Interstate Compact State Council Meeting
October 17, 2003

Those present were Sen. Derek Schmidt, Juliene Maska, Tom Williams, Marilyn Scafe, Chris Mechler, Robert Sanders, Robert Werholtz, Sen. Rip Gooch, and Jerry Bauer. Absent were JaLynn Copp, Chris Cowger, Ellen Mitchell, Kathe Lloyd-Decker, and Candy Ruff.

Marilyn Scafe called the meeting to order. The minutes from the July 1, 2003 meeting were reviewed, however there was not a quorum to approve them.

Robert Sanders advised that Don Blackburn was selected as the Executive Director effective September 1, 2003. His office is located in Lexington, Kentucky. Robert advised that the draft rules have been submitted. Members of the Midwest States recently had a spirited discussion regarding the rules and made suggestions to be taken to the National Commission meeting which will be held November 2–5th. There have been updated rules posted on the Internet dated October 3, 2003 based on information already received by the rules committee.

Chris Mechler led the discussion regarding the draft rules and how they apply to Kansas. There are four general issues of concern. They are:

- Appeal process for mandatory/discretionary cases
- No mention of illegal/resident aliens/work visas
- Application Fees
- No statement that the compact is for felons

Following is a list of proposals or concerns regarding the rules as they were written as of October 3, 2003.

Section 1.101 Definitions

Letter d. add language “as provided by receiving state in a travel permit”.
Letter h. add that receiving state can also charge fees
Letter p: travel permit and temporary travel permit
Letter xx: significant violation defined. This will have a big impact on KS. We doubt that “significant can be defined.
Letter dd: “natural person” – this is a legal term
Letter ee: victim sensitive – new definition only pertains to sexual or violent offenses. Should include all victims if known.

Section 2.101 Involvement of interstate compact offices

Letter b. Correspondence only through the compact office. This will have an impact on the compact office operation. Currently parole offices and facilities send their correspondence directly to the other state with a copy to compact. This will increase the workload for the compact office.
Section 2-103 Dues

There had been a question as to how the cost would be decided. The cost per state will deal with the number of cases accepted and will not include those rejected. Tom Williams brought up that the assessment fee structure does not relate to dollars. Robert Sanders said that the national commission would tell each state what they owe. Marilyn Scafe recommends an appeal process. The ultimate goal is to have everything automated and the commission would approve the fee structure.

Section 2-104 Forms

Forms will be web based and should not be a big expense. This will be an issue for the TOADS system the parole offices and community corrections currently use.

Section 2-105 Misdemeanants

This will have a major workload impact on Kansas. It is recommended that “person” misdemeanors and recurring drug offenses be put back in the rule. If we must accept all misdemeanors, then we will have to devise some misdemeanor standards for supervision. For example, current standards for parole supervision require that the LSI-R be completed on each offender under supervision. This would be very labor intensive for parole officers. The council will need to determine what other cases Kansas should consider supervising.

Roger Werholtz asked if OJA would be receptive to a Memorandum of Agreement to supervise misdemeanors. Parole would be over-supervising them and it is a resource issue for both supervision entities. This section says nothing about supervising felons. It is suggested that there is a section for adult felons.

Section 2-106 Offenders subject to deferred sentences

This will have workload issues and they were not included in the last compact. It is recommended that offenders sentenced by a judge and have one year or more of supervision to be considered for transfer.

Section 2-110 Transfer of offenders under this compact

If offenders do not meet the criteria, they do not go. A state would have to place an offender on unsupervised probation to allow them to leave the sending state.

Section 3-101 Transfer of supervision

Current draft rule reads that an offender with 6 months or less cannot transfer. Our condition violators with less than this amount of time would therefore not be allowed to transfer. We will likely see an accumulation of condition violators with no incentive to comply and no place to live. This rule will require a lot of discretionary discussion and good will between states in order to make exceptions.
It was suggested that b) be changed to read “A receiving state may consent to the transfer of supervision of an offender who does not otherwise qualify for transfer of supervision and should do so for good cause shown”. Kansas will need to decide what guidelines to use for consideration of these discretionary cases.

Section 3.103 Acceptance of offender by receiving state; exception

Exception does not specify probation, parole, or community corrections. It is felt that the timelines are unreasonable.

Section 3-105 Request for transfer of a paroling offender

There was concern for the 5-calendar day report date due to detainers and some Parole Board decisions. The council thought this was an unreasonable request. It was suggested that language be included for “release from all confinement” and within 10 days from that release.

Section 3-106 Request for expedited transfer

Assuming responsibility for supervision upon travel to a receiving state prior to acceptance will be a workload issue for field staff.

Section 3-108 Victim Notification

This rule will have workload impact for central office and field staff. Currently court services officers do not give address and employment information. Many of these things are not public information. Section B. will require a lot of work to identify what should be done. This will have an implementation and staffing impact.

3.108I Victim’s right to be heard and comment

Roger Werholtz suggested that “according to sending state law” be added. This does not happen in Kansas and is contrary to state law, however we could work to amend the statutes. The term “family members” needs to be defined and Juliene Maska stated there was a definition in statute. Roger’s suggestion will be explored first.

Section 4-103 Special conditions

Under section “d” it was recommended that language be added that the receiving state’s inability to enforce a special condition of the sending state “should not preclude an offender from transfer eligibility”.

Section 4-105 Arrival and departure notifications

The concern was that officers might not know when an offender will actually depart the sending state due to detainers. Again, adding language “when released from all confinement” might clear this one up.

Section 4.107 Fees

The Kansas Council may want to address charging an application fee in the future for Kansas offenders wishing to compact.

Section 4.108 Collection of restitution, fines and other costs

After further discussion, the council is fine with this rule.

Section 4.112 Closing of supervision by the receiving state

The council recommended adding language that the receiving state shall verify the discharge prior to closing the case.

Section 5.108 Opportunity for hearing in receiving state

The council had a question regarding probable cause hearings on probation cases. Currently parole must do Morrissey Hearings on parole cases, but generally do not do hearings for probation. The judge in the sending state conducts the hearing.

With the addition of Senator Gooch, a quorum was now present; therefore Roger Werholtz made a motion to accept the draft rules with modification for Robert to take to the National Commission meeting. Tom Williams seconded. All in favor; none opposed.

The council is still trying to get on the District Attorney’s Conference agenda to discuss the new compact. Judge Ernie Johnson has informed the council that he will take any handout that the council has to distribute to the Judge’s conference.

Marilyn Scafe indicated that Chris Mechler had volunteered to be vice-president of the council. Since Senator Schmidt was called away, there was not a quorum to vote on this issue; therefore it was tabled to the next meeting.

The next meeting was not scheduled. Council members will be contacted as to a date and time and may attend in person or by phone.

The meeting adjourned at 12:55pm.