Pennsylvania State Council
Interstate Compact for Adult Offender Supervision
April 19, 2010 9:00 a.m.

Attendees:

State Council Members
Benjamin A. Martinez, Pennsylvania State Commissioner
The Honorable Ernest J. DiSantis, Judge, Erie County
Daniel Hoover, Chief Probation Officer, Franklin County
The Honorable Sheila Woods-Skipper, Judge, Philadelphia County
Alison Taylor, Deputy General Counsel, Governor’s Office of General Counsel
Christopher Diviny, Chief, Major Trials Division, Philadelphia Office of the District Attorney
The Honorable Bryan Lentz, Pennsylvania House of Representatives

Other Participants
Cynthia Daub, Deputy Executive Director, PBPP
Colleen M. Pickel, Director, Bureau of Central Services, PBPP
Kay Longenberger, Director, Interstate Parole Services, PBPP
Margaret E. Thompson, Director, Interstate Probation Services, PBPP
William McDevitt, Director of Probation Services, PBPP
Linda Laub, Acting Chief Counsel, PBPP
Matthew Reed, Parole Manager, Interstate Probation Services, PBPP
Dawn Blaska, Parole Manager, Interstate Probation Services, PBPP
Robert Bushey, Legislative Specialist, PBPP


Commissioner Benjamin Martinez called the meeting to order at 9:00 a.m. and took roll. A quorum was established. Mr. Martinez introduced the participants and referred to the agenda for items.

The first order of business was to review and approve the minutes from the Council’s meeting of May 1, 2009. After review, Judge Woods-Skipper moved to accept the minutes. Mr. Diviny seconded the motion. There was no discussion. Mr. Martinez called for a vote, and the motion was passed unanimously.

Mr. Martinez advised that he and Ms. Thompson had attended the Interstate Commission for Adult Offender Supervision 2009 Annual Business Meeting, and discussed some of the more important rule amendments that had been passed and subsequently implemented. Rule 2.110 was altered to hold states and officers accountable for allowing Compact-eligible offenders to relocate outside a state without going through the formal transfer process. Eligibility for transfer under 3.101-1 was expanded to include the transfer of an offender’s employment as a condition of continued employment. Offenders who work in a receiving state are now permitted under rule 3.102 to continue working in a receiving state during the investigation of a transfer request, provided that they are traveling for work purposes only. The executed Compact application is now required to be submitted with a transfer request. A data collection rule has expired as the Commission is now obtaining data directly from ICOTS rather than having states collect & report data from their own systems.
Two proposed rule amendments are in the discussion process in the Eastern Region. One rule would enact a complete offender transfer concept, wherein a sentenced offender would have complete jurisdiction transferred to a receiving state. That receiving state would have complete authority over the offender to potentially include resentencing, violations of parole or probation, and recommitments and revocations. The concept would serve to drastically reduce the need for a sending state to undertake expensive extraditions and returns for violators. The group informally discussed possible ramifications to such a rule. Mr. Martinez anticipated that the next Annual Business Meeting would cover updates on the movement of this proposed amendment.

Ms. Thompson discussed PA's proposed changes to the language of rule 3.101-3 (relating to the transfer of sex offenders). This has been perhaps the most problematic and controversial rule. Currently, newly-sentenced sex offenders must wait five business days for reporting instructions to return home. Often, a receiving state will deny reporting instructions for a specific residence as it may not be compliant with sex offender supervision protocol. Among the unintended consequences of this rule is that sex offenders may find themselves in a sending state where they are not a resident and be forced to live in temporary housing arrangements such as hotels or homeless shelters. Additionally, judges may modify supervision to be non-reporting or simply terminate it if supervision cannot be established through Interstate channels. The proposed language would make it incumbent upon a receiving state to assist the offender in identifying an acceptable home plan.

Mr. Martinez asked the group to consider and discuss the Act 100 application fee charged to offenders and finalize the application fee amount and county retention percentage for the coming fiscal year. The counties seem to vary greatly in collecting this fee—at least one county (Mercer) routinely waives it, and other counties report a high rate of success in collecting it. Ms. Thompson and Mr. McDevitt will be working with counties and the Administrative Office of Pennsylvania Courts to get data on collections for the Council's further review. The application fee is implemented to assist offices in offsetting administrative costs of doing Interstate business, but it's not clear if monies received are being used for such.

After discussion, Mr. Diviny moved that the amount of the application fee remain at $100, and Ms. Taylor seconded the motion. Mr. Martinez called for a vote, and the motion was passed unanimously.

Currently the counties may keep 100% of application fees that they charge under Act 100. Judge DiSantis moved that the retention percentage remain at 100%, and Judge Woods-Skipper seconded the motion. Mr. Martinez called for a vote, and the motion was passed unanimously.

Mr. Martinez, Ms. Longenberger, and Ms. Thompson provided an overview of the Interstate Compact Offender Transfer System ("ICOTS") and its significant impact on Interstate business. The system was implemented in October 2008 after just three weeks of pilot testing in five states, and had serious limitations at the start. PA recognized the limitations and chose to keep all ICOTS processing within its interstate divisions until the system stabilized and the most serious flaws had been resolved. Currently, the most challenging issue of ICOTS is the slow operating speed of the system. Interstate operations that used to take 15 minutes for a technician to review and forward now may consume up to several hours.

The National Office at this time does recognize that there are issues with the speed and efficiency of the system, and has promised review to implement solutions. Although ICOTS
continues to have numerous glitches and unaddressed “known issues”, PA has trained county officers and state agents in handling certain cases in ICOTS.

Ms. Thompson related that there are a few counties that are not using ICOTS, and are continuing to send paper transfer requests to Interstate Probation for ICOTS entry and case-processing. Some counties do not have the resources to implement the necessary equipment and personnel to become ICOTS users and a cost-analysis may show that counties that do not process many interstate transfers may be better served by having the Interstate Probation division act as the ICOTS user. This, however, should be subject to a formal agreement between the affected county and the Board. Mr. McDevitt suggested that county Criminal Justice Advisory Boards be approached with this issue for discussion and resolution. After discussion, Mr. Martinez requested that Ms. Thompson continue monitoring county compliance with ICOTS and by July 1, 2010 discuss with him drafting a letter to president judges to elicit their assistance with implementing ICOTS in counties that have not yet come into compliance.

Ms. Longenberger reported that the Board has been educating agents to be ICOTS users for their incoming-to-PA cases, with Harrisburg and Allentown districts being the first offices under the program. The Board intends to continue the process and have most district offices be ICOTS end-users by the end of 2010. At the present time, there is no plan to have agents handle outgoing-from-PA cases; that function will remain with the Interstate Parole division.

Ms. Thompson and Ms. Longenberger will be attending the Commission’s Deputy Compact Administrator training in Kentucky in August 2010. The Commission has also scheduled the Annual Business Meeting for September 2010, but as there will be no voting this year, Mr. Martinez may choose not to attend.

The National Office has announced its intention to use ICOTS data and audit all of its signatory users based on ICAOS rules for timeliness and adherence. This was announced to be an informative, non-punitive audit. However, the scope and parameters of the audit have not been made clear, and Mr. Martinez will ask the National Office to further explain their process.

Ms. Laub provided the group with proposed by-laws for the Council and asked that participants review and provide input. Since its inception, the Council has not formalized roles of officers or proxy voting, and these by-laws will define the processes by which the Council will act. Discussion on the by-laws is expected at the next meeting.

Ms. Longenberger reminded the group of the need to file statements with the State Ethics Commission.

There being no other business, the meeting concluded at 10:30 a.m.