



**Interstate Commission
for Adult Offender Supervision
ADVISORY OPINION**

**Opinion Number: 6-2006
Issued: 2006-04-26**

Requested by: Massachusetts

At Issue: Clarification of 90 day period of supervision is determined.

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Issued by: Don Blackburn, Executive Director and Richard L. Masters, Legal Counsel

Background

Pursuant to Commission [Rule 6.101\(c\)](#) the Commonwealth of Massachusetts has requested an Opinion regarding Commission [Rule 3.101](#). Massachusetts states as follows:

We are seeking an interpretation of rule 3.101 with regards to eligibility in how the ninety (90) day period of supervision remaining is determined. Is an offender eligible for transfer if there is ninety (90) days or more of supervision remaining at the time of the request, or must there be ninety (90) days or more of supervision remaining at the time the receiving state renders a decision?

Applicable Rules and Statutes

Rule 3.101 states:

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.

Analysis and Conclusion

Since there is no specific language in the rule regarding how the 90 day period contemplated by this rule should be determined, we must look to the meaning of the words used and the context of the rule as well as custom and practice under the current rule. The rule in question appears in Chapter 3 of the ICAOS rules under the heading "Transfer of Supervision." Each of the rules in this chapter deals with some aspect of transfer of supervision under the compact, including, but not limited to eligibility, submission of a transfer request, acceptance of an offender, investigation, reporting instructions, expedited transfers and the required contents of an application for transfer of supervision. Implicit in the rules contained in this chapter is the assumption that the time frame in which each of these rules is considered is at the beginning of the transfer process.

Consistent with the general tenor of Chapter 3 and the context in which this rule appears as well as the overarching purpose of the compact which is "to provide the framework for the promotion of public safety and protect the rights of victims through the control and regulation of the interstate movement of offenders in the community. . ." (See Article I), it is a reasonable construction of this rule to conclude that the 90 day period contemplated in Rule 3.101 (a) should be determined at the time a sending state submits a request for transfer of the offender who at the time of said application must have "more than 90 days or an indefinite period of supervision remaining."