

Use of Violation Report

- Reports “behavior requiring retaking”
 - *Recommending revocation of supervision*
 - *DOCUMENTATION!*
- **Enforces retaking rules**

Recommendation for Lone Star

What course of action does your state recommend?

Offender to be returned to sending state (Maine)

Warrant should be issued for the offender

Additional Information:

“Retaking” vs. “Extradition”

Offender Application for Transfer (Waiver of Extradition)

- MUST be signed PRIOR to leaving/transferring
- States party to this compact waive all legal requirements to extradition of offenders who are fugitives from justice.

Rule 3.109

Retaking	Extradition
<p>➤ The only way an offender can be returned to the sending state under the Compact is if he originally left the sending state through an approved transfer or reporting instructions under the compact.</p>	<p>➤ Fugitives are to be returned under the extradition clause of the constitution. (Article VI Section 2)</p>

Mandatory Retaking

<u>Receiving State requests retake &:</u>	Mandatory Retake?	Sending State Action
Report of 'Behavior Requiring Retaking'	Yes	Issue warrant OR Order offender to return within 15 business days <ul style="list-style-type: none"> ▪ May ask for PC Hearing
Conviction of new felony or violent crime	Yes	Issue warrant <ul style="list-style-type: none"> • If serving a new sentence of incarceration for the new crime-sending state <u>may hold violation hearing</u> <ul style="list-style-type: none"> • Requires approval of authority and offender • See Rule 5.101-2
"Absconder" apprehended in receiving state on sending state's warrant	Yes	Warrant previously issued per Rule 4.109-2 <ul style="list-style-type: none"> ▪ May ask for PC Hearing

Discretionary Retaking

- Sending State retains authority to retake at ANYTIME unless offender is charged with a new felony or violent crime in the receiving state.
 - Offender charged with a new criminal offense cannot be retaken:
 - until charges have been dismissed
 - sentence has been satisfied
 - offender released to supervision for new offense
 - sending and receiving state mutually agree to retake/return

Rule 5.101 & 5.101-1

Retaking Responsibilities

Sending State	Receiving State
Cost of retaking	Cost of detaining
No bail or other release conditions allowed for offender	No bail or other release conditions allowed for offender
Retake within 30 calendar days	Conduct PC hearing if requested
Establish authority of officers	<p>Morrissey vs. Brewer 408 U.S. 471 (1972) Gagnon vs. Scarpelli 411 U.S. 778 (1973)</p>
Identify the offender <ul style="list-style-type: none"> • Ensure no detainers against offender exist • Ensure no extradition proceedings are pending 	Offenders are entitled to a probable cause hearing: <ul style="list-style-type: none"> • Close proximity to where the violations occurred • An “administrative” hearing – not to determine guilt/innocence and level of due process is less than that of a revocation hearing • Conducted by a “neutral and detached” person