

2018 DCA Training Institute

Presented by: ICAOS DCA Liaison Committee & Training, Education & Public Relations Committee



DCA Liaison Committee

- Chair: Tracy Hudrlik (MN)
- East Region Chair: Natalie Latulippe (CT)
- South Region Chair: Julie Lohman (VA)
- Midwest Region Chair: Matt Billinger (KS)
- West Region Chair: Judy Mesick (ID)
- Other Members: Margaret Thompson (PA); Simona Hammond (IA); Pat Odell (WY); Tim Strickland (FL)

DCA Liaison Committee

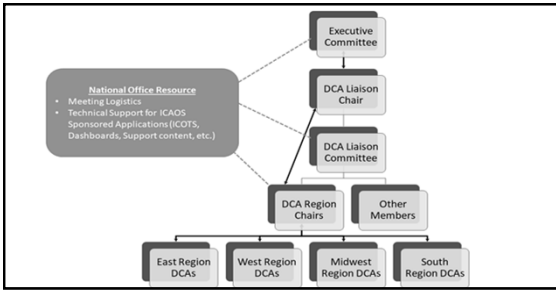
Mission:

- Provide a mechanism for DCAs to communicate concerns or needs and act as a liaison to improve the communication and relationship between Commissioners and Deputy Compact Administrators.

2018 Goals:

- Identify issues or concerns affecting DCAs and support effective discussion/action to find resolution.
- Identify issues of relevance for referral to standing committees.

DCA Committee Restructure



DCA Region Chairs



Training, Education & PR Committee

- Chair: Anne Precythe (MO) *Exofficio Members*
- Chris Moore (GA) • Sally Reinhardt-Stewart (NE)
- Hope Cooper (KS) • Tim Strickland (FL)
- Russ Marlan (MI) • Mark Patterson (OR)
- Joseph Clocker (MD)
- Roberta Cohen (NM)
- James Parks (VA)
- Dara Matson (IL)

Training, Education & PR Committee

Mission:

- *Develop and enhance educational resources and training materials for use by affected member states and stakeholders. Enhance public safety through awareness and consistent administration.*

2018 Goals:

- *Review and revise training modules and resources annually.*
- *Create mobile friendly educational resources for stakeholders.*
- *Support state compact offices' responsibilities to train stakeholders in their state on ICAOS Rules, purpose and best operational practices.*
- *Create dialogue that emphasizes the goals of the Compact: What's in the best interest of public safety? What's in the best interest of the offender?*

DCA Liaison Committee

- Identify issues & concerns of DCAs
- Support collective resolutions & effective communication in day-to-day business
- Provide feedback for enhancing ICAOS sponsored training
- Refer relevant issues to other standing committees via Executive Committee

Training, Education & PR Committee

- Promote the Commission's role to enhance public safety through awareness & consistent administration
 - *What's in the best interest of public safety?*
 - *What's in the best interest of the offender?*
- Review, create, approve & improve official ICAOS training materials
- Support the DCA Liaison Committee's efforts to operationalize the rules & improve Commissioner/DCA relationships

2018 DCA Institute Agenda

- Painting the Supervision Picture
- Retaking required *'Upon a request of the receiving state'*
- Warrant Tracking
- Dealing with Pending Charges & Revocable Behavior
- Probable Cause Hearing Requirements
- Reacting to Out of State Subpoenas

Painting the Supervision Picture



Documentation Review Activity

- 20 minutes to review PR's & OVR's provided by DCAs
- Does the report meet documentation standards for your state?
- What's good about the report?
- What could be articulated better in the report?

Promote Quality!

What's Important

- Clear, concise, accurate..
- Relevant attachments are included
- YOUR Compact Office sets standards for YOUR field users
- Questions/need clarification? ASK!

What's NOT Important

- Format/placement
- Where exactly the attachments are
- Imposing your documentation standards on another state
- What the 'other' state NEVER does....

Supervision Goals

Keep supervision LOCAL!


- Offenders transfer for purposes of successful supervision
 - Residents and/or supportive environment exists in the Receiving State
 - Family, employment, etc.
- Use of Evidenced Based Practices (graduated response/sanctions/access to programs) should be the same for compact offenders
 - Promote positive/compliant behavior

Supervision Goals

- Provide sentencing state w/ clear picture of supervision practices and offender behavior
- Ensure retaking is initiated ONLY when it MAKES SENSE!
 - Retaking isn't guaranteed to be permanent
 - Retaking costs \$\$
 - Documentation should support revocation at this point clearly demonstrating unsuccessful supervision

Supervision Documentation

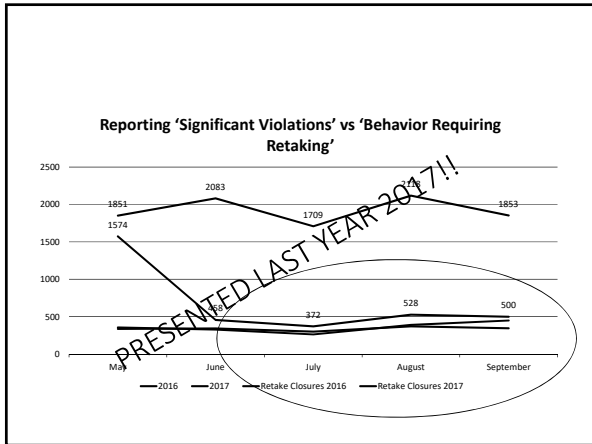
Progress Report <ul style="list-style-type: none">Keeps the sending state informed of supervision practices; offender's progress and behavior	Violation Report REQUIRING RETAKING <ul style="list-style-type: none">Invokes requirement for sending state to retake offender
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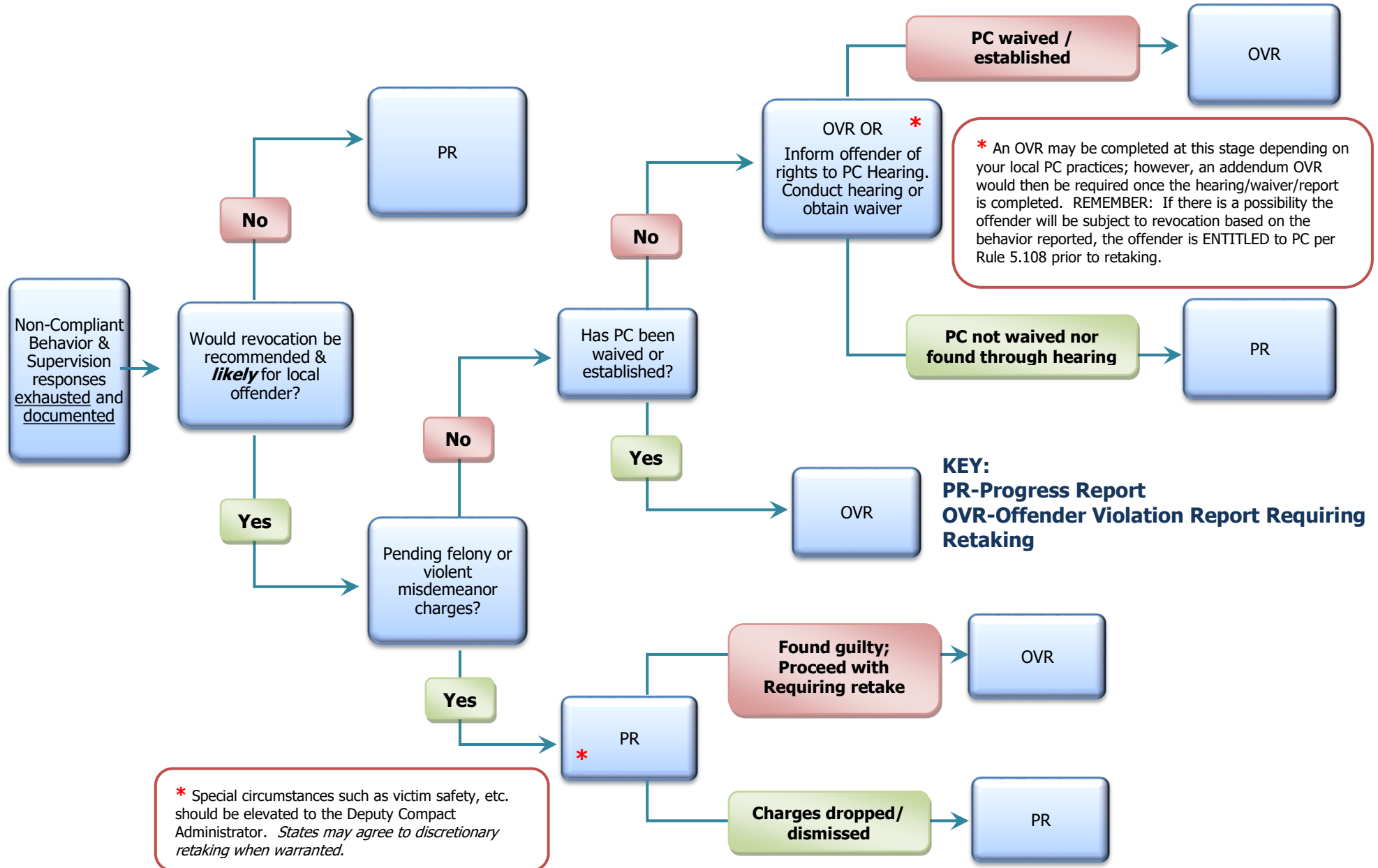
THINK: "What are you documenting in your own state's case management?"
Keep the Sending State INFORMED!

Violation Requiring Retaking Reporting Considerations

- The sending state is only going to know what you tell them
- Use the same detail if reporting to your own authorities
- Specifics on how the behavior was determined to be revocable
- Has the option of working with the offender (e.g. intervention) been exhausted?



Reporting Non-Compliant Behavior



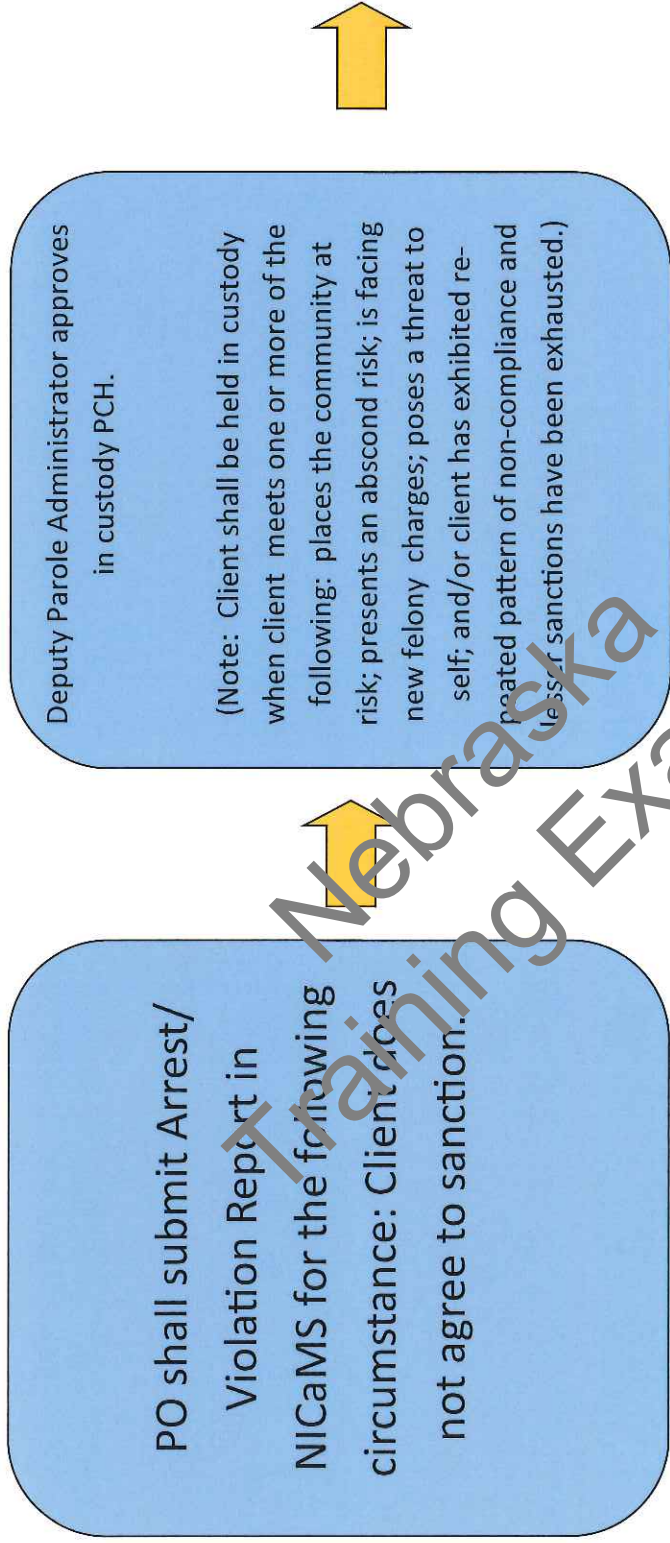
Flow Chart—How to Notify Sending State of Interstate Compact

Client's Violations Handled via BMS/Sanction Agreement Process



Note: The sending state has the discretion to retake or order the return of an offender based on violations reported on a Progress Report. If the sending state requests a courtesy Probable Cause Hearing (PCH) be conducted for retaking, PO shall proceed to place the offender in custody and serve the offender for the PCH. Regardless if client pleads guilty/waives the PCH or PCH held and cause found, PO shall submit a Progress Report to sending state in ICOTS with a copy of the PCH packet received from the Deputy Compact Administrator once Hearing Officer/designee puts the packet together. Once the sending state issues its warrant and provides a copy to Nebraska, the PO shall verify the jail received a copy of the warrant and then fax Release Request to the jail. PO shall submit Progress Report or Compact Action Request instead of Addendum informing offender is available for retaking and providing location and contact information so sending state can make arrangements to pick up the offender. If the offender is ordered to return, the PO shall complete the process in *Flow Chart - How to Handle Process for Interstate Compact Client when Sending State Orders to Return*.

Flow Chart—How to Notify Sending State of Interstate Compact Client's Violation Handled via PCH/ROP— Client Does Not Agree to Sanction



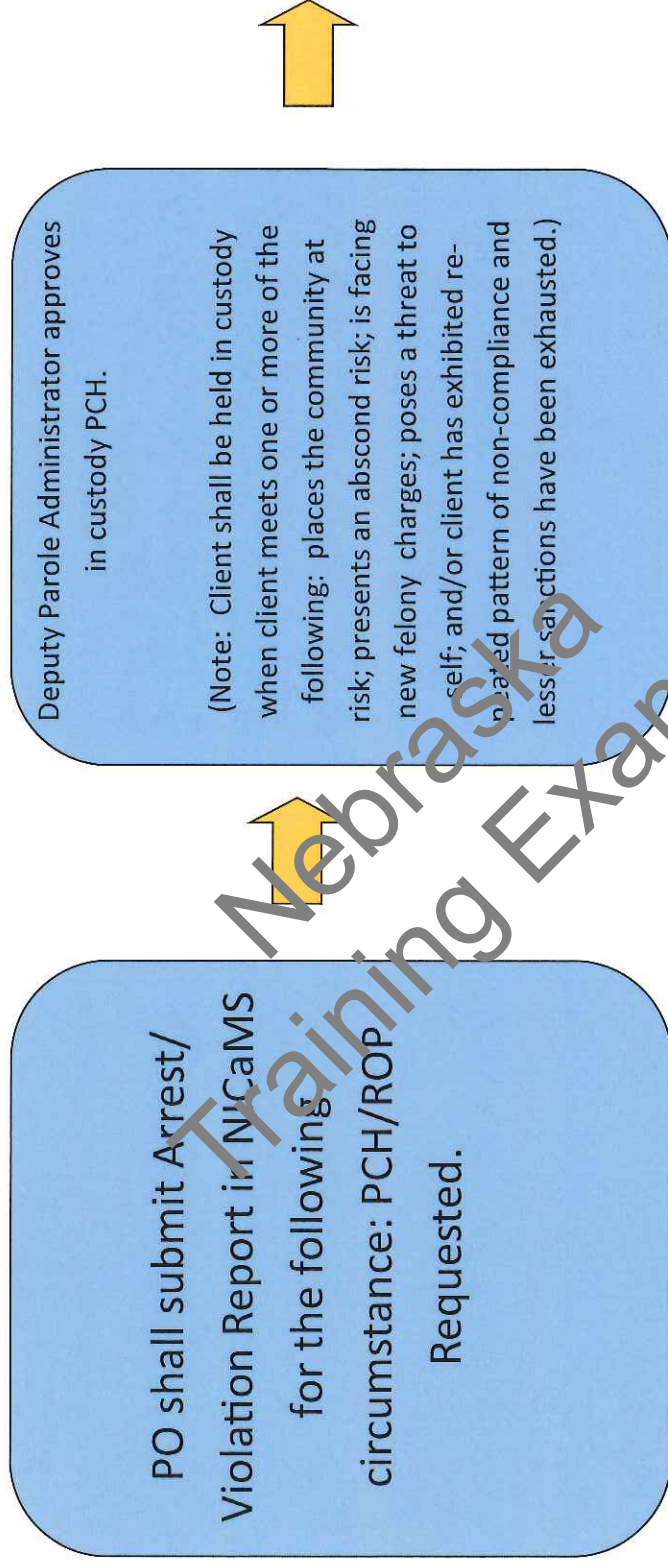
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Flow Chart—How to Notify Sending State of Interstate Compact Client's Violation Handled via PCH/ROP— Client Does Not Agree to Sanction continued...

Client pleads guilty/waives the PCH or PCH held and cause found.

For violations that are technical, infractions, or low level misdemeanors, case shall be staffed by PO, Supervisor, Hearing Officer, and Deputy Compact Administrator. If it is determined the violations do not rise to the level of retaking, the PCH packet shall be submitted to the Deputy Parole Administrator by the Hearing Officer/designee recommending the offender be continued on supervision and the violations be addressed with appropriate sanctions determined by the PO and/or Supervisor. If approved by the Deputy Parole Administrator, the PO shall submit a Progress Report to sending state in ICOTS within 30 calendar days of discovery with a copy of the PCH packet received from the Deputy Compact Administrator once Hearing Officer/designee puts the packet together. If it is determined the violations do rise to the level of retaking, the PO shall complete the process in *Flow Chart—How to Notify Sending State of Interstate Client's Violations Handled via PCH/ROP—PCH/ROP Requested* starting with Step 3.

Flow Chart—How to Notify Sending State of Interstate Compact Client's Violation Handled via PCH/ROP— PCH/ROP Requested



Nebraska Training Example

Flow Chart—How to Notify Sending State of Interstate Compact Client's Violation Handled via PCH/ROP— PCH/ROP Requested continued...



Client pleads guilty/waives the PCH or PCH held and cause found.

PO shall submit Violation Report Requiring Retaking for "Behavior Requiring Retaking" for an act or pattern of behavior requiring retaking to sending state in ICOTS within 30 calendar days of discovery or determination, with a copy of the PCH packet received from the Deputy Compact Administrator once Hearing Officer/designee puts the packet together.

Note: At the point that a report for Behavior Requiring Retaking is submitted it is saying that we have done everything we would have done for a NE offender and behavior has now risen to the point that the BO would likely revoke if it was a NE offender. Therefore, PO shall include the following in the violation report per Rule 4.109: date(s) and description of the behavior requiring retaking; date(s), description(s) and documentation regarding the use of incentives, corrective actions, including graduated responses or other supervision techniques to address the behavior requiring retaking in the receiving state, and the offender's response to such actions; date(s), descriptions(s) and documentation regarding the status and disposition, if any, of offense(s) or behavior requiring retaking; date(s), descriptions(s) and documentation of previous non-compliance to include a description of the use of corrective actions, graduated responses or other supervision techniques. The report shall tell the story of behavior requiring retaking--the sending state is only going to know what PO tells them--use the same details as if reporting to our own authorities--include specifics on how the behavior was determined to be revocable and address whether the option of working with the offender has been exhausted (e.g. interventions).

Flow Chart—How to Notify Sending State of Interstate Compact Client's Violation Handled via PCH/ROP—Criminal Charges Pending (Request to Postpone Preliminary Hearing, PCH Conducted, or PCH Waived)

PO shall submit Arrest/
Violation Report in
NICaMS for the following
circumstance: Client ac-
cused of laws violations.

Deputy Parole Administrator approves in custody PCH.

(Note: Client shall be held in custody when client meets one or more of the following: places the community at risk; presents an abscond risk; is facing new felony charges; poses a threat to self; and/or client has exhibited repeated pattern of non-compliance and lesser sanctions have been exhausted. Please also note that all violations concerning felony charges require submission as PCH/ROP and client remain/placed in custody.)


Upon disposition of charge(s), PO shall obtain a copy of the sentencing documentation.

If charge(s) dismissed, and no witnesses will come forward, a copy of court documentation shall be submitted to the Deputy Parole Administrator by the Hearing Officer/designee recommending the parole hold be lifted and offender be continued on supervision. If approved by the Deputy Parole Administrator, the PO shall fax Release Request to the jail and submit a Progress Report with a copy of the court documentation to sending state in ICOTS to inform.

OR

If client convicted of new misdemeanor(s), excluding new violent crime conviction as addressed on next page, case shall be staffed by PO, Supervisor, Hearing Officer, and Deputy Compact Administrator. If it is determined the violations do not rise to the level of re-taking, the PO shall update the Arrest/Violation Report in NICaMS. Upon receipt, the Hearing Officer/designee shall submit to the Deputy Parole Administrator recommending the parole hold be lifted and offender be continued on supervision and the violations be addressed with appropriate sanctions determined by the PO and/or Supervisor. If approved by the Deputy Parole Administrator, the

Flow Chart—How to Notify Sending State of Interstate Compact Client's Violation Handled via PCH/ROP—Criminal Charges Pending (Request to Postpone Preliminary Hearing, PCH Conducted, or PCH Waived) continued...



If offender requests to postpone the PCH pending disposition of charges, or if PCH is conducted and cause is established or offender pleads guilty/waives the PCH, regardless of which, PO shall submit a Progress Report to the sending state in ICOTS within 30 calendar days of discovery with a copy of the PCH packet (documentation including summary of hearing conducted) received from the Deputy Compact Administrator once Hearing Officer/Designee puts the packet together and informs that the sending state will be notified upon disposition of pending charges.

PO shall submit a Progress Report with a copy of the sentencing documentation to sending state in ICOTS to inform. If it is determined the violations do rise to the level of retaking, the PO shall complete the process in *Flow Chart – How to Notify Sending State of Interstate Compact Client's Violations Handled via PCH/ROP – PCH/ROP Requested* starting with Step 3 since a PCH is not required since there is conviction.

OR

If client convicted of a new felony or violent crime (felony or misdemeanor), PO shall submit Violation Report Requiring Retaking with a copy of the sentencing documentation to sending state in ICOTS to request a warrant be issued. Although it will depend on the circumstances, in the majority of cases, the offender will not be available for retaking due to the new sentence to be served. In such case, the PO shall mark the offender is not available for retaking and include the location and contact information where the offender is in custody. The PO shall also include language as follows: *Please file warrant as a detainer*. The PO shall also submit a Case Closure Notice to the sending state in ICOTS. If the offender is available for retaking, such as when given credit for time served, then PO shall mark the offender is available for retaking and include the location and contact information where the offender is in custody. Once the PO verifies the offender has been retaken by the sending state, the PO shall submit a Case Closure Notice to the sending state in ICOTS.

Flow Chart—How to Handle Placing Interstate Compact Client in Custody on Sending State’s Warrant for Retaking

Should a circumstance arise in which the offender is not in custody at the time the warrant is received from the sending state, PO shall immediately contact law enforcement for assistance in placing client in custody as soon as possible.

Note: At point warrant is issued, it is to be entered in NCIC so it should not be necessary to have a physical copy; however, sometimes law enforcement still requests. If there are any questions, PO shall contact the Nebraska Compact Office.

Once client is placed in custody, PO shall submit as appropriate an Adjudgment, Progress Report, or Compact Action Request to sending state in ICOTS, informing that offender is available for retaking and providing location and contact information so sending state can make arrangements to pick up the offender.

PO shall follow up on client’s status and when learns the client has been picked up by sending state, PO shall submit Case Closure Notice to sending state in ICOTS so Nebraska can close interest.

Note: The PO shall complete any other processes that may be required the same as for Nebraska clients.

Flow Chart—How to Handle Process for Interstate Compact Client when Sending State Orders to Return

Upon receipt of Response to Violation Report from sending state marked “Order Offender to Return to Sending State”, PO shall immediately inform client of the sending state’s decision and check with client to see if he/she has a residence address in sending state he/she can return to for submitting the Request for Reporting Instructions (RFRI). PO shall verify the residence plan to ensure the client can reside at that location.

Note: If an in custody PCH was conducted and sending state orders to return on mandatory retaking, client shall not be released from custody until RFRI approved by sending state. This way the client can be directed to depart immediately.

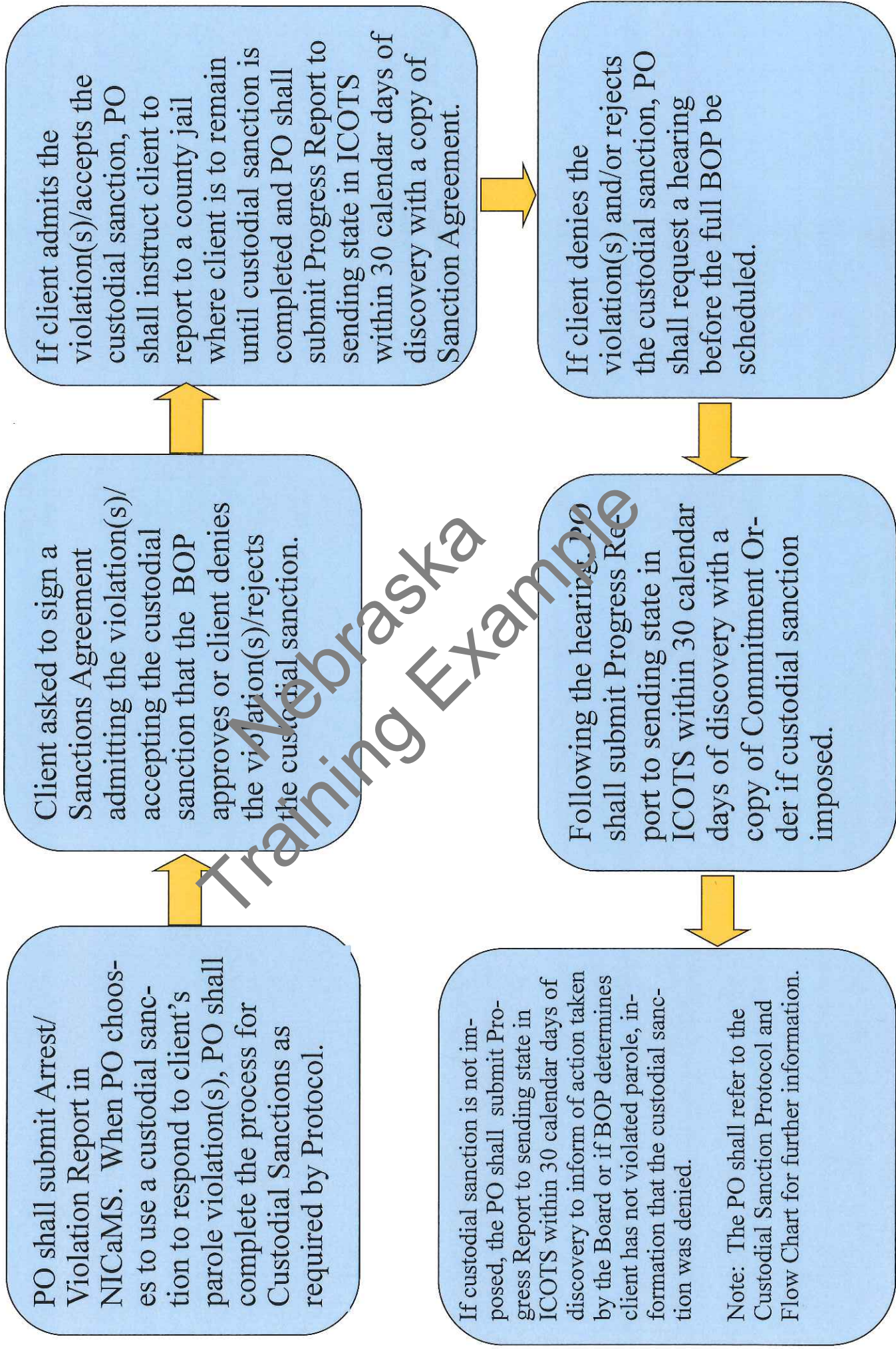
Once address is verified, PO shall submit RFRI for reason of “Transferred offender returning to sending state”. If client is unable to verify a residence address, PO shall immediately send Compact Action Request (CAR) to sending state to advise that client has no address he/she can return to and request that an address contact information be provided for the RFRI. Upon receipt of information from sending state, PO shall immediately submit RFRI for the reason previously stated.

Upon receipt of the approved RFRI, PO shall prepare Travel Permit and submit according to the Travel Permits for Clients Protocol for approval as an emergency. Once approved, PO shall provide Travel Permit to client with reporting instructions. Upon departure, PO shall submit Notice of Departure and Case Closure Notice with a copy of approved Travel Permit attached to sending state in ICOTS. If departure falls on weekend or holiday, PO shall verify offender has departed upon return to the office prior to submitting the Notice of Departure.

Note: The PO shall complete any other processes that may be required the same as for Nebraska clients.

Flow Chart—How to Notify Sending State of Interstate Compact

Client's Violation Handled via Custodial Sanction Process



Flow Chart—How to Notify Sending State of Interstate Compact Client's Abscond

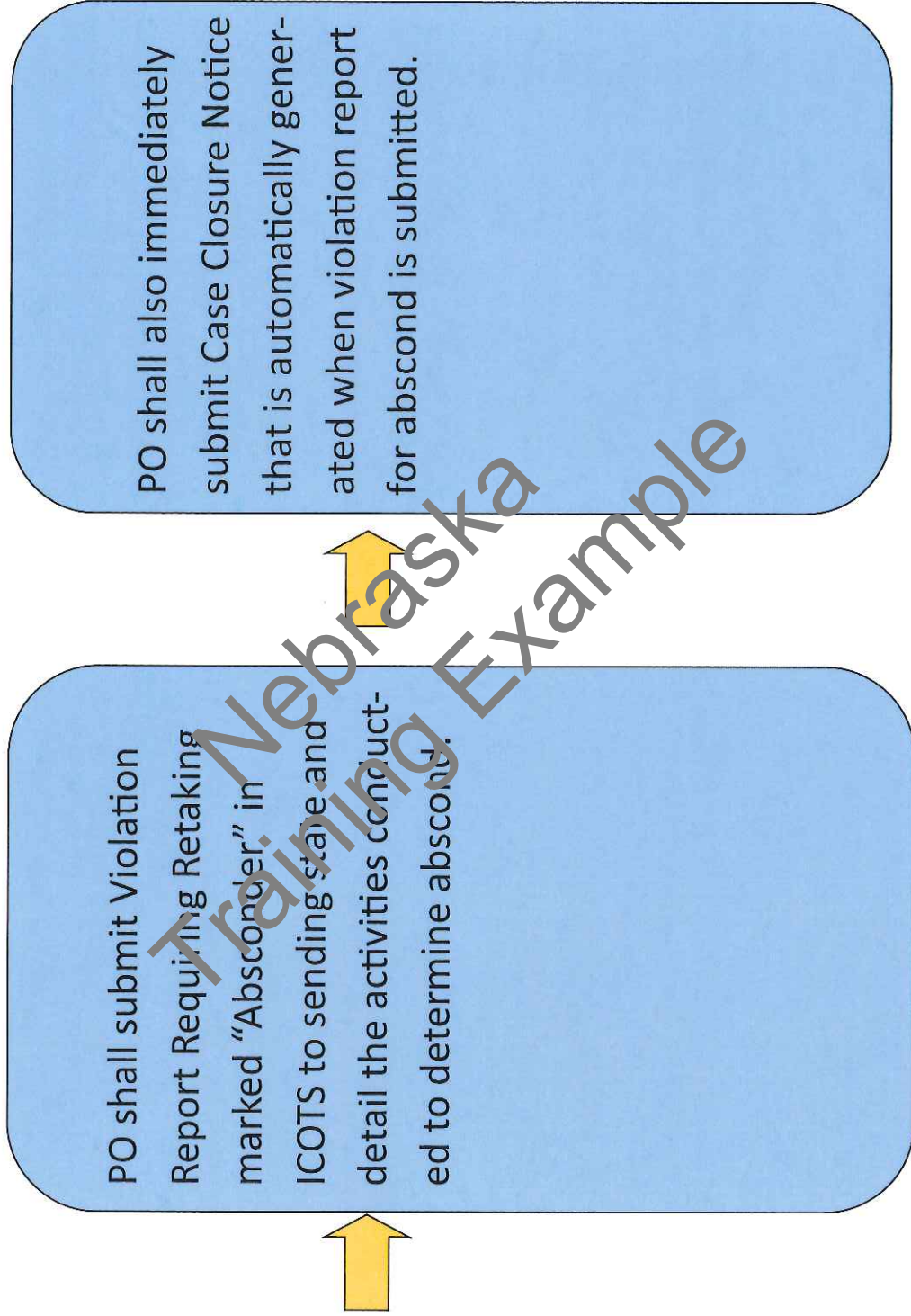
PO shall attempt to locate client using same guidelines as for Nebraska clients and activities required by Compact Rule 4.109-2 to determine if offender has absconded: (1) Conduct field contact at last known place of residence; (2) Contact last known place of employment, if any; and (3) Contact known family members and collateral contacts.

If client unable to be located, PO shall submit Arrest/Violation Report in NICaMS.

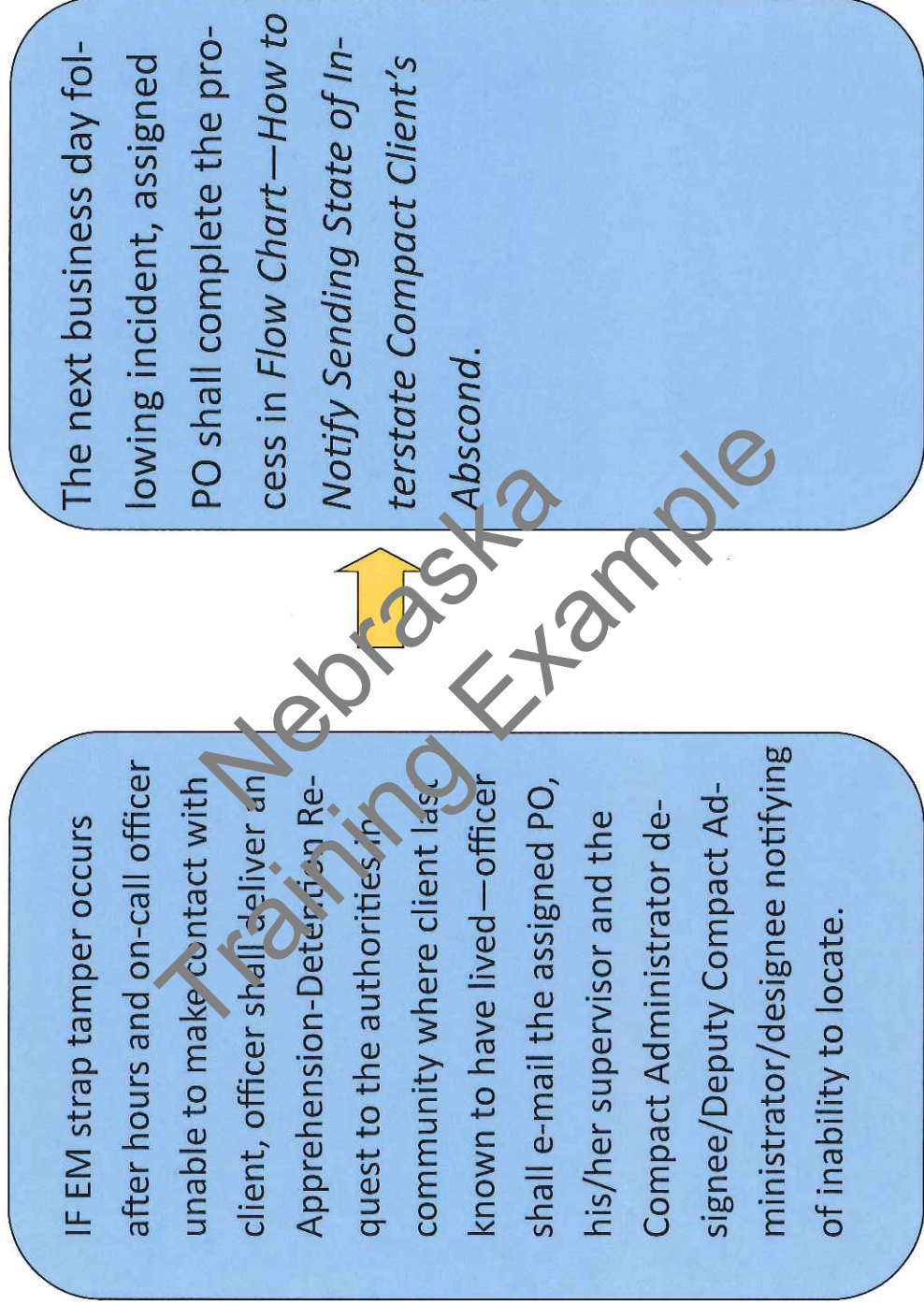
Note: For Interstate Compact clients, determination of abscond shall be made once activities are conducted and client is unable to be located—do not need to continue attempts to locate for two weeks.

Note: If offender is apprehended before the case is closed in ICOTS by the sending state, PO shall submit an Addendum to Violation Report to the sending state in ICOTS to inform and will need to wait until the offender is picked up by the sending state before closing interest, including disposition of any new charges. If the case is closed before the offender is apprehended, then upon being apprehended, if the sending state requests a courtesy Probable Cause Hearing (PCH) be conducted, PO shall proceed to serve the offender for the PCH and the Deputy Compact Administrator/designee will reopen the case in ICOTS. Regardless if client pleads guilty/waives the PCH or PCH held and cause found, PO shall submit an Addendum to Violation Report to sending state in ICOTS with a copy of the PCH packet received from the Deputy Compact Administrator once Hearing Officer/designee puts the packet together. The PO shall also submit a Case Closure Notice to reclose the case in ICOTS.

Flow Chart—How to Notify Sending State of Interstate Compact Client's Abscond continued...



Flow Chart—How to Notify Sending State of Interstate Compact Client's Abscond for EM Strap Tamper when Unable to Make Contact with Client



Examples of Cases showing well documented case progression

Provided by Midwest & South Regions

ICOTS Offenders:

- 750238
- 834727
- 786653
- 696160
- 842107

Retaking is Required "Upon a Request....."

Presented by: Dori Littler Arizona Commissioner/DCA &
Margaret Thompson Pennsylvania DCA

Mandatory Retake for a New Felony or Violent Crime

• **Upon the request of the receiving state**, the sending state **shall issue a warrant and retake**:

- after notice an "offender" has been convicted of a new felony offense OR "violent crime"

Violation Report in ICOTS enforces the ICAOS Retaking Rules

Rule 5.102

"Upon a Request of the Receiving State...."

- Receiving State:
 - Has exhausted options
 - No longer a good "plan of supervision"
 - Determined that invoking rule promotes public safety and victim safety

The receiving state may notify using a Progress Report when not asking for retake.

Retaking is NOT always the answer!

- Offender's resources solely in receiving state
 - Mental/Medical treatment
 - Caretaker for other family members
 - Drug addicted offenders supervised for non-drug related crimes
- Compliant with other aspects of supervision
 - Employment, financial obligations, reporting, treatment, etc.
- New probation sentence in receiving state
- Offender subject to new lengthy sentence of incarceration in receiving state

Remember every violation situation is DIFFERENT! Review!

Reporting conviction on a Progress Report DOES NOT prevent the sending state from retaking

Rule 5.101 Discretionary retaking by the sending state

(a) Except as required in Rules 5.101-1, 5.102, 5.103 and 5.103-1 at its sole discretion, a sending state may retake or order the return of an offender.

(b) If the offender does not return to the sending state as ordered, then the sending state shall issue a warrant no later than 10 business days following the offender's failure to appear in the sending state.

Warrant Tracking

Panel: Dori Littler Arizona Commissioner/DCA, Tracy Hudrlik Minnesota DCA, Matthew Charton New York DCA

Warrant Tracking

- How does your state ensure warrants are Compact compliant?
- How do you communicate with your external agencies regarding warrant issues?

Dealing w/ Pending Charges & Revocable Behavior

Presenters: Chris Moore Georgia Commissioner & Tim Strickland Florida DCA

Rule 5.101-1 Pending felony or violent crime charges

Notwithstanding any other rule, if an offender is charged with a subsequent felony or violent crime, the offender shall not be retaken or ordered to return until criminal charges have been dismissed, sentence has been satisfied, or the offender has been released to supervision for the subsequent offense, unless the sending and receiving states mutually agree to the retaking or return.

What are the issues?

- Path to permanent revocation varies as does what revocation means in definition of 'behavior requiring retaking'
- For some, no authority to supervise offenders when pending charges exist
- For some, compact offenders (because original sentence is from other state) are afforded bail when an instate offender would not
 - *New charges sometimes take years to resolve*

Considerations.....

- Rule 5.101-1 allows for states to *mutually agree* to retaking
- What stakeholders are involved in the revocation process in your state?
- Are the courts notified and educated on the retaking rules when these cases arise?
- Is my state truly complying with Rule 4.101? (providing consistent supervision and imposition of incentives and sanctions)

Stakeholder Communication is KEY!

- Elevate issues to Commissioner!
- Is your legal department or Attorney General aware of your state's limitations?
- Has the issue been raised with State Council?
 - Consider legislation/State Supreme Court ruling?
- Are Compact Offices effectively communicating on these cases putting public safety #1?
 - *Using discretionary retaking or mutual agreement when it MAKES SENSE!*

Probable Cause Hearings

Presenters: Jane Seigel Indiana Commissioner/ICAOS Rules Chair & Jacey Rader Nebraska Commissioner

US Supreme Court Decisions

- Morrissey vs. Brewer 408 U.S. 471 (1972) (parole)
- Gagnon vs. Scarpelli 411 U.S. 778 (1973) (probation)

Why is this important to Compact Offenders?

- Geographical concerns (violations committed outside of Sending State)
- Without PC, violations may be barred from consideration for revocation (Sending State)
 - Offenders are ENTITLED when revocation is possible

Purpose of PC Hearing

- Test Merit of Violation
 - Provides evidence the offender likely violated his or her conditions of supervision
 - Ensure violation meets definition of 'Behavior Requiring Retaking'
 - *Receiving States should not arbitrarily revoke relocation once granted*
- Creates Record
 - To be used in *possible* subsequent revocation hearing
 - Who, What, When & Where??

When an Offender is not Entitled to a PC Hearing

- No possibility violations committed in receiving state will be used in revocation proceedings in the sending state
 - e.g. Offender simply returning to resume supervision in Sending State
- New conviction
 - Rule 5.102
 - Conviction is conclusive proof of violation-including misd. conviction if reported as revocable behavior

PC Hearing Elements

- Conducted by neutral and detached person
- Close proximity to where alleged violations occurred
- Administrative hearing
 - Fact finding, no determination of guilt
 - Level of due process is *usually* less than a revocation hearing; but may be *more* considering the results are intended to be used in a revocation hearing

Offender's Rights at PC Hearing

What is an offender entitled to at a PC Hearing?

- Disclosure of non-privileged/non-confidential evidence
- Opportunity to be heard in person, present witnesses and evidence
- The opportunity to confront and cross-examine adverse witnesses
 - unless the hearing officer determines that a risk of harm to a witness exists

Hearing Report Requirements

Ensure reports meets local AND Rule 5.108 requirement!

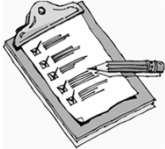
- Due to sending state within 10 business days after the hearing
- Must include:
 - Date, time, location of the hearing
 - Who was present (who testified/who did not)
 - Clear & concise WRITTEN summary of ALL testimony
 - What evidence was used in decision?
 - Specific statements as to which violations where PC found, not found and offender admitted to

Waiver of Probable Cause Hearing


Waiver acceptable when:

- Offender is apprised of his or her rights to hearing
- No contest to retaking and clearly aware of the facts supporting retaking
- Signed admission to one or more violations

IMPORTANT! Admission/Waiver must be of sufficient gravity to justify revocation in receiving state




INVALID WAIVER Example



Sex offender's OVR documents he violated curfew, had unauthorized contact with minors, viewed pornography, access social media, and tested positive for marijuana (which by itself is clearly NOT a revocable violation)

The offender admits guilt on a PC waiver only to the positive marijuana urine screen

PC must be established on REVOCABLE violations!



**Rule 5.108 (c)
Misinterpretation**

Sex offender's OVR documents he violated curfew, had unauthorized contact with minors, viewed pornography, tested positive for drugs and is convicted in the RS of driving recklessly without insurance (misd conviction by itself is NOT revocable)

The offender's conviction of reckless driving is NOT proof the offender engaged in BRR

PC must be established on REVOCABLE violations!

Don't forget!

- As the receiving state you WANT the sending state to revoke with the submission of a Violation Report
- Retaking does not always prevent an offender from qualifying for re-transfer of supervision
- Offender's have a right to PC
- Local procedures for PC vary and may or may not meet the requirements established by Supreme Court Rulings


**Common Legal/Procedural
Questions ISC Offices should know**

- What are the rules of evidence for PC hearings?
- Can hearsay be admitted?
- Can it be done proffer?
- Can an affidavit be admitted or is the witness required to be present
- What specifically is "evidence"? Is it transcripts or the exhibits?

How Can Your State Improve?

- Ensure ICOTS Users are using Addendums and providing PC records appropriately on ICOTS records
 - Through Compact Workload Review
 - Using ICOTS Dashboards
 - Training Field Users
 - Learn more about Field processes for PC and what may be needed in a revocation to better communicate
 - Involve Legal for guidance

States Sharing PC Procedures/Policies



- Texas
- Tennessee
- Arizona
- Virginia
- South Carolina

Reacting to Subpoenas

Presenters: Russ Marlan Michigan Commissioner & Hope Cooper Kansas Commissioner

Compact Rules

- Do not impose a legal obligation for states to comply with out of state subpoenas
- Cannot prevent out of state subpoenas

Step #1- Why???

- *Why is the subpoena issued?*
- *Can the information or testimony sought in the subpoena be provided in another manner?*
 - *Is it a matter of clarification?*
 - *Is it a matter of understanding the compact?*
 - *Is it an instance where the violation was not documented appropriately or lack of details?*
 - *Is it lack of PC being established appropriately?*

Legal Guidance is KEY!

- Learn WHY the subpoena was issued
- Involve your legal department or state attorney
- Resolve with good communication btw compact offices & most importantly DIRECTION from legal department or state attorney

