retaking of the offender by issuing a warrant that is effective in all compact member states without limitation as to specific geographic area, immediately upon no later than 10 calendar days following the offender’s failure to appear in the sending state.

Rule 3.107

- J. D’Amico made a motion to forward Rule 3.107 to the Commission as proposed. D. Ege seconded. Motion passed.
- J. Bucklew made a motion that to add “original signed forms shall be retained in the sending state” to part (q) of Rule 3.107.
- There was discussion of whether both changes should be sent to the Commission separately. There was discussion of the proposed change to part (q).
- J. Bucklew amended her motion to instead be to insert “copy of” into part (q) of Rule 3.107. J. D’Amico seconded. Motion passed.

**RULE 3.107 Application for transfer of supervision:**

An application for transfer of supervision of an offender shall contain—

(a) offender’s full name and any aliases by which the offender is known;
(b) indication of whether the offender seeks transfer to the receiving state based on residency in the receiving state, family residing in the receiving state, or consent of the receiving state;
(c) name, address, and telephone number of family in the receiving state if the offender bases the transfer request on family's residency in the receiving state;

(d) offender's proposed residence in the receiving state;

(e) offender's current or prospective employer in the receiving state;

(f) offender's criminal justice identification number in the sending state;

(g) offender's date of birth;

(h) offender's social security number, if known;

(i) county of conviction or imposition of supervision;

(j) indication of the type of criminal justice supervision to which the offender has been sentenced;

(k) instant offense in sufficient detail to describe the type and severity of offense and whether the charge has been reduced at the time of imposition of sentence;

(l) offender's criminal history;

(m) notice, if applicable, indicating that the supervision of the offender is a victim-sensitive matter;

(n) date supervision is to begin, if known;

(o) date supervision is to terminate, if known;

(p) name and title of supervising officer;

(q) signed copy of the "Offender Application for Interstate Compact Transfer" form, which shall include "Agreement to Return on Demand of the sending state" and "Waiver of Extradition";

(r) signed "Consent to Random Drug or Alcohol Testing and to Searches Based on Reasonable Suspicion" form;

(s) signed "Authorization for Release of Medical and Psychological Information" form;

(t) photograph of offender;

(u) conditions of supervision;

(v) any orders restricting the offender's contact with victims or any other person;

(w) any known orders protecting the offender from contact with any other person;

(x) information as to whether the offender is subject to sex offender registry requirements in the sending state along with supportive documentation;

(y) judgment and commitment documents;

(z) pre-sentence investigation report, if available;

(aa) supervision history, if available;

(bb) information relating to any court-ordered financial obligations, including but not limited to, fines, court costs, restitution, and family support; the balance that is owed by the offender on each; and the address of the office to which payment must be made;

(cc) medical information, if available; and

(dd) psychological evaluation, if available.
Rule 2.104

- K. Winckler made a motion to create a section (b) in Rule 2.104.
- There was discussion of the language to be added.
- K. Winckler accepted a friendly amendment to change the language of the proposal to include “forms containing the offender’s signature”. F. Herman seconded. Motion passed.
- K. Winckler will write the justification with J. Bucklew.

**RULE 2.104 Forms**

(a) States shall use the forms or electronic information system authorized by the commission for all communication regarding offenders between or among states.

(b) The sending state shall retain the original forms containing the offender’s signature until the termination of the offender’s term of compact supervision.

- W. Rankin stated that all justifications should be sent to the National Office to be forwarded to Commissioners.
- The Committee broke for Lunch.

Rule 4.111

- J. Seigel made a motion to return Rule 4.111 to the Commission as it is written. Motion died for lack of second.
- There was discussion of the time frame in the rule in regards to victim notification.
- There was discussion of the return to sending states and reporting instructions.
- J. D’Amico made a motion to add “The offender shall remain in the receiving state until receipt of reporting instructions” to Rule 4.111 (a), “Except as provided in subsection (c)” to Rule 4.111 (b), and create Rule 4.111 (c). J. Bucklew seconded. Motion passed.
- P. Tuthill will write the justification for these changes.

**RULE 4.111 Return to the sending state**

(a) Upon an offender’s request to return to the sending state, the receiving state shall request reporting instructions, unless the offender is under active criminal investigation or is charged with a subsequent criminal offense in the receiving state. The offender shall remain in the receiving state until receipt of reporting instructions.
(b) Except as provided in subsection (c), the sending state shall grant the request and provide reporting instructions no later than two business days following receipt of the request for reporting instructions from the receiving state.

(c) In a victim sensitive case, the sending state shall not provide reporting instructions until the provisions of Rule 3.108-1 have been followed.

(d) A receiving state shall notify the sending state as required in Rule 4.105 (a).

Rule 4.112

- J. D’Amico made a motion to forward the South Region proposal as it is written. D. Ege seconded. Motion passed.
- K. Tucker will write justification.

RULE 4.112 Closing of supervision by the receiving state

(a) The receiving state may close its supervision of an offender and cease supervision upon—

1. The date of discharge indicated for the offender at the time of application for supervision unless informed of an earlier or later date by the sending state;

2. Notification to the sending state of the absconding of the offender from supervision in the receiving state;

3. (A) Notification to the sending state of the sentencing of the offender to incarceration for 180 days or longer and provision of the judgment and sentence and the offender’s location; and receipt from the sending state of a warrant and detainer or other acknowledgement by the sending state of responsibility for the offender within 90 days of the notification. If the sending state fails to provide the warrant and detainer or other acknowledgement within 90 days of notification, the receiving state may close its supervision of the offender.

   (B) After 90 days the sending state shall be responsible for the offender.

4. Notification of death; or

5. Return to sending state.

(b) A receiving state shall not terminate its supervision of an offender while the sending state is in the process of retaking the offender under Rule 5.101.

(c) At the time a receiving state closes supervision, a case closure notice shall be provided to the sending state which shall include last known address and employment.
Rule 6.101

- The Committee discussed the East Regions’ proposal to Rule 6.101.
- W. Rankin stated that the Committee should send with comment that Rules Committee has proposed that certain language be stricken and some added.
- There was discussion of whether the changes to the proposal were contrary to the intent of the East Region. R. Masters stated that he believed the intent was based on an incorrect interpretation of the authority of the Advisory Opinions.
- J. D’Amico made a motion to forward the proposal with the changes set forth. D. Ege seconded.
- It was noted that the changes were proposed by the Commissioner from New Jersey, who was present when the proposal was originally drafted.
- Motion passed.
- J. D’Amico and R. Masters will write the justification.
- K. Winckler stated that she would share another version of Rule 6.101 with J. D’Amico and R. Masters.

Motion to Amend Rule 6.101 to add the following language:

All written advisory opinions authored by the National Office shall be referred to the Rules Committee within thirty (30) days of issuance of said opinion. Upon receipt of the advisory opinion, the Rules Committee shall discuss this matter at the next regularly scheduled meeting and where applicable consider whether a rule change should be proposed consistent with said opinion shall be drafted. Such proposal shall follow the procedures in accordance with Rule 2.109. If the Rules Committee determines that a rule change is not warranted, such rationale shall be reduced to writing and attached to the existing advisory opinion.

Rule 5.111

- There was discussion of the proposal to strike the language “or receiving state” from the East Region.
- There was discussion of whether it would conflict with Rules 5.102 and 5.103 if accepted as written.
- K. Winckler made a motion to forward the proposal to the Commission as written and post it for comment with a note that additional language may be necessary. F. Herman seconded. Motion passed.
- W. Rankin will write the comment.

RULE 5.111 Denial of bail to certain offenders

An offender against whom retaking procedures have been instituted by a sending or receiving state shall not be admitted to bail or other release conditions in any state.
Rule 4.109
- There was discussion of the proposal to add section (10) to Rule 4.109(b).
- F. Herman proposed striking “any and all” from the proposal and forwarding to the Commission. J. D’Amico seconded. Motion passed.
- K. Dunphy will write justification.

Motion to Amend Rule 4.109 to add the following language to (b):

(10) any and all supporting documentation regarding the violation including but not limited to police reports, toxicology reports, and preliminary findings.

Rule 5.112
- There was discussion of the East Region proposal to create a new Rule 5.112.
- There was discussion of removing “compact member states”.
- E. Ligtenberg made a motion to forward the proposal to the Commission with the proposed changes. F. Herman seconded. Motion passed.
- F. Herman will write justification.

RULE 5.112 Retaking an offender accepted under Rule 3.101-2

Upon a request by a receiving state, a sending state shall retake or order the return of an offender from the receiving state if:

a) (1) acceptance was based upon Rule 3.101-2 (Discretionary transfer of supervision); and
   
   (2) the receiving state added to its acceptance a special condition requiring the sending state to retake or order the return of the offender if specific criteria, which were the basis for acceptance, no longer existed; and

   (3) the special condition added by the receiving state relates directly to the sole reason the sending state requested the transfer; and

   (4) the receiving state confirms to the sending state that the criteria upon which the acceptance was made no longer exist.

(b) If the offender does not return to the sending state as ordered, then the sending state shall initiate the retaking of the offender by issuing a warrant that is effective in all compact member states without limitation as to specific geographic area, no later than 10 calendar days following the offender’s failure to appear in the sending state.
Rule 3.101(a)

- D. Ege made a motion to forward the Rule 3.101(a) proposal from the East Region to the Commission as written. J. Bucklew seconded. Motion passed.

Motion to Amend Rule 3.101(a) to read as follows:

(a) has more than 90 days of supervision remaining at the time the sending state submits the transfer request or an indefinite period of supervision remaining; and

Rule 2.109(k)

- W. Rankin made a motion to adopt the proposal to create Rule 2.109(k). E. Ligtenberg seconded.

- There was discussion of the proposal and its impact on other rules.

- K. Winckler stated that she encouraged the National Office to employ a paralegal to check for impact of rule proposals on other rules after they are approved by the Rules Committee.

- Motion passed.

RULE 2.109 Adoption of rules; amendment

(k) The Chair of the Rules Committee may direct revisions to a rule or amendment adopted by the commission, for the purpose of correcting typographical errors, errors in format or grammatical errors. Public Notice of any revision shall be provided for a period of 30 days, during which period the revision is subject to challenge by any commissioner. The revision may be challenged only on grounds that the revision provides a material change to a rule. A challenge shall be made in writing, and delivered to the chair of the Rules Committee, prior to the end of the Notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without approval of the commission.

Rule 3.101-3

- W. Rankin made a motion to forward the proposal to the Commission as it is written. E. Ligtenberg seconded.

- There was discussion of the consistency of the proposal with Rule 3.103 (warrants).

- The proposal was amended to change “If the offender fails to return as directed, the sending state shall issue a warrant that is effective in all compact member states without limitation as to specific geographic area.” with “If the offender does not return to the sending state, as ordered, the sending state shall initiate the retaking of the offender by issuing a warrant that is effective in all states without limitation as to specific geographic area, immediately upon the offender’s failure to appear in the sending state.”
• Motion passed. W. Rankin indicated that the justification has already been submitted with the proposal.

RULE 3.101-3  *Mandatory transfer of federal probationer*

(a) An offender who is subject to federal supervision at the same time he or she is subject to supervision by a sending state, shall be immediately eligible for reporting instructions and transfer to a receiving state, provided that the offender has been placed in, or released to, the receiving state by federal prison or probation authorities.

(b) Upon termination of federal supervision, if the compact case has not discharged, the receiving state may require the offender to return to the sending state, unless the offender is eligible for transfer under Rule 3.101 Mandatory transfer of supervision.

(c) Upon request pursuant to section (b) by the receiving state, the sending state shall order the offender to return. If the offender does not return to the sending state, as ordered, the sending state shall initiate the retaking of the offender by issuing a warrant that is effective in all states without limitation as to specific geographic area, immediately upon the offender’s failure to appear in the sending state.

**Rule 3.102**

- W. Rankin made a motion to send the proposal to the Commission as written. D. Ege seconded. Motion passed.

RULE 3.102  *Submission of transfer request to a receiving state*

(a) Subject to the exceptions in Rule 3.103 (b) and 3.106, a sending state seeking to transfer supervision of an offender to another state shall submit a completed transfer request with all required information to the receiving state prior to allowing the offender to leave the sending state.

(b) Subject to the exceptions in Rule 3.103 (b) and 3.106, the sending state shall not allow the offender to travel to the receiving state until the receiving state has replied to the transfer request. The receiving state shall be given the opportunity to investigate the proposed plan of supervision prior to allowing the offender to leave the sending state.

**Rule 3.102(c)**

- W. Rankin made a motion to send the proposal to the Commission as written. K. Winckler seconded.
- D. Ege expressed her opposition to the proposal as written, stating it flies in the face of Rule 2.110, protecting the public, and states’ rights to deny offenders who do not have reporting instructions.
• Motion passed, one opposed.

**RULE 3.102 Submission of transfer request to a receiving state**

(a) Subject to the exceptions in Rule 3.103 and 3.106, a sending state seeking to transfer supervision of an offender to another state shall submit a completed transfer request with all required information to the receiving state prior to allowing the offender to leave the sending state.

(b) Subject to the exceptions in Rule 3.103 and 3.106, the sending state shall not allow the offender to travel to the receiving state until the receiving state has approved the transfer request and provided reporting instructions.

(c) Prior to the offender’s arrival in the receiving state, pursuant to 3.102 (b), 3.103 or 3.106, the sending state retains sole authority and responsibility for supervision of the offender. The sending state may authorize temporary travel outside the sending state, consistent with the state’s rules and procedures, provided that the temporary travel does not meet the definition of “relocate” as defined in 1.101.

**Definition of “abscond”**

• There was no motion made.

**Rule 4.109-1**

• There was discussion of requesting an advisory opinion to clarify the issue at hand.
• No motion was made.

**Rule 5.101**

• J. D’Amico made a motion to send the proposal to the Commission as written. F. Herman seconded. Motion passed.
• K. Tucker will write justification.

**Rule 5.101 Retaking by the Sending State**

(a) Except as required in Rules 5.102 and 5.103, at its sole discretion, a sending state may retake an offender, unless the offender has been charged with a subsequent criminal offense in the receiving state.

(b) If the offender has been charged with a subsequent criminal offense in the receiving state, the offender shall not be retaken without the consent of the receiving state, or until criminal charges have been dismissed, sentence has been satisfied, or the offender has been released to supervision for the subsequent offense.

**Definition of “offender”**
• J. Bucklew made a motion to send the proposal to the Commission as written. E. Ligtenberg seconded. Motion passed.

“Offender” means an adult placed under, or made subject to, supervision as the result of the commission of a criminal offense and released to the community under the jurisdiction of courts, paroling authorities, corrections, or other criminal justice agencies, and who is required to request subject to the rules governing transfer of supervision under the provisions of the Interstate Compact for Adult Offender Supervision.

Rule 3.101-1
• D. Ege made a motion to strike “immediately” from parts (a), (b), and (c) and add her language to the end of all three parts. J. D’Amico seconded.
• Motion passed.

RULE 3.101-1 Mandatory Transfers of Military, Families of Military, and Family Members Employed:

(a) Transfer of military members- An offender who is a member of the military and has been deployed by the military to another state, shall be immediately eligible for reporting instructions and transfer of supervision. The receiving state shall issue reporting instructions no later than two business days following receipt of such a request from the sending state.

(b) Transfer of offenders who live with family who are members of the military- An offender who meets the criteria specified in Rules 3.101 (a), (b), & (c) and (e)(2) and who lives with a family member who has been deployed to another state, shall be immediately eligible for reporting instructions and transfer of supervision, provided that the offender will live with the military member in the receiving state. The receiving state shall issue reporting instructions no later than two business days following receipt of such a request from the sending state.

(c) Employment transfer of family member to another state- An offender who meets the criteria specified in Rules 3.101(a), (b), & (c) and (e)(2), and whose family member, with whom he or she resides, is transferred to another state by their full-time employer, shall be immediately eligible for reporting instructions and transfer of supervision, provided that the offender will live with the family member in the receiving state. The receiving state shall issue reporting instructions no later than two business days following receipt of such a request from the sending state.

Rule 4.109
• There was discussion of the three changes proposed to Rule 4.109.
• D. Ege made a motion to forward the proposal for Rule 4.109(b)(9) to the Commission as written. E. Ligtenberg seconded.
• Motion passed.
• D. Ege made a motion to add section (3) to Rule 4.109(c)

Rule 4.109

(a) A receiving state shall notify a sending state of significant violations of conditions of supervision by an offender within 30 calendar days of discovery of the violation.

(b) A violation report shall contain—
   (1) offender’s name and location;
   (2) offender’s state-issued identifying numbers;
   (3) date of the offense or infraction that forms the basis of the violation;
   (4) description of the offense or infraction;
   (5) status and disposition, if any, of offense or infraction;
   (6) dates and descriptions of any previous violations;
   (7) receiving state’s recommendation of actions sending state may take;
   (8) name and title of the officer making the report; and
   (9) if the offender has absconded, the offender’s last known address and telephone number, name and address of the offender’s employer, the date of the offender’s last personal contact with the supervising officer, and details regarding how the supervising officer determined the offender to be an absconder.

(c)(1) The sending state shall respond to a report of a violation made by the receiving state no later than ten business days following receipt by the sending state. Receipt of a violation report shall be presumed to have occurred by the fifth business day following its transmission by the receiving state;
   (2) The response by the sending state shall include action to be taken by the sending state and the date by which that action will begin and its estimated completion date.
   (3) A sending state shall, upon receipt of an absconder violation report and case closure, issue a warrant for the offender that is effective in all states without limit as to specific geographic area.
   (4) If an offender who has absconded is apprehended on a sending state’s warrant within the jurisdiction of the receiving state that issued the violation report and case closure, the receiving state shall, upon request by the sending state, reopen the compact case and resume the violation process in accordance with the rules in Chapters 4 and 5.

Rules 5.102 and 5.103
• There was discussion of consistency with Rules 3.103 and 3.106.
• D. Ege made a motion to add “immediately” to Rules 5.102 and 5.103. F. Herman seconded. Motion passed.
- D. Ege will write justification for all of her proposals.

- There was discussion of making proposed Rule 5.112 consistent with the changes proposed to Rules 5.102 and 5.103.
- W. Rankin made a motion to add similar language to the proposed Rule 5.112. E. Ligtenberg seconded.
- There were no objections from the members of the East Region that were present.
- Motion passed.

**RULE 5.112  Retaking an offender accepted under Rule 3.101-2**

Upon a request by a receiving state, a sending state shall retake or order the return of an offender from the receiving state if:

a) (1) acceptance was based upon Rule 3.101-2 (Discretionary transfer of supervision); and

(5) the receiving state added to its acceptance a special condition requiring the sending state to retake or order the return of the offender if specific criteria, which were the basis for acceptance, no longer existed; and

(6) the special condition added by the receiving state relates directly to the sole reason the sending state requested the transfer; and

(7) the receiving state confirms to the sending state that the criteria upon which the acceptance was made no longer exist.

c) If the offender does not return to the sending state as ordered, then the sending state shall initiate the retaking of the offender by issuing a warrant that is effective in all states without limitation as to specific geographic area, no later than 10 calendar days following immediately upon the offender’s failure to appear in the sending state.

**Rule 4.104**

- F. Herman made a motion to adopt his proposal. D. Ege seconded.
- There was discussion of the proposal.
- Motion passed.
- F. Herman will write justification.

**Rule 4.104 Offender registration or DNA testing in receiving or sending state**

A receiving state shall require that an offender transferred under the interstate compact comply with any offender registration and DNA testing requirements in accordance with the laws or policies of the receiving state and shall assist the sending state wherever feasible to ensure DNA testing requirements and offender registration requirements of a sending state are fulfilled.
Rule 5.111
- J. D’Amico moved to forward the proposal to the Commission as written. F. Herman seconded.
- There was no discussion.
- Motion passed.

Rule 5.111 Denial of bail or release to certain offenders
An offender against whom retaking procedures have been instituted by a sending or receiving state shall not be admitted to bail or other release conditions in any state.

Rule 4.111
- D. Ege proposed changes to Rule 3.103 to address issues with part (a).
- There was discussion of part (b).
- There was no motion.
- F. Herman will rework the wording for his proposal to part (b).

- R. Masters made a point of order that deleting “receiving state” from Rule 5.111 would make the rules inconsistent.
- D. Ege asked if the Committee could ask the East Region to reconsider striking the motion. It was determined that they could not.

J. Bucklew proposals
- J. Bucklew proposed several rule changes on behalf of Indiana.
- J. Bucklew made a motion to add the proposed (2)(b) to Rule 3.101.
- Motion died for lack of second.
- J. Bucklew made a motion to forward the proposal to Rule 4.102 to the Commission.
- R. Masters related the rule to the Tennessee court case.
- Motion died for lack of second.

Quality Control
- There was discussion of the format of justifications.

Old Business
- There was discussion of the status of where individuals are on previous assignments.
- J. D’Amico stated that K. Winckler had returned information related to probable cause.
- The Committee reviewed the letter submitted by the judge from Texas.
- There was discussion of the changes to Rule 5.108 proposed by J. D’Amico.
- J. D’Amico made a motion to approve his proposal to change section (a) of Rule 5.108. K. Winckler seconded.
- Motion passed.
Several additional changes were made to the motion to amend Rule 5.108. J. D'Amico and K. Winickler agreed with those changes. Changes adopted without voting again.

D. Ege made a motion to adopt the proposed changes to Rule 5.108(f). J. D'Amico seconded. Motion passed.

**Rule 5.108 Probable cause hearing in receiving state**

(a) An offender subject to retaking for violation of conditions of supervision 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, consistent with due process requirements.

(b) No waiver of a probable cause hearing shall be accepted unless accompanied by an admission by the offender to one or more significant violations of the terms or conditions of supervision.

(c) A copy of a judgment of conviction regarding the conviction of a new felony 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 30 calendar 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, the receiving state shall hold the offender in custody, and the sending state shall, within 10 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 within 30 calendar days of receipt of the hearing officer’s report and determination.

(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.

- W. Rankin asked that the Committee send language to the National Office by March 15, 2007. He proposed holding a meeting at the end of March to approve proposals and justifications to be put on the website for comments.
- W. Rankin stated that feedback on the proposal and justifications would be due from the rest of the Commission by June 1, 2007.
- The Rules Committee will meet face-to-face on June 25-June28, 2007, and final rules will be posted for review by August 1, 2007.
- There was discussion of Advisory Opinion 13-2006.
- There was discussion of substantial compliance and the Advisory Opinion’s findings. The issue was tabled until the next Rules Committee meeting to see what the reaction of the Commission is.

New Business
- K. Tucker proposed a change to Rule 2.105.
- **No motion was made.**
- D. Ege made a motion to adjourn. E. Ligtenberg seconded. Meeting adjourned at 6:34 p.m.