STATE COUNCIL MEETING AGENDA
INTERSTATE CORRECTIONS COMPACT
October 22, 2009
1:30 PM to 2:30 PM (CST)
TELECONFERENCE
(605-605-773-2303 – then 5741#)

The state council is made up of the following:
Chairman Tim Tucker, Judge, Third Circuit Court
Tim Reisch, Secretary of Corrections
Brian Zeeb, Division of Criminal Investigation
Representative Joni Cutler
Krista Heeren-Graber, 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 March 2009 minutes
2. April 8, 2009 Midwest Region Meeting update
4. Application Fee for Probation Transfers
5. Review SDCL 24-16A-1 annual letter requirement
6. ICOTS update
7. Review Council Members Appointments
8. New Business
9. General Discussion
INTERSTATE COMMISSION FOR ADULT OFFENDER SUPERVISION
STATE COUNCIL MEETING MINUTES
October 22, 2009
1:30 p.m. to 2:30 p.m. (CST)
TELECONFERENCE

PRESENT: Chairman Tim Tucker, Circuit Judge, Third Circuit Court; Krista Heeren-Graber, Victims Advocate; Ed Ligtenberg, Executive Director of the Board of Pardons and Paroles; Nancy Allard, Director of Trial Court Services.

ABSENT: Brian Zeeb, Division of Criminal Investigation; Joni Cutler, State House Representative; Tim Reisch, Secretary of the Department of Corrections.

OTHERS IN ATTENDANCE: Laurie Feiler, Deputy Secretary of the Department of Corrections attending as designee for Tim Reisch; Cheryl Frost, Interstate Compact Coordinator for Probation (Recorder).

Chairman, Judge Tucker called the meeting to order.

REVIEW/APPROVE MARCH 2009 MINUTES

Motion was made by Ed to approve the March 2009 minutes with no corrections or additions. Motion was seconded by Krista.

MIDWEST REGION MEETING UPDATE

Ed advised there is very little new to report at this time. There are no major issues to be discussed from the recent meeting. The meeting consisted primarily of reviewing the upcoming Rule Change Proposals.

REVIEW OF PROPOSED RULE CHANGES FOR ANNUAL BUSINESS MEETING NOVEMBER 2-5, 2009

RULE 1.101 Definitions: Proposed change would mean that transfer of cases would no longer be required if the only condition is monetary payments.

RULE 2.104 Forms: As it stands now, in paragraph (a) it states “shall use forms or electronic information system authorized by the commission for all communication regarding offenders between or among states”, adding paragraph (c) would clarify that in addition to ICOTS, written, electronic, or oral communication between compact offices would be allowed.

RULE 2.106 Offenders Subject to deferred sentences: Changing the wording from “intervention” to “release” would make it more specific to bond-like status.

RULE 2.110 Transfer of offenders under this compact: Adding paragraph (c) to this section would clarify the sending state’s responsibility to remove an offender from a receiving state...
when the receiving state learns that an offender has been permitted to relocate to the receiving state in violation of Compact Rules.

**RULE 3.101 Mandatory transfer of supervision:** Adding paragraph (f) places a 3-Strikes Rule on mandatory cases. Upon 3 returns from the same receiving state for violations, any future transfer requests to the same receiving state would be considered under Rule 3.101-2.

**RULE 3.101-1 Mandatory transfers of military, families of military, and family members employed, and employment transfer:** Adding paragraph (d) would allow for consistency in the rule for employment transfer of offender.

**RULE 3.101-3 Transfer of supervision of sex offenders:** Current rule requires all sex offenders (past or current) requesting reporting instructions under 3.103 to remain in sending state until reporting instructions are received (up to 5 days following request). Adding paragraph (c) would make this applicable to only those offenders whose current offense is a sex offense requiring registration in the sending or receiving states.

**RULE 3.102 Submission of transfer request to a receiving state:** Currently, a person can travel back and forth across state lines for employment purposes, but when an offender meets the eligibility requirements for transfer through the Interstate Compact and once the transfer request has been submitted, all travel must cease until the offender’s transfer is accepted in the receiving state. This rule change would allow an offender to continue travel to the receiving state and maintain existing employment, pending the outcome of the investigation for transfer.

**Rule 3.104 Time allowed for investigation by receiving state:** This rule would allow an offender in the receiving state on “Approved” Reporting Instructions to remain in that state, if the transfer is denied due to an incomplete transfer packet, provided the sending state re-submits a completed transfer request within 15 calendar days following the rejection.

**RULE 3.104-1 Acceptance of offender; issuance of reporting instructions:** This proposed rule would be consistent with language in Rules 3.103 and 3.106, and would clarify that it is the receiving state’s responsibility to supervise an offender once Reporting Instructions have been “Approved” and the offender arrives in the receiving state.

**RULE 3.107 Transfer Request:** Currently it is at the discretion of the sending state to include a copy of the signed Offender Application for Interstate Compact Transfer with the transfer request. This rule change would make it mandatory to submit this document with the transfer request.

**RULE 4.106 Progress Reports:** This rule would give a time frame for a receiving state to submit a Progress Report within thirty (30) calendar days of receiving a request from the sending state.

Motion was made by Nancy to support the rule changes as proposed, excluding Rule 2.106 and Rule 3.101. Motion was seconded by Ed. All members indicated agreement.
Motion was made by Ed to not approve Rule 2.106 as proposed. Motion was seconded by Nancy. All members indicated agreement.

Ed deferred making a motion on Rule 3.101, as it does not directly affect him.

Motion was made by Nancy to approve Rule 3.101, as it will not affect South Dakota negatively. Motion seconded by Krista. All members indicated agreement.

**REVIEW SDCL 24-16A-1 ANNUAL REPORT REQUIREMENT**

In previous years Ed has distributed the ICAOS Annual Report to the Governor, Legislature, Judiciary, and State Councils. He suggested a better plan would be for the Chairman of the State Council to distribute the Annual Report. The Council agreed with this recommendation. Ed drafted a letter for Judge Tucker’s signature to send with the Report.

**ICOTS UPDATE**

It will be a year in December since ICOTS has been implemented. Nancy advised that the system is working exactly as it is supposed to work and it forces proper steps to be taken in the processing of the paperwork. Whereas, with the old “paper” system, paperwork was sometimes handled out of order, or wasn’t submitted or received at all. As would be expected, there are some system glitches to be corrected, but all in all, given the tremendous magnitude of this national computer program, implementation has occurred quite smoothly over the past year.

**REVIEW COUNCIL MEMBERS APPOINTMENTS**

Judge Tucker’s term will expire next year, which is appointed by the Chief Justice, Brian Zeeb with Division of Criminal Investigation will also expire next year, which is appointed by the Attorney General, Representative Joni Cutler’s position is appointed by Legislative Research Council, and Krista Heeren-Graber is the Victims’ Advocate.

**NEW BUSINESS**

**APPLICATION FEE FOR PROBATION TRANSFERS**

Rule 4.107 allows for states to charge offenders an application fee if they so choose. Nancy advised that the UJS Chief Court Services Council has recommend charging probationers a $50 fee each time an offender wants to transfer their probation to another state. There would be no exceptions and there would be no refunds if the offender’s transfer request was ultimately denied by the receiving state. The thought behind the recommendation is that an application fee would help to alleviate frivolous requests for transfer of supervision. There is a significant amount of time and paperwork involved in the transfer of cases. The application fee would hopefully decrease the number of instances where offenders later change their mind about moving, even after the case has been accepted in the receiving state and the time and effort has already been put into the request process.
Motion was made by Ed to approve the concept of the transfer application fee. Motion was seconded by Krista. This issue will be further explored by both the UJS and DOC for their respective departments given the conceptual approval of the idea by the State Council.

MEETING ADJOURNED

The meeting was adjourned at 2:30 p.m.

Respectfully submitted by Cheryl F. Frost, Interstate Compact Coordinator for Probation.