INTERSTATE COMMISSION FOR ADULT OFFENDER SUPERVISION
Rules Committee

Meeting Minutes
8:30 AM EST
June 27-28, 2006

Committee Members in Attendance
1. Milt Gilliam
2. Dori Ege
3. Mike DePietro
4. Henry Lowery
5. Doreen Geiger
6. John D’Amico
7. Ed Ligtenberg
8. Karen Tucker (ex officio)
9. Gregg Smith (ex officio)
10. Kevin Dunphy (ex officio)

Committee Members not in Attendance
1. Pat Tuthill (ex officio)
2. Gerald Vande Walle (ex officio)
**Staff**

1. Don Blackburn  
2. Kelli Price  
3. Mindy Spring  
4. Ashley Kenoyer  
5. Whitney Hall  
6. Xavier Donnelly  
7. Rick Masters

**Guests:**

1. Frank Herman, NY

**Tuesday, June 27, 2006**

**Call to order and roll call**

- The meeting was called to order at 8:40am. EST by M. Gilliam. Seven of seven Committee Members were present establishing a quorum. There is one guest present: Frank Herman, who will be replacing M. DePietro as New York’s Commissioner.  
- D. Blackburn announced that K. Price is back on the National Office Staff and K. Terry has also joined the National Office Staff as an MIS Project Manager.

**Approval of the Agenda**

- J. D’Amico moved to approve the Agenda with the addition of New Business. E. Ligtenberg seconds. Motion passed.

**Approval of the Minutes**

- M. Gilliam decided to postpone the approval of the minutes from May 5, 2006 until later in the day.

**Review of the Rules Comments from Commissioners and DCAs posted to the ICAOS website.**

- There was discussion of rule changing process.
- M. DePietro stated that the Rules Committee should not speak out for or against a rule that is put forth by another Region or Committee.
- D. Ege stated that it is the obligation of the Rules Committee to explain to Regions and states if their comments are contrary to proper rule procedure.
- Discussion of importance of giving weight to Commissioner comments and suggestions.
- D. Ege pointed out that a large majority of the Commissioners don’t look at the rule changes until they get to the Annual Business meeting.
- J. D’Amico asked that this be a part of the Commissioners’ Training at the Annual Business meeting.
- M. Gilliam opened discussion on Rule change comments.

  - Rule 1.101 “relocate”

    (ii) “Relocate” means to remain in another state for more than 90 45 consecutive days in any 12 month period.

    - M. Gilliam opened by going through each of the comments and discussing them.
    - E. Ligtenberg explained that this definition has to do with “intent” and there is no way to determine intent.
    - D. Ege pointed out that we are not talking about “travel permits” in this definition; “relocate” is a completely different term.
    - M. DePietro stated that the issue is about continuum of supervision. H. Lowery stated that Commissioners need to understand this or they will vote down this rule change at the Annual Business Meeting.
    - M. DePietro explained that initially the Rules Committee had decided not to add in “cumulative” or “consecutive” to this rule. His concern was that if one of those terms were added it would be difficult to have this definition approved by the Commission.
    - M. DePietro added that the way that the definition is worded now it means that one can only leave for 45 cumulative days per year. Furthermore, the purpose of this rule is to protect the public. M. DePietro stated that he supports the current wording of the rule with the change of 90 days to 45 consecutive days but that he wanted to add the term “temporary supervision.”
    - E. Ligtenberg added that the Committee has to leave “consecutive” in the rule for the rule to be passed by the Commission.
    - K. Tucker suggested finding the rules that include “relocate” and amend those rules.
    - E. Ligtenberg stated that the advantage of using “consecutive” is that it doesn’t have to be tracked.
    - J. D’Amico said that the Rules Committee should emphasize to the full Commission at the Annual Business Meeting that this rule is not about “temporary travel” before it comes to a vote.
    - The Committee has received and reviewed comments from the West Region, Delaware, Alabama, Texas, Connecticut, Florida, Oregon, Minnesota, Maryland, Arizona, Puerto Rico, Michigan, Pennsylvania, Indiana, Colorado, and Kentucky.
    - J. D’Amico moved to submit this rule as drafted to the commission, seconded by E. Ligtenberg.
    - Motion passed.

- Rule 1.101 “special condition”
“Special condition” means a condition or term that is added to the standard conditions of parole or probation by either the sending or receiving state.

- The Committee reviewed comments from West Region, Delaware, Ohio, Texas, Missouri, Florida, Maryland, Virginia, and Kentucky.
- M. Gilliam asked if the Committee is comfortable with the term “consistent with the purpose of the compact.”
- J. D’Amico noted that we could quote that section of the statute in the definition. He also suggested adding “the offender’s offense” to this rule.
- M. DePietro stated that you can’t add offense because that is not the only thing considered in supervision.
- J. D’Amico withdrew his suggestion.
- M. DePietro moved to delete “and is consistent with the purpose of the compact.” With no second the motion dies.
- E. Ligtenberg moved to withdraw this additional language to this definition based upon the comments from commissioners. D. Geiger seconded.
  - Motion passed.
  - Changes to the definition of “special condition” will not be brought to the Commission for a vote.

- Rule 1.101 “warrant”

“warrant”: a document issued by a sending state that is effective in all compact member states, without limitation as to specific geographic area, for the purpose of apprehending and returning the offender to the sending state.

- The Committee reviewed comments by Indiana, the West Region, Alabama, Pennsylvania, Texas, Minnesota, Arizona, Puerto Rico, Indiana, Massachusetts, and Kentucky.
- J. D’Amico pointed out that some of the comments ask if “warrant” is present often enough in the rules to justify having a definition.
- Discussion on the appearance of “warrant” throughout the Rules.
- M. DePietro asked if the Commission could have a compact warrant with national implication.
- R. Masters stated that this definition would have to do that. He added that the Commission has created other legal documents and therefore should be able to create its own warrant.
- Discussion continued on comments over “warrant” and the different interpretation of the definition and the possibility of creating a compact warrant.
J. D’Amico suggested that instead of having this definition, the Commission should add a subcategory to address this in Rule 5.101.

J. D’Amico moved to table the addition of Rule 1.101 “warrant” to review all effected rules. D. Ege seconded. Motion passed.

• Rule 2.101 “Involvement of interstate compact offices”

The Committee reviewed comments by the West Region, Minnesota, Michigan, Indiana and Kentucky.

M. Gilliam stated that some of the comments seemed confused on what type of conversations are considered in this rule.

E. Ligtenberg said that this rule can be confusing. There is question as to whether or not POs in different states can talk to each other.

D. Blackburn stated that after NACIS comes online, all communication will flow through the compact offices.

G. Smith stated that he wants information sent on a compact action form or an official form through the compact office.

D. Blackburn said that the National Office will emphasize this in future NACIS training.

Discussion of amendment.

D. Ege moved that the recommendation for 2.101 be accepted. M. DePietro seconded.

Motion passed.

RULE 2.101 Involvement of interstate compact offices

(a) Acceptance, rejection or termination of supervision of an offender under this compact shall be made only with the involvement and concurrence of a state’s compact administrator or the compact administrator's designated deputies.

(b) All formal written, electronic, and oral communication regarding an offender under this compact shall be made only through the office of a state’s compact administrator or the compact administrator's designated deputies.

(c) Transfer, modification or termination of supervision authority for an offender under this compact may be authorized only with the involvement and concurrence of a state’s compact administrator or the compact administrator's designated deputies.

(d) Violation reports or other notices regarding offenders under this compact shall be transmitted only through direct communication of the compact offices of the sending and receiving states.
• **Rule 2.105**
  - The Committee reviewed comments from the West Region, Delaware, Nebraska, Ohio, Missouri, Florida, South Carolina, Texas, Minnesota, Maryland, Louisiana, Puerto Rico, Virginia, Michigan, Idaho, Indiana, Massachusetts, Colorado, Kentucky and Arkansas.
  - Discussion of amendment to 2.105 by J. McKenzie at the 2005 Annual Business Meeting.
  - **D. Ege moved to table the amendment to 2.105 until the Minutes from the 2005 Annual Business Meeting could be reviewed. This was seconded by E. Ligtenberg.**
  - Motion passed.

**Rule 2.105**

(a) A misdemeanor offender whose sentence includes one year or more of supervision shall be eligible for transfer, provided that all other criteria for transfer, as specified in Rule 3.101, have been satisfied; and the instant offense includes one or more of the following—

(1) an offense in which a person has incurred direct or threatened physical or psychological harm;
(2) an offense that involves the use or possession of a firearm;
(3) a second or subsequent misdemeanor offense of driving while impaired by drugs or alcohol;

(4) a sexual offense that requires the offender to register as a sex offender in the sending state.

(5) **drug offenses**;

(6) **felonies reduced to misdemeanors**.

• **Rule 2.109**
  - The Committee reviewed comments from Texas, the West Region, Colorado, and Kentucky.
  - M. Gilliam pointed out that the Rules Committee was to determine a vote for or against this Rule and then go back and amend it.
  - R. Masters stated that he was recommending this for legal reasons to insure a majority by having two different votes.
  - D. Ege suggested striking 2.109(h).
  - Discussion on this amendment.
  - **D. Ege moved and H. Lowery seconded to amend 2.109 as below:**

  “Rule 2.109 (h) The Interstate Commission shall, by majority vote of a quorum of the commissioners, take final action on the proposed rule or amendment by a vote of yes or no or by referring the rule back to the..."
Rules Committee for further action. Additionally, by majority vote of the Commission, a proposed rule or amendment may be referred back to the Rules Committee for further action prior to or subsequent to action by the Commission. The Commission shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.”

- M. Gilliam clarified that the Committee is making changes in order to clarify the rule and reduce redundancy.
- Motion passed.

- Rule 3.101
  - Discussion of comments from the West Region, Pennsylvania, and Puerto Rico.
  - J. D’Amico moved that the Committee approve the changes to Rule 3.101. D. Ege seconded.
  - Motion passed.

RULE 3.101 Mandatory transfer of supervision

At the discretion of the sending state, an offender shall be eligible for transfer of supervision to a receiving state under the compact, and the receiving state shall accept transfer, if the offender:
(a) has more than 90 days or an indefinite period of supervision remaining; and
(b) has a valid plan of supervision; and
(c) is in substantial compliance with the terms of supervision in the sending state; and
(d) is a resident of the receiving state; or
(e) (1) has resident family in the receiving state who have indicated a willingness and ability to assist as specified in the plan of supervision; and
(2) can obtain employment in the receiving state or has a visible means of support.

- Based on 3.101 the Committee is attempting to make this rule uniform, recommending that the definition of visible or viable be changed.

- Rule 3.101-1
  - The Committee reviewed and discussed comments from the West Region, Pennsylvania, and Texas.
  - Discussion of Comment to remove the wording “has a valid plan of supervision” from this rule.
• D. Blackburn stated that this sequence is consistent with other transfers of the compact.
• M. DePietro voiced concerns that reporting instructions are demanded and issued in such a hurry that officers do not take the time to make sure that the information is true, accurate, and appropriate.
• **D. Geiger moved that the Committee send this Rule as amended to the Commission for vote. D. Ege seconded.**
• **Motion passed.**
• J. D’Amico stated that Texas’s suggestion to delete “other” in Rule 3.101-1 is plausible.
• **M. DePietro moved to reopen discussion on Rule 3.101-1 for the purpose of discussion of the comments made by Texas. D. Geiger seconded.**
• **Motion passed.**
• J. D’Amico moved and E. Ligtenberg seconded motion to delete the word “other.”
• **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.

(b) **Transfer of Offenders who live with family who are members of the military-** An offender who meets the other criteria specified in Rules 3.101(a), (b), & (c) and 3.101(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.

(c) **Employment transfer of family member to another state-** An offender who meets the other criteria specified in Rules 3.101(a), (b), & (c) and 3.101(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.

• **Rule 3.103**
  • Discussion of comments from the West Region, Ohio, Missouri, South Carolina, Texas, Michigan, Indiana, Pennsylvania, Massachusetts, Colorado, and Kentucky.
  • M. Gilliam stated Ohio voiced concern about problem with Shock Probation.
  • The Committee discussed the comment by South Carolina that the wording in (a) appears to be in conflict with title.
- Discussion on restructuring Rule 3.103.
- J. D’Amico proposed starting the rule with wording from section b(1) A.
- Discussion of possible changes that would make this rule clearer.
- E. Ligtenberg stated that this rule is simply too big and complex to change and still be clear.
- M. DePietro suggested taking into consideration, violent and nonviolent offenders.
- M. Gilliam suggested that the Committee break for lunch and think on this rule.

**Break for lunch.**

- **Rule 3.103 (cont.)**

  - Continued discussion on Rule 3.103
  - M. Gilliam opened discussion on the comment by noting that if (E) is worded as indicated above then (F) isn’t necessary.
  - D. Geiger concurred with Ohio’s comment.
  - J. D’Amico moved to omit (a) and (b) and renumber 1(A) as (a) and change the title. M. DePietro seconded.
  - With a roll call vote motion passed.

**RULE 3.103 Acceptance of the offender by receiving state; probation exception Reporting Instructions; Probation Exception to Rule 2.110**

(a) As an exception to Rule 2.110, a sending state shall not allow an offender under supervision in the sending state to relocate to a receiving state without the receiving state’s acceptance of the transfer of supervision.

(b) Exception

(1)(A) A sending state may grant a travel permit to an offender who was living in the receiving state at the time of sentencing.

(1)(A) (1) Reporting instructions requested for an offender who was living in the receiving state at the time of sentencing shall be submitted by the sending state within seven calendar days of the sentencing date or release from incarceration to probation supervision. The sending state may request reporting instructions from a receiving state through the electronic approved information system and may grant a seven day travel permit to an offender who was living in the receiving state at the time of sentencing. Prior to granting a travel permit to an offender, the sending state shall verify that the offender is living in the receiving state.

(B) This exception is not applicable to offenders released to supervision from prison.
(2)(B) The receiving state shall issue reporting instructions no later than two business days following receipt of such a request from the sending state.

(3)(C) The sending state shall ensure that the offender sign all forms requiring the offender’s signature under Rule 3.107 (a) 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)(D) The sending state shall transmit a departure notice to the receiving state per Rule 4.105 (a).

(5)(E) This exception is applicable to offenders incarcerated for 6 months or less and released to probation supervision, sentenced to jail as a condition of probation and released to probation supervision from a jail facility.

(6)(F) This exception is not applicable to paroling offenders. Released to supervision from prison.

(b)(2) The sending state retains supervisory responsibility until the offender’s arrival in the receiving state.

(c)(3) 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.

(d)(4) 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 a travel permit reporting instructions, or if the sending state fails to send a completed transfer request by the 15th calendar day following the granting of a travel permit reporting instructions, the sending state shall, upon receiving notice of rejection or upon failure to timely send a required transfer request from the receiving state, direct the offender to return to the sending state after the receipt of notification of the transfer request.
(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, or an order to return no later than 10 calendar days following the offender’s failure to appear in the sending state.

(C) The receiving state shall continue to supervise the offender until a warrant is issued or notice is given by the sending state as required under Rule 4.105.

- D. Geiger pointed out that probation and parole are losing the meanings that they previously held.
- M. DePietro stated that the more important differentiation is between violent and nonviolent offenders.
- D. Blackburn stated that the reason probationers were separated from parolees was that probationers needed to go back home after they were released. He added that states control parolees much more than they do probationers. He then expressed that the issue with this rule has arisen because some states are refusing to look at expedited reporting instructions.
- H. Lowery said that often officers send a request for expedited transfer request without an explanation.
- Discussion of changing Rule 3.103(a)(5) to “This exception is applicable to offenders incarcerated for 6 months or less and released to supervision,” and delete (a)(6).
- J. D’Amico proposed leaving “released to supervision from prison” in Rule 3.103(a)(6), which had been proposed to be deleted at the February 2006 meeting.
- E. Ligtenberg said that the only way to get this rule passed properly is to let the Commission vote on the amendments to this rule piece by piece.
- M. Gilliam stated that the most important issue to deal with today is “Shock Probation.”
- D. Blackburn said that the Commission is not enforcing this rule in its current form now.
- **J. D’Amico moved that 3.101 (a)(5) read “This exception is applicable to offenders incarcerated for 6 months or less and released to supervision and delete 3.101(a)(6).**
  - **Motion died from lack of second.**
- Discussion of other possible amendments.
- M. Gilliam said that the discussed proposal will be just as the comment from Ohio stated but adding “incarcerated for 6 months or less and released to probation supervision.”
- Continued discussion on wording of this rule.
M. DePietro moved to accept the language as follows:

³3.101

(5)(E) This exception is applicable to offenders incarcerated for 6 months or less and released to probation supervision, sentenced to jail as a condition of probation and released to probation supervision from a jail facility.

(6)(F) This exception is not applicable to paroling offenders. Released to supervision from prison.”

E. Ligtenberg seconded motion.

E. Ligtenberg said that this change would give those offenders who have been incarcerated for less than 6 months time to find a place to live.

M. DePietro moved to leave 3.101 (a)(5) as:

“This exception is applicable to offenders incarcerated for 6 months or less and released to probation supervision, sentenced to jail as a condition of probation and released to probation supervision from a jail facility, and delete part (6.)

E. Ligtenberg seconded.

Motion passed.

Discussion moved on to 3.103 (c)(1).

“If the receiving state rejects the transfer request for an offender granted a travel permit reporting instructions, or if the sending state fails to send a completed transfer request by the 15th calendar day following the granting of a travel permit reporting instructions, the sending state shall, upon receiving notice of rejection or upon failure to timely send a required transfer request from the receiving state, direct the offender to return to the sending state by a date specified by the sending state within 30 calendar days immediately and the supervision responsibility shall revert to the sending state after the receipt of notification of the rejection of the transfer request.”

D. Blackburn pointed out that using the term “immediately” is dangerous to use as a timeframe because it is so indefinite. He suggested adding a specific number of days.

D. Ege asked how a state is supposed to supervise an offender that it has rejected.

The Committee continued to discuss further provisions of Rule 3.103.

D. Geiger recommended that Rule 3.103 be changed as follows:

Rule 3.103
(e)(1) If the receiving state rejects the transfer request for an offender granted a travel permit reporting instructions, or if the sending state fails to send a completed transfer request by the 15th calendar day following the granting of a travel permit reporting instructions, the receiving state may request reporting instructions from the sending state. The sending state shall, upon receiving notice of rejection or upon failure to timely send a required transfer request from the receiving state, direct the offender to return to the sending state and request reporting instructions.

(A) 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, by a date specified by the sending state within 30 calendar days immediately after the receipt of notification of the rejection of the transfer request.

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

- M. DePietro asked how long the offender has to return to the original sending state.
- Discussion of which state is technically supervising an offender as he or she travels from the proposed receiving state back to the sending state after an offender’s transfer request has been denied.
- D. Ege moved to forward Rule 3.103 with original proposed changes to the Commission. H. Lowery seconded.
- Motion passed.

**RULE 3.103 Acceptance of the offender by receiving state; probation exception - Reporting Instructions; Probation Exception to Rule 2.110**

(a) As an exception to Rule 2.110, a sending state shall not allow an offender under supervision in the sending state to relocate to a receiving state without the receiving state’s acceptance of the transfer of supervision.

(b) Exception —

(1)(A) A sending state may grant a travel permit to an offender who was living in the receiving state at the time of sentencing.

(1)(A) (a)(1) Reporting instructions requested for an offender who was living in the receiving state at the time of sentencing shall be submitted by the sending state within seven calendar days of the sentencing date or release from incarceration to probation supervision. The sending state may request reporting instructions from a receiving state through the electronic approved information system and may grant a seven day travel permit to an offender who was living in the receiving state at the time of sentencing.
granting a travel permit to an offender, the sending state shall verify that the
offender is living in the receiving state.

(B) This exception is not applicable to offenders released to supervision from
prison.

(2)(B) The receiving state shall issue reporting instructions no later than two
business days following receipt of such a request from the sending state.

(3)(C) The sending state shall ensure that the offender sign all forms requiring
the offender’s signature under Rule 3.107 (a) 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)(D) The sending state shall transmit a departure notice to the receiving state
per Rule 4.105 (a).

(5)(E) This exception is applicable to offenders incarcerated for 6 months or
less and released to probation supervision, sentenced to jail as a condition
of probation and released to probation supervision from a jail facility.

(6)(F) This exception is not applicable to paroling offenders. Released to
supervision from prison.

(b)(2) The sending state retains supervisory responsibility until the offender’s
arrival in the receiving state.

(c)(3) 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.

(d)(4) 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 a
travel permit reporting instructions, or if the sending state fails to send a
completed transfer request by the 15th calendar day following the granting of
a travel permit reporting instructions, the sending state shall, upon receiving
notice of rejection or upon failure to timely send a required transfer request
from the receiving state, direct the offender to return to the sending state after
the receipt of notification of the transfer request.

(2) If the offender does not return to the sending state, as directed, the sending
state shall initiate the retaking of the offender by issuing a warrant or an
order to return no later than 10 calendar days following the offender’s
failure to appear in the sending state.

(C) The receiving state shall continue to supervise the offender until a warrant is
issued or notice is given by the sending state as required under Rule 4.105.

- Rule 2.105

  - Discussion continued on the original request to amend this rule.
  - The Committee reviewed the 2005 Annual Business Meeting record
    and decided to add only “(5) a drug offense which due to its
    seriousness originated as a felony and was amended to a
    misdemeanor,” to Rule 2.105.
  - M. DePietro moved and H. Lowery seconded a motion to amend
    Rule 2.105 as stated below:

**Rule 2.105**

(a) A misdemeanor offender whose sentence includes one year or more of
supervision shall be eligible for transfer, provided that all other criteria for
transfer, as specified in Rule 3.101, have been satisfied; and the instant
offense includes one or more of the following—
  (1) an offense in which a person has incurred direct or threatened physical or
      psychological harm;
  (2) an offense that involves the use or possession of a firearm;
  (3) a second or subsequent misdemeanor offense of driving while impaired by
      drugs or alcohol;
  (4) a sexual offense that requires the offender to register as a sex offender in
      the sending state.
  (5) a drug offense which due to its seriousness originated as a felony and was
      amended to a misdemeanor.

- Rule 3.104-1

  - Discussion of rule and comments made by the West Region and
    Kentucky.
  - D. Ege moved to approve Rule 3.104-1 and send as is to the
    Commission for vote. H. Lowery seconded.
• Motion passed.

**RULE 3.104-1 Acceptance of offender; issuance of reporting instructions**

(a) If a receiving state accepts transfer of the offender, the receiving state’s acceptance shall include reporting instructions.

(b) Upon notice of acceptance of transfer by the receiving state, the sending state shall issue a travel permit to the offender and notify the receiving state of the offender’s departure as required under Rule 4.105.

(c) An acceptance by the receiving state shall be valid for 120 calendar days. If the sending state has not sent a Departure Notice to the receiving state in that timeframe, the receiving state may withdraw its acceptance and close interest in the case. This does not apply to paroling offenders. See Rule 3.105 (c)(1).

• Rule 3.106

  ▪ Discussion of comments from the West Region, Missouri, Florida, Pennsylvania, South Carolina, Oregon, Minnesota, Texas, Arizona, Colorado, and Kentucky.
  ▪ M. Gilliam noted that the language in this rule needs to mirror language in Rule 3.103.
  ▪ K. Tucker explained that the Commission needs to use “travel permit” or “reporting instructions,” but the Committee must stay consistent.
  ▪ M. Gilliam stated that this wording may have been intentional.
  ▪ K. Tucker and D. Ege stated that they understood and this was acceptable.
  ▪ M. Gilliam suggested inserting “by issuing a warrant” in 3.106(d)(2).
  ▪ J. D’Amico moved and D. Ege seconded to accept rule as below and send on to Commission.
  ▪ Motion passed.

**RULE 3.106 Request for expedited reporting instructions**

(a)(1) A sending state may request that a receiving state agree to expedited transfer reporting instructions of 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 transfer reporting instructions of an offender shall immediately issue reporting instructions for the offender, and
a sending state shall immediately issue a travel permit, transmit a departure notice.

(B) The sending state shall ensure that the offender signs all forms requiring the offender’s signature under Rule 3.107 (a) prior to granting a travel permit reporting instructions to the offender. The sending state shall immediately transmit the signed forms electronically or by telefax to the receiving state. 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.

(C) At the time of transmission of the signed forms, the sending state shall provide the receiving state with a copy of the offender’s orders and conditions, documentation of the offender’s residency, copy of any available pre-sentence report, copy of any order of protection, where applicable, and whether the offender is subject to sex offender registration in the sending state.

(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 a travel permit reporting instructions no later than the seventh calendar day following the granting to the offender of the travel permit reporting instructions.

(d)(1) If the receiving state rejects the transfer request for an offender granted a travel permit reporting instructions, or if the sending state fails to send a completed transfer request by the seventh calendar day following the granting of a travel permit 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 immediately and the supervision responsibility shall revert to the sending state by a date specified by the sending state within 30 calendar days after receipt of notification of the rejection of the transfer request.

(2) If the offender does not return to the sending state as directed, the sending state shall initiate the retaking of the offender by issuing a warrant no later than 10 calendar days following the offender’s failure to appear in the sending state.

(3) The receiving state shall continue to supervise the offender until a warrant is issued or notice is given by the sending state as required under Rule 4.105.

- Rule 3.108-1
• Discussion of Comments from Indiana and the West Region.
• M. Gilliam asked how many cases are being flagged as victim sensitive.
• The Committee replied that they have very few cases that are victim sensitive.
• M. Gilliam concluded that this should be easy to maintain.
• J. D’Amico moved to send this Rule on to the Commission. H. Lowery seconded.
• Motion passed.

**RULE 3.108-1 Victims’ right to be heard and comment**

(a) When an offender submits a request to transfer to a receiving state or a subsequent receiving state, or to return to a sending state, the victim notification authority in the sending state shall, at the time of notification to the victim as required in Rule 3.108 (a), inform victims of the offender of their right to be heard and comment. Victims of the offender have the right to be heard regarding their concerns relating to the transfer request for their safety and family members’ safety. Victims have the right to contact the sending state’s interstate compact office at any time by telephone, telefax, or conventional or electronic mail regarding their concerns relating to the transfer request for their safety and family members’ safety. The victim notification authority in the sending state shall provide victims of the offender with information regarding how to respond and be heard if the victim chooses.

(b)(1) Victims shall have ten business days from receipt of notice required in Rule 3.1081 (a) to respond to the sending state. Receipt of notice shall be presumed to have occurred by the fifth business day following its sending.

(2) The receiving state shall continue to investigate the transfer request while awaiting response from the victim.

(c) Upon receipt of the comments from victims of the offender, the sending state shall consider comments regarding their concerns relating to the transfer request for their safety and family members’ safety. Victims’ comments shall be confidential and shall not be disclosed to the public. The sending state or receiving state may impose special conditions of supervision on the offender, if the safety of the offender’s victims or family members of victims is deemed to be at risk by the approval of the offender’s request for transfer.

(e) The sending state shall respond to the victim no later than five business days following receipt of victims’ comments, indicating how victims’ concerns will be addressed when transferring supervision of the offender.

• Rule 4.111
• J. D’Amico moved that this would be a training issue and send it as is to the Commission for vote. H. Lowery seconded.
• Motion passed.

M. Gilliam called a recess until 8:30 am EST.

Wednesday, June 28, 2006

M. Gilliam called the meeting back to order at 8:40 am EST.

- M. Gilliam asked that the Committee make a motion to approve the Minutes from the last Rules Committee Meeting on May 5, 2006
- J. D’Amico moved to approve the Minutes from the Meeting on May 5, 2006. D. Ege seconded.
• Motion passed.

- Rule 4.103-1
  • Discussion of comments from the West Region and Pennsylvania.
  • H. Lowery moved to send rule 4.103-1 to the Commission for a vote. D. Geiger seconded.
  • Motion passed.

- Rule 5.101
  • Discussion of comments received from Indiana, the West Region, Texas, Puerto Rico, Michigan, Indiana, and Kentucky.
  • J. D’Amico began discussion on adding “The sending state shall issue a warrant that is effective in all compact member states, without limitation as to specific geographic area, for the purpose of apprehending and detaining the offender pending retaking by the sending state,” as section (c) of Rule 5.101.
  • The Committee discussed this proposal.
  • E. Ligtenberg suggested defining “warrant” and then adding the process of issuing a warrant in the Rules.
  • D. Geiger concurred that the Commission needs a definition for “warrant.”
  • D. Ege pointed out that several rules use the word “retake” instead of “warrant” so the Committee should define the word “retake.” She stated that the Rules are currently written in a way that a Compact state can get around retaking their offenders.
  • D. Geiger stated that paralleled language on this issue needed to be used in other pertinent rules.
  • D. Ege suggested adding a section (b) to Rule 5.103 “If the offender does not return to the sending state as ordered, then the sending state shall issue a warrant that is effective in all compact member states, without limitation as to specific geographic area.”
J. D’Amico moved to add 5.101(c) “The sending state shall issue a warrant that is effective in all compact member states, without limitation as to specific geographic area.”
Motion died from a lack of second.
Discussion of adding a timeframe to 5.103
J. D’Amico moved to add (b) “If the offender does not return to the sending state as ordered, then the sending state shall issue a warrant that is effective in all compact member states, without limitation as to specific geographic area,” to Rule 5.103. D. Ege seconded.
Motion passed.

**RULE 5.103  Mandatory retaking for Violations of conditions of supervision**

(a) Upon a request by the receiving state and a showing that the offender has committed three or more significant violations arising from separate incidents that establish a pattern of non-compliance of the conditions of supervision, a sending state shall retake or order the return of an offender from the receiving state or a subsequent receiving state.

(b) If the offender does not return to the sending state as ordered, then the sending state shall issue a warrant that is effective in all compact member states, without limitation as to specific geographic area.

**Rule 5.102**

- J. D’Amico suggested adding the same language as above to Rule 5.102.
- M. Gilliam stated that the Committee is attempting to empower the Commissioner through rewriting these rules regarding warrant.
- H. Lowery moved and D. Ege seconded to add “If the offender does not return to the sending state as ordered, then the sending state shall issue a warrant that is effective in all compact member states, without limitation as to specific geographic area,” to the end of Rule 5.102.
- Motion passed.

**RULE 5.102  New felony offense—Mandatory retaking for a new felony offense**

Upon a request from the receiving state, a sending state shall retake or order the return of an offender from the receiving state or a subsequent receiving state upon the offender’s conviction for a new felony offense and—

(a) completion of a term of incarceration for that conviction; or
(b) placement on probation under supervision for that felony offense.

If the offender does not return to the sending state as ordered, then the sending state shall issue a warrant that is effective in all compact member states, without limitation as to specific geographic area.

- Rule 3.103
  - D. Ege suggested adding “that is effective in all compact member states without limitation as to specific geographic area,” to Rule 3.103.
  - H. Lowery moved to add “that is effective in all compact member states without limitation as to specific geographic area,” to Rule 3.103 (e)(2). D. Geiger seconded.
  - Motion passed.

RULE 3.103 Acceptance of the offender by receiving state; probation exception Reporting Instructions; Probation Exception to Rule 2.110

(a) As an exception to Rule 2.110, a sending state shall not allow an offender under supervision in the sending state to relocate to a receiving state without the receiving state’s acceptance of the transfer of supervision.

(b) Exception
(1)(A) A sending state may grant a travel permit to an offender who was living in the receiving state at the time of sentencing.

(1)(A) (a)(1) Reporting instructions requested for an offender who was living in the receiving state at the time of sentencing shall be submitted by the sending state within seven calendar days of the sentencing date or release from incarceration to probation supervision. The sending state may request reporting instructions from a receiving state through the electronic approved information system and may grant a seven day travel permit to an offender who was living in the receiving state at the time of sentencing. Prior to granting a travel permit to an offender, the sending state shall verify that the offender is living in the receiving state.

(B) This exception is not applicable to offenders released to supervision from prison.

(2)(B) The receiving state shall issue reporting instructions no later than two business days following receipt of such a request from the sending state.

(3)(C) The sending state shall ensure that the offender sign all forms requiring the offender’s signature under Rule 3.107 (a) 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)(D) The sending state shall transmit a departure notice to the receiving state per Rule 4.105 (a).

(5)(E) This exception is applicable to offenders incarcerated for 6 months or less and released to probation supervision, sentenced to jail as a condition of probation and released to probation supervision from a jail facility.

(6)(F) This exception is not applicable to parole offenders. Released to supervision from prison.

(b)(2) The sending state retains supervisory responsibility until the offender’s arrival in the receiving state.

(c)(3) 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.

(d)(4) 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 a travel permit reporting instructions, or if the sending state fails to send a completed transfer request by the 15th calendar day following the granting of a travel permit reporting instructions, the sending state shall, upon receiving notice of rejection or upon failure to timely send a required transfer request from the receiving state, direct the offender to return to the sending state after the receipt of notification of the transfer request.

(2) If the offender does not return to the sending state, as directed, 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, or an order to return no later than 10 calendar days following the offender’s failure to appear in the sending state.

(C) The receiving state shall continue to supervise the offender until a warrant is issued or notice is given by the sending state as required under Rule 4.105.

**Rule 3.106**

- The Committee discussed consistency between Rule 3.103 and 3.106.
- D. Ege moved to add “that is effective in all compact member states without limitation as to specific geographic area,” to Rule 3.106(d)(2)
and replace the term “directed” with “ordered” in the same section.
H. Lowery 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 transfer reporting instructions of 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 transfer reporting instructions of an offender shall immediately issue reporting instructions for the offender, and a sending state shall immediately issue a travel permit transmit a departure notice.

(B) The sending state shall ensure that the offender signs all forms requiring the offender’s signature under Rule 3.107(a) prior to granting a travel permit reporting instructions to the offender. The sending state shall immediately transmit the signed forms electronically or by telefax to the receiving state. 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.

(C) At the time of transmission of the signed forms, the sending state shall provide the receiving state with a copy of the offender’s orders and conditions, documentation of the offender’s residency, copy of any available pre-sentence report, copy of any order of protection, where applicable, and whether the offender is subject to sex offender registration in the sending state.

(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 a travel permit reporting instructions no later than the seventh calendar day following the granting to the offender of the travel permit reporting instructions.
(d)(1) If the receiving state rejects the transfer request for an offender granted a travel permit reporting instructions, or if the sending state fails to send a completed transfer request by the 7th seventh calendar day following the granting of a travel permit 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 immediately and the supervision responsibility shall revert to the sending state by a date specified by the sending state within 30 calendar days after receipt of notification of the rejection of the transfer request.

(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, no later than 10 calendar days following the offender’s failure to appear in the sending state.

(3) The receiving state shall continue to supervise the offender until a warrant is issued or notice is given by the sending state as required under Rule 4.105.

- E. Ligtenberg moved and M. DePietro seconded a motion to insert “ordered” and delete “directed” in Rule 3.103.
- Motion Passed.

**RULE 3.103 Acceptance of the offender by receiving state; probation exception Reporting Instructions; Probation Exception to Rule 2.110**

(a) As an exception to Rule 2.110, a sending state shall not allow an offender under supervision in the sending state to relocate to a receiving state without the receiving state’s acceptance of the transfer of supervision.

(b) Exception

(1)(A) A sending state may grant a travel permit to an offender who was living in the receiving state at the time of sentencing.

(1)(A) (a)(1) Reporting instructions requested for an offender who was living in the receiving state at the time of sentencing shall be submitted by the sending state within seven calendar days of the sentencing date or release from incarceration to probation supervision. The sending state may request reporting instructions from a receiving state through the electronic approved information system and may grant a seven day travel permit to an offender who was living in the receiving state at the time of sentencing. Prior to granting a travel permit to an offender, the
sending state shall verify that the offender is living in the receiving state.

(B) This exception is not applicable to offenders released to supervision from prison.

2)(B) The receiving state shall issue reporting instructions no later than two business days following receipt of such a request from the sending state.

3)(C) The sending state shall ensure that the offender sign all forms requiring the offender’s signature under Rule 3.107 (a) 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)(D) The sending state shall transmit a departure notice to the receiving state per Rule 4.105 (a).

5)(E) This exception is applicable to offenders incarcerated for 6 months or less and released to probation supervision, sentenced to jail as a condition of probation and released to probation supervision from a jail facility.

6)(F) This exception is not applicable to paroling offenders. Released to supervision from prison.

(b)(2) The sending state retains supervisory responsibility until the offender’s arrival in the receiving state.

(c)(3) 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.

(d)(4) 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 a travel permit reporting instructions, or if the sending state fails to send a completed transfer request by the 15th calendar day following the granting of a travel permit reporting instructions,
the sending state shall, upon receiving notice of rejection or upon failure to timely send a required transfer request from the receiving state, direct the offender to return to the sending state after the receipt of notification of the transfer request.

(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, or an order to return no later than 10 calendar days following the offender’s failure to appear in the sending state.

(C) The receiving state shall continue to supervise the offender until a warrant is issued or notice is given by the sending state as required under Rule 4.105.

- Further discussion on comments.

- **Rule 5.101-1**
  - Discussion on comments from Indiana, the West Region, Texas, Puerto Rico, Michigan, and Kentucky.
  - D. Ege suggested deleting “subject to retaking” from this rule.
  - Committee discussed where to insert this rule.
  - M. Gilliam suggested that the Committee remove “pending retaking” from the title and “subject to retaking” from the rule.
  - Discussion of adding “in violation of the terms and conditions of supervision”.
  - **J. D’Amico moved to create Rule 4.109-1 as below. M. DePietro seconded.**
  - Motion passed.

**Rule 5.101-1 4.109-1 Authority to arrest and detain pending retaking**

An offender in violation of the terms and conditions of supervision subject to retaking may be taken into custody or continued in custody by the receiving state.

- Discussion of definition of “warrant” – M. Gilliam explained to R. Masters what the Committee is doing to address “warrant.”
- E. Ligtenberg explained that by creating a definition of “warrant” the Commission will then be able to create a “compact warrant” in 2007.
- R. Masters stated that “warrant” already has a legal definition that is applicable so there is no need to define “warrant” in the Rules at this time.
• M. DePietro moved to withdraw the definition of “warrant.” H. Lowery seconded.
  • Motion passed.

• Rule 5.102
  • The Committee read over Rule 5.102 and reviewed comments from Indiana, Delaware, the West Region, Virginia, and Kentucky.
  • M. DePietro moved to change the title to “Mandatory retaking for a new felony conviction.” J. D’Amico seconded
  • Motion passed.
  • The Committee continued to discuss this rule.
  • H. Lowery moved to send this Rule as below to the Commission. M. DePietro seconded the motion
  • Motion passed.

**RULE 5.102 New felony offense—Mandatory retaking for a new felony conviction.**

Upon a request from the receiving state, a sending state shall retake or order the return of an offender from the receiving state or a subsequent receiving state upon the offender’s conviction for a new felony offense and —

(a) completion of a term of incarceration for that conviction; or

(b) placement on probation under supervision for that felony offense.

If the offender does not return to the sending state as ordered, then the sending state shall issue a warrant that is effective in all compact member states, without limitation as to specific geographic area.

• Rule 5.103
  • Discussion of comments from Indiana, the West Region, Virginia, Michigan, and Kentucky.
  • D. Ege stated that this is a Training issue.
  • M. Gilliam pointed out that the receiving state must make the request and the sending state is obligated to return.
  • H. Lowery moved to send this rule to the Commission for vote as follows. E. Ligtenberg seconded
  • Motion passed.

**RULE 5.103 Mandatory retaking for Violations of conditions of supervision**

(a) Upon a request by the receiving state and a showing that the offender has committed three or more significant violations arising from separate
incidents that establish a pattern of non-compliance of the conditions of supervision, a sending state shall retake or order the return of an offender from the receiving state or a subsequent receiving state.

(b) If the offender does not return to the sending state as ordered, then the sending state shall issue a warrant that is effective in all compact member states, without limitation as to specific geographic area.

• Rule 5.106
  ▪ Discussion of concerns on Rule 5.106.
  ▪ The Committee reviewed and discussed comments from Delaware, the West Region, Ohio, Missouri, Connecticut, Florida, Texas, Iowa, Virginia, Michigan, Indiana, Colorado, Arkansas, and Kentucky.
  ▪ J. D’Amico proposed to add subsection (c) “The Compliance Committee shall establish the rates and procedures for cost reimbursement to the receiving state by the sending state pursuant to subparagraph (b) or this Rule” to Rule 5.106.
  ▪ D. Ege suggested that the Committee discuss this with the Compliance Committee at the joint meeting later in this day.
  ▪ D. Geiger said that the “fine” would actually just be the cost of keeping the offender.
  ▪ J. D’Amico explained that his added language would help find the sending state in default which would be a process requiring some type of complaint.
  ▪ H. Lowery moved to withdraw all of the changes to Rule 5.106. D. Ege seconded.
  ▪ Roll Call vote was called.
  ▪ Motion passed 4 to 3 with M. Gilliam voting to break the tie vote.
  ▪ Discussion of Compliance Committee work and tactics on Complaints.

• Rule 5.108
  ▪ Discussion of comments from Indiana, the West Region, Ohio, Missouri, Florida, Indiana, Colorado, and Kentucky.
  ▪ E. Ligtenberg stated that there could be a “no contest” plea.
  ▪ R. Masters answered that some states do not have a “no contest” plea.
  ▪ Some members commented that thirty days is too long.
  ▪ D. Ege stated that the West Region is recommending to change 30 calendar days to 10 business days.
  ▪ E. Ligtenberg moved to add “calendar” before “days” in Rule 5.108(d.). J. D’Amico seconded
  ▪ Motion passed.

RULE 5.108 Opportunity for Probable cause hearing in receiving state
The 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 in the receiving state 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 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.

(e) 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 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.

(f) 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.

- D. Ege moved to change “30 calendar days” in Rule 5.108(d) and (e) to 10 business days. J. D’Amico seconded
- A Roll Call vote was called. Motion failed.
- Committee discussed the Probable Cause survey.
- J. D’Amico moved to add the following to Rule 5.108. D. Ege seconded
- Motion passes.

“Rule 5.108(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);
The opportunity to be heard in person and to present witnesses and documentary evidence relevant to the alleged violation(s);

The opportunity to confront and cross-examine adverse witnesses, unless the hearing officer determines that a risk of harm to a witness exists.”

- J. D’Amico moved to send Rule as amended to the Commission.
  E. Ligtenberg seconded Motion passed.

RULE 5.108 Opportunity for 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 in the receiving state 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 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.

- Rule 5.111
  - Discussion of comments from the West Region, Minnesota, Kentucky, and Indiana.
  - The Committee members stated that problems with this rule stem from training issues.
  - J. D’Amico moved to insert “or other release conditions in any state” to the end of Rule 5.111. D. Ege seconded
  - Motion passed.

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 where the offender is found.

- Discussion continued on changes made to this rule.
- D. Ege moved and H. Lowery seconded to pass this rule as amended on the Commission for a vote.
- Motion passed.

- M. Gilliam stated that we have finished looking at the Rules and the comments to send to the Commission.

New Business
- D. Ege opened discussion on progress of the Sex Offender Ad Hoc Committee. She stated that the Committee feels that it would be a bad idea to put the term “Sex Offender” in the rule.
• The Committee noted that the Commission has decided not to make specific rules for Sex Offenders.
• D. Ege presented request for rule changes on behalf of the Sex Offender Ad Hoc Committee as follows:

**New Rule 3.105 (A)- Predispositional transfer requests**

a. A sending state may request the transfer of a convicted offender awaiting a pre-sentence report and/or final sentencing disposition 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 greater than ninety (90) days.

d. Following withdrawal or discontinuance of the receiving state’s acceptance or investigation, a sending state must resubmit a request.”

**Rule 1.101 Definitions**

a. “Plan of Supervision”
   - Delete “proposed” throughout
   - New Reading- “means the terms under which an offender will be supervised including residence, employment or viable means of support and the terms and conditions of supervision.

• D. Geiger asked about the process for rule recommendations from an ad hoc Committee.
• D. Ege stated that the Sex Offender Ad Hoc Committee was asked to make recommendations to the Commission by September 2005.
• Discussion of the process of making rules that are recommended by an ad hoc Committee ensued.
• D. Geiger suggested sending this rule recommendation as a report to the Full Commission at the Annual Business meeting in September 2006.
• D. Ege explained the purpose of these new rule proposals.
  - D. Geiger explained the problem of conflicting state laws with “plan of supervision.”
  - D. Ege stated that her Committee is watching US Senate Bill 1186.

**Definition of Plan of Supervision**

- J. D’Amico moved to remove the term “viable” from the definition of “plan of supervision” in Rule 1.101. E. Ligtenberg seconded
- Motion passed.
- D. Ege moved to forward this proposed change on to the full Commission. J. D’Amico seconded
- Motion passed.
“Plan of supervision” means the terms under which an offender will be supervised, including proposed residence, proposed employment or viable means of support and the terms and conditions of supervision.

- With no further new business the Committee went into a joint meeting with the Compliance Committee.

Joint Meeting with Compliance Committee.

Adjournment
- M. DePietro moved to adjourn. E. Ligtenberg seconded
- M. Gilliam adjourned the meeting at 2:02 pm EST.