State Council for Interstate Adult Offender Supervision

Meeting—January 10, 2011
10:00 a.m.

Department of Public Safety and Correctional Services
Office of the Secretary
4th Floor Conference Room
300 E. Joppa Road, Towson, Maryland 21286

Attendees:

Gary D. Maynard, Chair and Secretary of Public Safety and Correctional Services
Patrick McGee, Commissioner/Compact Administrator and Director of Parole and Probation
Anne McCloskey, Chair, Maryland Coalition Against Crime, Inc.
Julie Solt, Associate Judge, Circuit Court for Frederick County
Ronald Cullison, Assistant Bureau Chief, Criminal Investigation Bureau, Maryland State Police
Hank Allen, Investigator, State’s Attorney’s Office for Talbot County
Susan Baron, Assistant Attorney General and Counsel to the Council
Rhea Harris, Director of Legislative Affairs, Dept. of Public Safety and Correctional Services
Melanie Brock, Deputy Compact Administrator, Division of Parole and Probation
Eleanor McMullen, Special Assistant to the DPP Director and Staff to State Council

Agenda Item I: Welcome and Introductions

Agenda Item II: Brief overview of Interstate Compact operations in Maryland

- The Interstate Commission for Adult Offender Supervision (Interstate Commission) is located in Lexington, Kentucky and oversees the operation of the Interstate Compact for Adult Offender Supervision (Interstate Compact) among the member states.

- Patrick McGee serves as the Maryland Commissioner to the Interstate Commission in addition to being the Compact Administrator for Maryland.

- Within Maryland, day-to-day Interstate Compact operations are coordinated by the Interstate Compact Unit of the Maryland Division of Parole and Probation.

- Melanie Brock oversees the Interstate Compact Unit and serves as Deputy Compact Administrator for Maryland.

- On average, Maryland supervises approximately 3,000 offenders from other states and transfers approximately 1,800 offenders to other states for supervision.

- The reason for Maryland’s higher rate of incoming offender transfers is attributed in part to the fact that other states classify simple CDS possession as a felony, rather than a misdemeanor as Maryland does. Under Intestate Compact Rules, non-violent misdemeanor offenses are not transferable under the Compact; all felonies are.
As shown in the handout, Maryland receives the most offender transfers from Virginia, Pennsylvania, Washington DC, Delaware, and New Jersey. These offenders are Marylanders who committed crimes in these other states as well as residents of the other states with family and employment ties to Maryland.

Ms. Brock regularly discusses the Interstate Compact rule requirements with judges and members of the State’s Attorneys’ Offices to stress the importance of transferring a defendant’s supervision properly through the Compact. Defendants are sometimes given the impression in court that they are free to leave the state following their sentencing.

Agenda Item III: Interstate Commission – Annual Business Meeting update

Commissioners from every state (and the US Virgin Islands and Puerto Rico) meet once a year for two days along with the Interstate Commission’s staff to review budgets and budget projections, attend training, and vote on proposed amendments to the Interstate Compact’s rules.

Ordinarily, rule amendments are only proposed and voted upon on an every-other-year basis and 2010 would have been an off-year for rule proposals. However, following the murder of four Takoma, WA police officers by an Arkansas parolee, the Interstate Commission formed an ad hoc committee to review the Compact’s requirements for retaking offenders when they are in violation of the conditions of their community supervision.

The rule amendments proposed by the ad hoc committee mandate procedures for retaking “violent offenders” by extradition. While most Commissioners acknowledge the fiscal and logistical strain that these proposed rule amendments will pose upon their states, the amendments did pass and will become effective March 1, 2011.

Agenda Item IV: Rule amendments (handout provided)

Rule 1.101 provides for three new definitions to the rules: warrant; violent crime; and violent offender.

The definition of “warrant” includes the requirement that a warrant be entered into the National Crime Information Center (NCIC) Wanted Person File with a nationwide pick-up radius.

The definition of “violent crime” is very broad and covers offenses and behaviors that expand upon most every states’ definition of violent crime. In Maryland, “violent crime” is defined by particular crimes. The Commission’s definition identifies certain crimes (any sexual offense requiring registration, use of a deadly weapon in the commission of a crime), but largely defines violent crime by behavior.

“Violent offender” is defined as an offender under supervision for a violent crime.

Rule 3.107 merely tightens the documentation required to be submitted with a supervision transfer request.

Rule 4.109: the amendments to this rule strike out previous language requiring the sending state to issue a warrant for an absconding offender.
Rule 4.109-2: this new rule: (1) establishes the minimum requirements that states must undertake to locate an offender who has absconded from supervision; and (2) requires a receiving state to submit a violation report to the sending state if efforts to locate the offender are not successful. As Director McGee noted the Division of Parole and Probation actually goes to greater lengths to determine absconder status than the rule requires.

Rule 5.101: requires the sending state to issue a warrant in order to retake an offender, and upon apprehension of the offender, file a detainer with the holding facility once the offender is in custody.

Rule 5.102: the amendments to this rule: (1) require a sending state to issue a warrant for an offender who has committed a new offense in the receiving state and file a detainer with the custodial facility; and (2) strikes prior language that permitted a sending state merely to order the offender’s return from the receiving state.

Rule 5.103-1 is a new rule that provides step-by-step procedures for the mandatory retaking and extradition of offenders who abscond from supervision.

Rule 5.103-2 is a new rule that requires a sending state to retake a violent offender who has committed a significant violation of the conditions of supervision. A “significant violation” is defined in the rules as a violation that would result in a request for revocation of supervision.

Agenda Item V: Discussion

Major Cullison noted that the 30-day reporting window for report of a significant violation seems like a lot of time. Ms. Brock noted that a receiving state has 30 days at the most. Violation reports are usually sent and received within days via the Interstate Compact Offender Tracking System (ICOTS).

The Department arranges with the Maryland State Police for the retaking of parolees and individuals supervised on mandatory release who are out of state. The retake warrants are issued by the Maryland Parole Commission in those cases. Decisions regarding the retaking (or extradition) of probationers out of state is a decision made by the local State’s Attorneys’ Offices.

The rule amendments will likely result in more instances where out-of-state offenders will have to be retaken by Maryland. While the decision to retake probationers will be with the local jurisdictions, the liability will be on the state as a member of the Interstate Compact.

By the same measure, the local jurisdictions have to make decisions concerning extradition while their budgets are decreasing.

Major Cullison noted that a specific local law enforcement agency responsible for the extradition will have to be assigned to the retake warrant or the warrant won’t be served.

Both Major Cullison and Mr. Allen asked if members of the Division of Parole and Probation’s Warrant Apprehension Unit (WAU) can serve out-of-state warrants. Agents of the Division’s WAU receive law enforcement training; however they are not recognized by law as official local law enforcement and cannot exercise police powers. The Unit’s authority is restricted only to
the service of parole retake warrants (issued by the Maryland Parole Commission) and violation of probation warrants (issued by Maryland courts).

- Ms. McClosky asked what can be done if individuals are not extradited as required by the new rules. Mr. McGee explained that states can file a complaint with the Interstate Commission to compel compliance. Ms. Brock noted that in the past the Division had success merely in ordering the offender’s return to Maryland. Now, that option is taken off the table by the prescriptive retaking amendments.

- Major Cullison noted the strain on operations that the Maryland State Police face when personnel have to be pulled from the field and assigned to extradition duties.

- Chairman Maynard, Judge Solt and Ms. McCloskey asked if the Division can look at the purely discretionary acceptance cases more closely. Ms. Brock agreed that the discretionary cases will have to be considered very carefully.

- Ms. McCloskey asked whether the Interstate Compact Unit can provide data as to how many cases are mandatory acceptance cases and how many are discretionary. Ms. Brock stated that she would have to research that issue.

- Major Cullison asked if Ms. Brock could discuss with him how many parolees and mandatory supervisees are revoked and transported back to Maryland by the State Police in a given year.

Agenda Item VI: Adjournment

- Mr. McGee reported that he will be addressing the Maryland State’s Attorneys’ Association in early February and, while his time on their agenda will be brief, he will bring this up to them.

- Judge Solt stated that she will talk to Judge Marcella Holland and Judge Ben Clyburn about the new retaking requirements. She also stated that she’ll discuss the matter with the Criminal Law Committee of the State Bar Association.

- The Department will look into whether legislative options can be pursued for the payment of a fee or bond to help defray the cost to the Department (and possibly local jurisdictions) of retaking out-of-state offenders.

The meeting was adjourned at 11:45am.