

## Proposed by the Racial Justice Ad Hoc Committee

### ***RULE 5-103: Reporting Juvenile Non-Compliance, Failed Supervision and Retaking***

1. At any time during supervision if a juvenile is out of compliance with conditions of supervision, the receiving state shall notify the sending state using Form IX Quarterly Progress, Violation or Absconder Report, which shall contain:
  - a. the date of the new citation or technical violation that forms the basis of the violation;
  - b. description of the new citation or technical violation;
  - c. status and disposition, if any;
  - d. supporting documentation regarding the violation including but not limited to police reports, drug testing results, or any other document to support the violation;
  - e. ~~efforts or interventions~~ description of efforts made to redirect the behavior including therapeutic interventions, incentives and/or graduated sanctions, or other corrective actions made to redirect the behavior consistent with supervision standards in the receiving state; and
  - f. ~~sanctions if they apply;~~
  - g. receiving state recommendations.
2. The sending state shall respond to a violation report in which a revocation or discharge is recommended by the receiving state no later than ten (10) business days following receipt by the sending state. The response shall include the action to be taken by the sending state, which may include continue supervision, and the date that action will occur.
3. The decision of the sending state to retake a juvenile shall be conclusive and not reviewable within the receiving state. If the sending state determines the violation requires retaking or retaking is mandatory, the following shall be considered:
  - a. In those cases where the juvenile is suspected of having committed a criminal offense or an act of juvenile delinquency in the receiving state, the juvenile shall not be retaken without the consent of the receiving state until discharged from prosecution, or other form of proceeding, imprisonment, detention, or supervision.
  - b. The Form IA/VI Application for Services and Waiver has the appropriate signatures; no further court procedures will be required for the juvenile's return.
  - c. A duly accredited officer of a sending state may enter a receiving state and apprehend and retake any such juvenile on probation or parole consistent with probable cause requirements, if any. If this is not practical, a warrant may be issued and the supervising state shall honor that warrant in full.
  - d. The sending state shall return the juvenile in a safe manner, pursuant to the ICJ Rules, within five (5) business days. This time period may be extended up to an additional five (5) business days with the approval from both ICJ Offices.

4. Upon request from the receiving state, the sending state's ICJ Office shall return the juvenile within five (5) business days in accordance with these rules when:
  - a. A legal guardian remains in the sending state and the supervision in the receiving state fails as evidenced by:
    - i. When a juvenile is no longer residing in the residence approved by the receiving state due to documented instances of violation of conditions of supervision; or
    - ii. When an alternative residence is determined to be in the best interest of the juvenile due to documented instances of violation of conditions of supervision and no viable alternatives exist in the receiving state; or
    - iii. When an immediate, serious threat to the health and safety of the juvenile and/or others in the residence or community is identified; and
    - iv. The receiving state has documented efforts or interventions to redirect the behavior.
  - b. The juvenile is not residing with a legal guardian and that person requests the juvenile be removed from his/her home. The sending state shall secure alternative living arrangements within five (5) business days or the juvenile shall be returned. This time period may be extended up to an additional five (5) business days with the approval from both ICJ Offices.
  - c. A juvenile student transfer of supervision fails.

*History: Adopted October 9, 2013, effective April 1, 2014; amended August 26, 2015, effective February 1, 2016; clerically amended October 17, 2016; amended September 27, 2017, effective March 1, 2018*

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### **Justification:**

The purpose of this amendment is to highlight the importance of using graduated sanctions and other structured responses to redirect behavior. This amendment also consolidates subsections 1(e) and 1(f) to clarify that redirecting behavior should be the purpose of both incentives and graduated sanctions.

The Ad Hoc Committee on Racial Justice believes increased focus on use of graduated sanctions and other structured responses will help ensure all youth and families serviced through ICJ are treated justly regardless of their race, sexual orientation, gender, cognitive ability, socio-economic status, victimization, adjudicated offense, and location. Such responses aid in reducing the number of failed placements resulting in revocation and racial disparities in the juvenile facilities nationally by redirecting all at risk youth behavior and stabilizing his/her living situation, thus increasing the number of successful terminations, and maintaining public safety.

According to Bill Shepardson of the Annie E. Casey Foundation, "To center the work around equity, leaders must go beyond surface solutions and really pay attention to the systemic factors that are producing inequitable results for certain groups." The Commission can "go beyond surface solutions" by amending this rule so that supervising agents are encouraged to act in ways that address factors that contribute to negative behaviors and promote positive outcomes.

The Commission and ICJ Office Staff can encourage supervising agents to act in ways that enhances youth and family's positive perception of fairness/equity. As discussed in Good Probation Practice Desktop Guide on Equity Practices, this can be achieved when the youth/family:

- (a) understand procedural justice;
- (b) allowed to have a voice in the development of treatment plan;
- (c) are respected, and receives unbiased treatment services in the community and short-term Out-of-Home Placements (only when necessary); and
- (d) processes/decisions are clearly and effectively.

According to Point Park University Criminal Justice Administrator article titled, “Juvenile Recidivism: A Second Chance,” evidence-based programs (Multi-Systemic Therapy, Functional Family Therapy, etc.) aim to address factors that contribute to negative behaviors (i.e., truancy, recidivism, active drug use, anti-social activities, etc.) thus promoting positive social interactions. For example, MST therapist works with both children and “parents to empower them, create more family support systems and incentives, and remove negative influences.”

**Effect on Other Rules or Advisory Opinions:**

No Impact

**UNITY Impact:**

No Impact

**Forms Impact:**

The Ad Hoc Committee recommends that the Form IX be modified to include specific options for structured responses. This could mirror the format used in the ICOTS system used by the Interstate Commission for Adult Offender Supervision.

**Fiscal Impact:**

No Impact

**Effective Date:**

March 1, 2022

**Rules Committee Action:** *Click on meeting date to view approved minutes.*

**04/07/21** – Rules Committee voted 6-0-0 to support amendment by Racial Justice Ad Hoc Committee if suggested language is adopted.

**04/27/21** – Racial Justice Ad Hoc Committee approved recommended language from Rules Committee.