STATE COUNCIL MEETING AGENDA
INTERSTATE CORRECTIONS COMPACT
November 10, 2005
11:00 AM to 12:00 PM (CST)

TELECONFERENCE
(605-773-6140)

The state council is made up of the following:

Chairperson Senator J.P. Duniphan, R-Rapid City;
The Honorable Jim Tucker, Judge, Third Circuit Court;
Tim Reisch, Secretary of Corrections;
RoAnn Redlin, SD Coalition Against Domestic Violence;
Brian Zeeb, Division of Criminal Investigation;
Ed Ligtenberg, Executive Director of the Board of Pardons and Paroles; and
Keith Bonenberger, Deputy State Court Administrator.

Meeting Agenda

1. Review / Approve February 2005 minutes

2. National Meetings Update - Ed Ligtenberg

3. Review of ICAOS Advisory Opinions
   a. Resident & Valid Plan of Supervision (8-26-2005)
   b. Interpretation of Pre Parole Transfers request in 3.105 (6-10-2005)
   c. Request for Opinion as to Washington's "deferred prosecution" statute (5-27-2005)
   d. Offenders eligible to transfer supervision under Compact Rule 3.101 © (4-25-2005)
   e. Applicability of the ICAOS, and its rules requested by Circuit Judge John W. Delelius, III (3-30-2005)
   f. Arresting & Detaining Compact Probationers and Parolees (3-4-2005)
   g. Denial of Mandatory case (3-3-2005)

4. Tennessee Legal Action

5. National Database - Repository - Ed Ligtenberg

6. Audit and Sex Offender Ad Hoc committees

7. Notice of Public Hearing - Emergency Rule 2.102 Data Collection and Reporting

8. Open Forum/General Discussion/Question & Answer
A conference call was held on November 10, 2005, with the following present:

Chair, Sen. J.P. Duniphan, Rapid City
Ed Ligtenberg, Exec. Director of Board of Pardons & Paroles
Keith Bonenberger, Director of Court Services
RoAnn Redlin, SD Coalition Against Domestic Violence

The meeting was called to order by Chair Senator Duniphan at 11:00 a.m. Senator Duniphan called for a roll call and subsequently made note that a quorum is present.

1. Review/Approval Feb. 2005 Minutes
   Ed Ligtenberg moved approval of the February 2005 minutes. The motion was seconded by Keith Bonenberger, and passed unanimously.

   Ed reported that at the Sept. 12-14, 2005, meeting in Arizona the bylaws were modified to change the way rules are made. Since the rules have the power of federal statute, future proposed rules may be introduced by 1) any commissioner to the Rules Committee during the annual Commission meeting 2) standing ICAOS committee by majority vote of that committee or 3) ICAOS regions by majority vote of the members of that region. Disagreement with any changes to the rules has to be submitted to the commission for a vote. This amendment will keep personal agendas out and removes the power of the rules committee to squash rule.

   Dues for being a member of the compact increased by 2%, 1% for half the year. The cost to South Dakota is currently $18,000.

   Regarding cost savings for the national office, Ed reported that indirect costs to CSG were reduced from 27% to 13% of total budget; committees are meeting in Lexington now and using CSG meeting rooms.

   Ed advised that he will be off the national committee as Midwest regional representative, and Ken Mertz from Minnesota will replace him.

3. Review of ICAOS Advisory Opinions
   a. Resident & Valid Plan of Supervision (8/26/05)
      Family and visible means of support. Stresses valid plan of supervision to include how is person going to support himself in other state. Resident can stand along; don’t need employment or family.
b. Interpretation of Pre Parole Transfers Request in 3.105 (6/10/05)
There has to be a decision to release before you ask people in other states to investigate.

c. Request for Opinion as to Washington’s “deferred prosecution” statute (5/27/05)
Addresses differences between deferred prosecution and deferred sentence.

d. Offenders eligible to transfer supervision under Compact Rule 43.101 (4/25/05)
If you do not meet technical requirements for mandatory transfer, eligibility for transfer falls under discretionary transfer. Let’s just get along.

e. Applicability of the ICAOS and its rules requested by Circuit Judge John W. Delelius, III (3/30/05)
Two standards that define supervision: 1) authority or oversight is exercised by supervising authority, and 2) such exercise of authority includes a condition, qualification, special condition or requirement which is imposed on the offender at the time of release to the community or during the period of supervision in the community.”

f. Arresting and Detaining Compact Probationers and Parolees (3/4/05)
The receiving state is to supervise out-of-state offenders under the same standards as it would supervise in-state offenders. Supervision is a privilege and not a right.

g. Denial of Mandatory Case (3/3/05)
Officials in receiving state should not confuse the rights of arrest.

4. Tennessee Legal Action
The state of Tennessee was requiring offenders to furnish or submit to psychological evaluations before they were transferred even after the state was warned against doing so. In addition to winning the case against Tennessee, the judge awarded attorney fees to the Commission. A rule was proposed at the annual meeting that any time a lawsuit like this is filed, the commission can seek attorney fees.

Softscape is building, implementing and supporting the National Adult Compact Information System (NACIS), a Web-based database application that allows state-to-state electronic facilitation of adult probation and parole transfer processes. The hope was that the database would be in the implementation stage by January 2006; however, the new date for review is
early in 2006, with implementation in August 2006. On the date of NACIS implementation, all active Compact cases will be considered legacy files. States will have to enter into NACIS a minimum of approximately ten data fields for these legacy files. Softscape will provide a template for how the information is to be provided and they will load the information.

There is no definite date for training or implementation, although the hope is that training will begin in early 2006. The plan is to give states three months to train and two months to migrate legacy data.

The long-range vision is that the database will eventually be linked with all law enforcement agencies and all victim advocate agencies.

6. **Audit & Sex Offender Ad Hoc Committees**
   Two ad hoc committees were appointed at the annual meeting in Phoenix: Audit Committee to determine the level of compliance in states and a Sex Offender Ad Hoc Committee to determine how to track sex offenders who move across state lines.

7. **Notice of Public Hearing – Emergency Rule 2.102, Data Collection & Reporting**
   Because Rule 2.102 would expire on December 31, 2005, if it were not readopted, an emergency rule public hearing was held on Monday, November 7, 2005, to extend the time for states to report figures to the national office. The extension was necessary due to the delay in implementation of the national database system.

8. **Open Forum/General Discussion/Question & Answer**
   Senator Duniphan would like to arrange a face-to-face meeting of the state council sometime during Session. Ed Ligtenberg advised that he is in Pierre the third week of every month. Ed and RoAnn will determine possible meeting dates.

   RoAnn asked if she could receive updates on the sex offender ad hoc committee as they meet and form rules and policies. Ed suggested she look at the Interstate Compact website as the minutes are usually posted there, but he will also forward the information to her.

Motion was made by Keith Bonenberger, seconded by Roann Redlin, to adjourn. Meeting was adjourned at 11:30 a.m.