



## Interstate Commission for Adult Offender Supervision

### South Region Meeting NOTES

April 26, 2023 @ 11 am ET  
Video conference

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#### **Members in Attendance:**

1. Julie Kempker (MO), Chair
2. Tom Langer (AL)
3. Joe Winkler (FL)
4. Steve Turner (KY)
5. Martha Danner (MD)
6. Maggie Brewer (NC)
7. James Rudek (OK)
8. Chris Hill (TN)
9. Jim Parks (VA)
10. Diann Skiles (WV)

#### **Members not in Attendance:**

11. Vacant (AR)
12. Chris Moore (GA)
13. Jamie Lee (LA)
14. Richard Tischner (DC)
15. Nathan Blevins (MS)
16. Jerry Adger (SC)
17. David Gutierrez (TX)

#### **Guests:**

1. Linda Mustafa (AR)
2. Elizabeth Powell (DC)
3. Tim Strickland (FL)
4. Sharon Davis (FL)
5. Joe Kuebler (GA)
6. Don Werner (KY)
7. LaVon Hill (KY)
8. Alison Woodruff (MO)
9. Richie Spears (MS)
10. Betty Payton (NC)
11. Chris Harris (SC)
12. Tawanna Davis (SC)
13. Taylor Wayland (TN)
14. Rene Green (TN)
15. Jocelyn Angton (TX)

16. Julie Lohman (VA)
17. Z. Diaz (VA)
18. Jordan McKinley (WV)

### **Staff**

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

### **Call to Order**

Chair J. Kempker (MO) called the meeting to order at 11:00 am ET. Ten out of seventeen members were in attendance, a quorum was established.

### **Approved on Agenda and Minutes**

**Commissioner J. Parks (VA) moved to approve the agenda as presented. Commissioner J. Rudek (OK) seconded. Agenda approved.**

**Commissioner S. Turner (KY) moved to approve the minutes from September 27, 2022 meeting as drafted. Commissioner C. Hill (TN) seconded. Minutes approved.**

**Commissioner S. Turner (KY) moved to approve the minutes from March 7, 2023, meeting as drafted. Commissioner J. Parks (VA) seconded. Minutes approved.**

### **Discussion**

*ICAOS Workgroup to Consider Language Change:* Chair J. Kempker (MO) stated that the Executive Committee discussed the criminal justice terminology used by the Compact at its face-to-face meeting last month. In recent years, members of the Commission have expressed interest in removing the word "offender" from the Compact's terminology in favor of more person-centered language.

The Executive Committee decided to establish a workgroup to explore this possibility and seeks to appoint two representatives from each region to serve as members. The goal of the workgroup is to study this issue and provide a recommendation to the Executive Committee on whether a change is appropriate. If recommending a change, the workgroup will also propose alternative language options and recommend the scope of this change.

Executive Director A. Lippert noted that the initial meeting of the workgroup would be sometime in May. Past chair J. Stromberg (OR) will chair the workgroup.

Chair J. Kempker (MO) encouraged interested commissioners to reach out to the national office by the end of the week.

*FY24 Compliance Audit:* Chair J. Kempker (MO) stated that the Executive Committee approved the FY24 compliance audit plan to re-audit seventeen states with more than one case resulting in unsatisfactory outcomes in all three FY23 evaluation metrics: junk records, rejected cases, and offenders awaiting retaking. In addition, two states with unsatisfactory results in junk records and offenders awaiting retaking that have not engaged in any clean-up following the FY 2023 audit will also be re-audited. States who do not meet these criteria may request to be re-audited. The national office sent letters to all member states informing them of the forthcoming audit. The audit will begin on July 1, 2023.

Executive Director A. Lippert noted that the audit was designed to show states their problem areas that need improvement. She noted that interested states could run these reports themselves without requesting to participate in the official audit.

*Proposed Rule Amendments:* Chair J. Kempker (MO) stated that this year, the Commission will vote only on one rule proposal 5.108 proposed by the West Region. She asked the region members to leave their comments on the rule proposal forum.

#### **RULE 5.108-PROBABLE CAUSE HEARING IN RECEIVING STATE**

(a) An offender subject to retaking 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.

(b) No waiver of a probable cause hearing shall be accepted unless accompanied by an admission by the offender to 1 or more violations of the conditions of supervision that would result in the pursuance of revocation of supervision in the receiving state and require retaking.

(c) A copy of a judgment of conviction regarding the conviction of a new criminal 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 10 business 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 that would result in the pursuance of revocation of supervision, the receiving state ~~shall~~ may hold the offender in custody, and the sending state shall, within 15 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.-

(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.

**Justification:**

The "shall" requirement in subsection f. of Rule 5.108 is not a requirement of the Supreme Court decision that Rule 5.108 is based upon and it puts some compact member states in violation of the requirement because they have no statutory authority to hold a person in custody pending the decision from the sending state. Holding an offender in custody following the outcome of a probable cause hearing or signed waiver should be at the discretion of the hearing officer or authority in the receiving state in accordance with local procedures. Revising the verbiage from "shall" to "may" will still allow states the option to hold an offender in custody.

Commissioner M. Danner (MD), Rules Committee member, was in favor of the proposal.

DCA T. Strickland (FL), Rules Committee member, stated that the Rules Committee voted in favor of the proposal. He noted that he did not support the proposal stating that it limited some states' statutory authority to comply with the rule. He noted that if a probable cause was determined, the amendment would give a window of opportunity for the offender to abscond. The issue could be addressed with different language.

*2023 Annual Business Meeting:* Chair J. Kempker (MO) stated that the national office posted the Annual Business Meeting's agenda on the Commission's website last week. The meeting registration will open on June 1, 2023.

Executive Director A. Lippert asked the region members to nominate their colleagues who were doing exceptional work for the Peyton Tuthill and Executive Director Awards. The awards would be presented at the 2023 Annual Business meeting in Norfolk, Virginia. The nomination deadline is July 1, 2023. She added that the Commission covers travel expenses for the Peyton Tuthill Award recipient to travel to the annual business meeting to receive their award.

*DCA Region Chair Election:* Chair J. Kempker (MO) informed the region about the upcoming DCA region chair elections. The deadline to submit chair nominations is June 30.

**Old/New Business**

Chair J. Kempker (MO) reminded the region that at the last meeting, the region discussed proposals to amend Rule 4.101-1 and Rule 5.101-2. The region decided to conduct an email vote to withdraw both rule proposals from consideration due to a lack of quorum. She asked the region to affirm the email vote.

**Commissioner C. Hill (TN) moved to withdraw proposals to amend Ruler 4.101-1 and Rule 5.101-2 proposed by the South Region. Commissioner J. Winkler (FL) seconded. Motion passed.**

**Adjourn**

The meeting adjourned at 11:46 am ET.