STATE COUNCIL MEETING AGENDA
INTERSTATE CORRECTIONS COMPACT
May 7, 2008
11:00 AM to NOON (CST)
TELECONFERENCE
(605-773-2323 - then 7416)

The state council is made up of the following:

Chairman Jim Tucker, Judge, Third Circuit Court
Tim Reisch, Secretary of Corrections
Brian Zeeb, Division of Criminal Investigation
Representative Joni Cutler
Open Position, Victims Advocate
Ed Ligtenberg, Executive Director of the Board of Pardons and Paroles
Nancy Allard, Director of Trial Court Services.

Meeting Agenda

1. Review / Approve November 2007 minutes
2. Appointment (Victims Witness)
3. State Council Member Re-appointments
4. 1-10-2008 Regional Meeting update
5. Discussion of misdemeanors
6. Annual Fall meeting update
7. ICOTS update
PRESENT: Chairman Tim Tucker, Judge, Third Circuit Court; Tim Reisch, Secretary of Corrections; Brian Zeeb, Division of Criminal Investigation; Joni Cutler, Representative; Ed Ligtenberg, Executive Director of the Board of Pardons and Paroles; Nancy Allard, Director of Trial Court Services.

ABSENT: None

OTHERS IN ATTENDANCE: David Geffre, Deputy Compact Administrator for Parole; Kathleen Bongers, Recording Secretary; Traci Fredrikson, Assistant Recording Secretary

Chairman Judge Tucker called the meeting to order. He called roll and everyone was present.

REVIEW/APPROVE NOVEMBER 2007 MINUTES

Motion was made by Joni to approve the November 2007 minutes with no corrections or additions. Motion was seconded by Tim. The motion passed by unanimous voice vote.

APPOINTMENT (VICTIMS ADVOCATE)

Ed reported that Judge Tucker has written a letter to Attorney General Long to draw his attention to the fact that he needs to appoint someone to this position. Judge Tucker has not received a response. Joni stated that she would like to nominate Krista Heeren-Graber for this position. Brian indicated that he has worked with Krista before and concurs that she would be a good choice. Krista has indicated an interest in serving on this group. Krista has worked in the area of sexual assault/family violence. We are out of compliance with the compact until someone is appointed to that position.

Ed has received a letter from the Executive Director of the Compact. He wants a written report on the creation of a state council. This report is due on May 15, 2008. The report should include a roster of current members and a copy of the minutes. Members wondered if sanctions would be applied if this position has not been filled. The past victim’s advocate resigned due to relocation to Mississippi for her husband’s new job. Joni will send an email to Judge Tucker nominating Krista and Ed will scan the letter from the Executive Director to Judge Tucker. Judge Tucker will then forward the information to the Attorney General.

STATE COUNCIL MEMBER RE-APPOINTMENTS

All current members reported that they have been re-appointed as required. Discussion followed regarding how often members are re-appointed (every 3 years) and if anyone lets members know when their term is nearing the end. Upon Ed’s suggestion, David Geffre agreed to track this.
1-10-2008 REGIONAL MEETING UPDATE

Regional minutes were included in the information sent out prior to this meeting. It is primarily business as usual. There are a number of states working on getting back in compliance.

DISCUSSION OF MISDEMEANORS

Judge Tucker voiced his concern regarding tracking people under the compact misdemeanor sentencing rules. Only certain misdemeanors fall under the compact rules, for example, second offense DUIs, sex offenders required to register, crimes involving physical harm or firearms and when the sentence is beyond one year. Some of those offenders would not normally be under supervision and we could be losing them.

Training is being done to try to alleviate these issues. Nancy stated that bench books covering the rules have been provided to circuit judges. New ones were sent out last year and also a quick reference guide which includes new rules for 01/01/08. Judge Tucker indicated that he has requested that judges put these offenders on supervised probation in order to keep track of them. Since this also applies to some felonies under probation, he has also asked for supervised probation in order to comply with the compact. Ed voiced appreciation for Judge Tucker’s work. The National Office also has concerns for this issue.

An advisory opinion has been asked for and received from the National Office. This information was distributed to members before the meeting. The opinion details the types of offenses and sentences that do qualify. These must be considered according to the compact rules and not defined by individual state’s terms or definitions. Judge Tucker mentioned that South Dakota had previously opposed this portion of the compact due to concern about the difficulty of tracking them. If states do not follow these rules, there would also be increased civil liability.

ANNUAL FALL MEETING UPDATE

Ed informed members that the fall meeting will be in Palm Springs from September 7 to September 11, 2008. The agenda and meeting information is not yet available.

ICOTS UPDATE

Members discussed the progress of ICOTS. Full implementation is scheduled for early October 2008. Ed reported that pilots should be taking place in early August. People are now working on loading the legacy data (information on our current system).

ADDITIONAL ITEM – ADAM WALSH ACT

Joni brought up questions as to our state’s compliance with the Adam Walsh Act. Has South Dakota submitted legislative changes to bring us into compliance with this act? There are 3 tiers of sex offenders under this act and each has different requirements. There is a deadline of 2009 – with a possibility of requesting an extension to 2011. Is
there a specific person or entity tracking our compliance by that deadline? Is it the Attorney General’s Office responsibility to handle this? There is not really a lot of time if substantial changes have to be made.

Laura Roger’s office is asking for strict compliance and that office is willing to advise. Judge Tucker stated that this needs to be done but wondered if the compact council is the best avenue to do it. It really is outside our jurisdiction. However, this will affect how offenders are tracked from state to state.

Tim stated that a sex offender work group put together a package of bills a few years ago. That particular group worked well together and did excellent work. He said that the Attorney General’s Office would be as good a place to start as any due to the fact that they are running the registry off their web site plus their knowledge of the law and experience working with the legislature. The Department of Corrections would certainly be willing to help.

Judge Tucker will ask the Attorney General about this – as an interested party. It is felt that it will be good to seek information on this issue – on whether or not we are reviewing our compliance. There has been discussion of this on the national level. The compact is very interested in it as this will affect compact activities in the areas of transfers and travel permits.

Tim questioned if our statutes need to be changed or if the federal act will place requirements irrespective of what our state statutes require.

Joni indicated that if we are not in compliance, we could lose some of the Byrne grant funding. So yes, in effect we are required to pass legislation. However, we don’t have to pass new legislation designating the 3 levels. Through the federal law, violations will simply be classified as tier 1, tier 2, or tier 3.

Tim indicated that South Dakota’s sex offender bills were passed during the 2006 session. Adam Walsh was signed in July 2006. The work group was aware of the pending act but had no way of knowing what the final version of the act would look like. The merits and perils of identification of levels were discussed, but it was decided not to go into that area at that time. The identification of tiers determines the frequency of registration, the evaluation and costs involved. Federal law stipulates the type of crime and also type of victim. Each state will need to review their own offenders and determine into which tier the offender fits. This came on the heels of the criminal code revision. A determination needs to be made as to any changes that need to take place. The national board will look at that and of course we, as a state, will work with them. Joni will alert the legislative research council regarding these issues.

Motion was made by Ed to adjourn. Motion was seconded by Nancy Allard. The motion passed by unanimous voice vote.

NEXT MEETING
The next meeting will take place after the fall annual update meeting. This will be scheduled in the same manner as in the past. Emails will be sent out to get it arranged.

The meeting was adjourned at 11:46 a.m.