Minutes of the State Council for Interstate Adult Offender Supervision
September 2, 2011

Present: Representative Henry Aquino, Public Safety and Military Affairs (Chair)
Dennis Dunn, Victim Representative, Department of the Prosecuting Attorney
Senator Will Espero, Public Safety, Government Operations, and Military Affairs (Chair)
Tommy Johnson, Parole and Pardon Administrator, Hawaii Paroling Authority
Keith Kaneshiro, Prosecuting Attorney, Department of the Prosecuting Attorney
Michael Knott, Deputy Compact Administrator, Hawaii Paroling Authority
Cheryl Marlow, Compact Administrator, Judiciary
Rich Stacey, Deputy Attorney General, Department of the Attorney General
Jack Tomaki, Public Defender, Office of the Public Defender

Guests: Shirleen Cadiz, Intrastate rep., Judiciary
Brook Mamizuka, ICAOS Administrator, Judiciary
Miki McGarvey, Interstate intake, Judiciary
Sidney Nakamoto, Deputy Compact Administrator, Judiciary

Absent: Glennard Fong, Chief Court Administrator, Judiciary

Meeting called to order at 9:04 a.m. by Cheryl Marlow

I. Opening of Meeting – Compact Administrator

Cheryl Marlow thanked everyone for attending the State Council meeting. This is an annual meeting which precedes the 3-day national meeting that will be held in Montgomery, Alabama, the week of September 12, 2011. This meeting gives the members an opportunity to provide input which Cheryl can take forth to the national meeting. This is Cheryl’s first meeting as Compact Administrator and she was just sworn in yesterday. There have been informative meetings with the existing staff going over the proposed new rules to determine what potentially could impact us operationally if the new rules are adopted. Cheryl will share with the national committee any comments or concerns that we may have.
II. Introduction of State Council Members and Guests

Cheryl Marlow, Commissioner. She replaced Janice Yamada as the Probation Administrator and prior to that was the ICIS coordinator for 10 years. She was also the probation administrator on Maui.

Senator Will Espero, Chair of the Senate committee on Public Safety, Government Operations, and Military Affairs

Representative Henry Aquino, Chair of the State House committee on Public Safety and Military Affairs

Brook Mamizuka, Adult Probation

Miki McGarvey, Adult Probation

Shirleen Cadiz, Adult Probation

Michael Knott, Hawaii Paroling Authority

Keith Kaneshiro, Prosecuting Attorney

Jack Tonaki, Public Defender

Rich Stacey, Attorney General

Sid Nakamoto, Adult Probation

Sid Nakamoto provided statistics on the current number of incoming offenders and also the number of outgoing offenders. From September 1, 2010 to September 2, 2011. Since we are a bifurcated state, this is the total number of cases processed for probation and parole.

III. Overview of Interstate Compact and State Council

The importance of the council and the role of the commission is compliance of the compact rules. A brochure was distributed to the members that provides a summary of the guidelines. Training on the rules specifically for staff will be held on October 6, 2011, 9:00 a.m. to 11:00 a.m., Circuit Court, 3rd floor, Multi-Purpose Room. If any members or staff members are interested in learning more about the compact rules, please let Cheryl know and they can sit in on that meeting. Another option is to schedule a training for this group if anyone is interested.
The compact was created out of the need to control offender movement and the purpose is to promote public safety, protect the rights of the victims, control movement of offenders and provide for effective tracking, supervision and rehabilitation. The compact was enacted in June of 2002 and all 50 states including the District of Columbia, Puerto Rico, and the Virgin Islands are a part of the compact. It establishes a national governing body and the rule making authority which has the effect of law.

Hawaii has a bifurcated system. The 2 Deputy Compact Administrators are Sid Nakamoto, Probation, and Michael Knott, Parole. Brook Mamizuka is the ICOTS Administrator, and Miki McGarvey is the former ICOTS Administrator who now oversees all of the intake responsibilities with the compact. Shirileen Cadiz and Lois Nakada both assist Miki with the intake of intrastate cases.

With compact information readily available on the internet, there is the ability to check the status for a specific state as well as receive national information. If monitored on an ongoing basis, there should not be big infractions to deal with during the annual audit. Recently the Oahu office has been taking a monthly look at the compliance issues within the state which includes the neighbor island administrators and tracking the noncompliance and sharing the reports with the N.I. administrators for follow-up. According to Sid, he has one of the clerical staff printing out reports to responses that need follow up. Sid has been monitoring this on a monthly basis to be current for the annual audit. The national office is looking for a compliance of 60% or there is an audit. This includes following up on responses to replies for acceptance, notice of arrivals, notice of departures, etc.

IV. Interstate Compact Rule Changes

The compact rule changes were emailed to the members. Cheryl met with staff and together they identified any type of operational impact and what they thought was specific to Hawaii that may need to be brought forth at the national meeting. Nearly everything that has been proposed was agreed upon with the exception of Rule 3.107, Transfer Requests. It was thought that 30 days was not reasonable and they are proposing 90 days to allow adequate time. Sid confirmed that they will be recommending 90 days at the annual meeting.

Cheryl thanked Tommy for assisting with the expenses for Michael to attend the meeting. The travel budget only allows for 1 DCA to travel.

V. Transfer Application Fee

The law was changed to allow the collection of the $200 application for any offender applying for transfer to the mainland. The fees being collected are currently going to the General Fund. In addition to the operational cost of the compact, Cheryl asked for the support from the committee to have the funds go into the Probation
Services Fee Fund so that the compact activities could be funded specifically out of this fund.

Cheryl referred to the last minutes that it was noted and passed to establish the interstate compact fund. Sid stated that previous Administrator Janice Yamada proposed this matter, but it was turned down. It was suggested that they move forward on this. According to Senator Espero, they could put legislation together for the next session. Tommy suggested that if it passes the legislature, there should be a guarantee or proviso that the money that goes into this fund would be used for the compact specifically and not be a part of a larger fund which others may use.

There was a discussion on the $200 application fee and the responsibility of the offender to also pay for the other obligations such as restitution, fines, and fees. It was brought up that the $200 application fee was to process the transfer. Under the interstate, for mandatory acceptance, one of the rules is that there is support such as family within the receiving state. Interstate movement becomes costly when the offender moves into the receiving state which assesses a monthly supervision fee. Nonpayment of any fees would be counted as a significant violation. With 3 significant violations, the receiving state could return the offender back to the sending state.

Cheryl brought up a concern that Tommy and Michael raised with the case of an inmate who wants to apply up to 120 days before release. According to Tommy, the language of the rules does not cover inmate. They want to revise the language because the way the rules are interpreted, an inmate cannot be charged the application fee, but a parolee can be charged. There are many more inmates who apply for interstate compact to another state than parolees. He feels that there is a disparity in treatment since inmate applications are processed, but they are not being charged.

Sid cited Rule 3.105, Pre-release transfer and also Justification, and the revisions to this rule. According to Miki, the internal procedures need to be further defined in order to accommodate the concerns, but he doesn't think that the national office needs to get involved. He feels that this is something that both probation and parole need to work together to solve this situation. Tommy will have Michael represent parole in any further discussions on this matter.

Senator Espero cited a hypothetical situation regarding an offender housed at Saguaro who is eligible for parole. This offender wants to return to the East Coast from Arizona. According to Tommy, the offender would need to go back to Hawaii first. He referenced HRS 353.64 which states that the offender has to be released into the county of residence or had employment prior to conviction. All states have a law that says that offenders cannot be released from another jurisdiction in their state or parole without going through the interstate compact process. According to Cheryl, this may have been addressed at the national level. She will check on this. According to Jack, this is a protection to the inmate where they have to be released.
back in their home state. If the offender has applied through the compact and has been accepted, then why not send them to the East Coast from Arizona. The responsibility can be written into the contract with the CCA. Tommy suggested that ultimately Public Safety is responsible. It will need to be included in the scope of services. Cheryl will check with the interstate compact first and then proceed. Tommy will write a short memo and a justification sheet. There was no opposition.

VII. Interstate Compact Coordinator Position

Cheryl stated that she put in for the compact coordinator position. After discussing this with the neighbor island administrators, it was agreed that there was a need for this position. There would be operational costs for the coordinator position as well as the travel expenses to attend meetings and any trainings that are incurred.

VIII. Annual Interstate Dues

The compact fee which is paid to the national office is over $23,000. We are one of the few states that pay the least amount because Hawaii is considered a small state. Access the compact website and it will identify all of the states, what each state is paying and how it was determined.

IX. Deputy Compact Administrator Training

The next DCA training for both probation and parole which is paid for by the interstate is scheduled in 2012, although a location has not been designated yet. Sid said that it will possibly be held somewhere in the mid-west maybe Utah or New Mexico since last year it was held in Kentucky. Sid asked that they consider the situation with Hawaii and Alaska as their first meeting was held on the day of his arrival. Most of the trainings on the even years for both DCAs from bifurcated states are paid for by the national office. For the annual business meetings, the national office will pay for the commissioner and one DCA.

X. Annual Interstate Compact Business Meeting

The meeting is coming up on September 12, 2011, with the primary focus on the new rules as well as any other business. The items discussed today will be presented at that meeting.

XI. Reimbursement for Extradition Costs

According to Cheryl, Keith did not have any input on the reimbursement for extradition costs, but there may be other discussions on this subject. It has been added to the special condition. The collection is minimal. In terms of priority, restitution and other fees are a priority. Parole does not pay for any extradition costs. The counties pay for the restitution, but are reimbursed by the state.
XII. Probable Cause Hearings

The policies and procedures were finalized last September and have been put into place. The issue with each circuit was how they were going to hold the offender. Parole has been doing probable cause hearings for awhile. The hearings will be the focus of an upcoming training. The other circuits will be following the same policies and procedures.

XIII. New Business

Dennis Dunn introduced Pono who is from Hawaii Canines for Independence. Pono is used for interviews in their office and also will accompany victims and witnesses while waiting at court. He is hoping to get Pono into some type of court proceedings especially those that don’t involve juries. Sometimes the parents seem to get as much benefit from having Pono there as the kids. Kids feed off of the parents’ emotional state of mind and helps them to calm down too. Pono received the same type of training as a service dog or assistance dog. The handlers have to attend a 2-week training, one week on Maui and one week here. Dennis will ask for permission to be able to bring Pono into the facility. If he was a person with a disability and Pono was his assistance dog, he would be entitled by law to bring Pono into the facility.

Sid brought this up to tie in with new business. On the national level, an ex officio member Pat Tuthill will be present at the annual meeting. She is a victim representative at the national level. At the annual meeting there is a Pat Tuthill award. If your agency under a victim program provides anything innovative with victims, let Cheryl know.

XIV. Closing of Meeting – Compact Administrator

Cheryl thanked everyone for attending the meeting. It is an annual meeting, but in the event that something should arise, she will call everyone together for a meeting.

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Gwen Murakami, Recorder

The meeting was adjourned at 10:25 a.m.