

Interstate Compact for Adult Offender Supervision

2006 Report to the Legislature

January 2006

Minnesota Department of Corrections

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BACKGROUND

Since 1937, the Interstate Compact for the Supervision of Parolees and Probationers has provided the sole statutory authority for regulating the transfer of adult parole and probation supervision across state boundaries. All 50 states were members of this interstate agreement, as were the District of Columbia, Puerto Rico, and the U.S. Virgin Islands. M. S. §243.16, Interstate Compact for the Supervision of Parolees and Probationers, was enacted into Minnesota law June 1, 1939.

In early 1997, the Probation and Parole Compact Administrators' Association (PPCAA) requested leadership from the National Institute of Corrections (NIC) in changing the current compact. The PPCAA identified several problems with the current compact, which had not been updated since enactment in 1937. The problems identified included lack of enforcement capability, increased number of offenders, and recent legislation passed in several states affecting current compact policy.

In 1998, the NIC Advisory Board, following several public hearings, directed its staff to begin pursuing a revision of the compact. Through the development of an Advisory Group, the NIC facilitated a discussion among state officials and corrections policy experts and arrived at a list of recommendations for improvement and overhaul of the existing compact. Through a partnership with The Council of State Governments (CSG), the NIC and CSG developed and facilitated a drafting team of state officials to design a revised interstate compact – one that would include a modern administrative structure, provide for rule-making and rule-changing over time, require the development of a modern data collection and information-sharing system among the states, and be adequately funded to carry out its tasks.

Passage was required by 35 states for the law to become effective. Beginning in January 2000, the new Interstate Compact for Adult Offender Supervision (ICAOS) saw acceptance in the states. By June 2002, the threshold of 35 states had been reached, thereby making the ICAOS active in just 30 months. Minnesota passed legislation in March 2002, M.S. §243.1605, Interstate Compact for Adult Offender Supervision. Currently, legislation has been enacted into law in 50 states, Puerto Rico, the Virgin Islands, and the District of Columbia.

The legislative language establishes a state council in every state. M.S. §243.1606 directs the Minnesota State Council to report to the governor and legislature by January 15 each year on its activities and the activities of the Interstate Commission and Executive Committee for the preceding year. This report must also include an assessment of how the interstate compact is functioning, both within and without the state.

ACTIVITIES OF THE ADVISORY COUNCIL

Per M.S. §243.1606, the Advisory Council shall consist of the following individuals or their designee: the governor; the chief justice of the supreme court; two senators, one from the majority and the other from the minority party, selected by the subcommittee on committees of the Senate Committee on Rules and Administration; two representatives, one from the majority and the other from the minority party, selected by the house speaker; the compact administrator, selected as provided in §243.1607; and the executive director of the center for crime victim services. As part of the 2005 Crime Bill, language was added that allows the commissioner of corrections to appoint additional members to the Advisory Council.

Current membership: The Honorable Gordon Shumaker, Minnesota Court of Appeals; Corrections Commissioner Joan Fabian; Ken Merz, Department of Corrections (DOC); Eric Lipman, Office of Governor Pawlenty; Jeri Boisvert, Executive Director of the Office of Justice Programs; James Early, Deputy Attorney General; The Honorable Steve Smith, State Representative; The Honorable Debra Hilstrom, State Representative; The Honorable Julianne Ortman, Minnesota State Senate; The Honorable Wesley J. Skoglund, Minnesota State Senate; Steve King, Mower County Court Services Director; Bill Guelker, DOC; Doug Johnson, Washington County Attorney; James Hankes, Chief Public Defender; and Tom Roy, Arrowhead Regional Corrections Director.

Advisory Council staff from the DOC includes: Rose Ann Bisch, Deputy Compact Administrator (DCA); Randy Hartnett, Policy and Legal Services; and Margarita Rock, Information Technology.

The Advisory Council first met on August 21, 2002, and meets on a quarterly basis unless there is no business for the council that quarter.

the Interstate Advisory Council held four meetings in 2005. At the September 7 meeting, the Honorable Julianne Ortman was elected chair and Tom Roy vice-chair.

The council reviewed proposed rule changes presented by the National Commission and voted on at the 2005 Annual Meeting. As the National Commissioner, Ken Merz was given direction as to how to vote on certain rules. There was discussion about how the compact rules affect Minnesota's ability to send offenders out of state and screen offenders moving into Minnesota. There was some concern that the compact rules require Minnesota to accept someone who may be a level three sex offender without a solid plan.

Training was an issue addressed by the State Council during 2005. Council members with the intent to schedule training for public defenders, prosecuting attorneys, and the judiciary, provided contact names to DOC staff. Attempts to get on the agenda of the prosecuting attorneys were not successful. However, materials will be made available to county attorneys electronically. DCA Rose Ann Bisch is scheduled to provide training at the Public Defenders Association's Annual Conference scheduled February 24-25, 2006.

Rose Ann Bisch provided training at the 7th and 9th judicial district bench meetings. She is also scheduled to train the 8th judicial district in early 2006. Senator Ortman made a presentation to the judiciary at the Annual Conference of Judges, held at the Bloomington Marriott on December 8, 2005. The presentation was to identify for the judiciary the important role they play in the interstate process. The judiciary was offered the opportunity for additional training by the DOC.

Technology was another area discussed by the council during 2005. It was agreed that Minnesota would like to interface with the national database. Efforts are being made so this can occur at the time the national database is implemented.

ACTIVITIES OF THE NATIONAL COMMISSION

The Commission exercises day-to-day oversight of the compact between states. It promulgates rules to achieve the goals of the compact and ensures an opportunity for input and timely notice to victims and jurisdictions where defined offenders are authorized to travel or relocate across state lines. It will establish a system of uniform data collection, provide access to information on active cases by authorized criminal justice officials, and coordinate regular reporting of compact activities to heads of state councils; state executive, judicial, and legislative branches; and criminal justice administrators. The Commission will also monitor compliance with rules governing interstate movement of offenders, initiate interventions to address and correct noncompliance, and coordinate training and education regarding regulations of interstate movement of offenders for officials involved in such activity.

The Fourth Annual Meeting of the National Commission took place September 13-14 in Phoenix, Arizona. Present at this meeting were 52 of the 52 members to include the Virgin Islands, Puerto Rico, and the District of Columbia, giving the Commission a total of 52 votes. At the time of the meeting, Massachusetts was the only state that was not a member of the new compact. Since that time, Massachusetts has joined. In addition to the voting members, there were also in attendance ex-officio members, compact staff, attorneys, and legislators. The Commission considered and voted on several rule amendments. Some of the amended rules took effect January 1, 2006, and others will become effective once the national database has become operational.

New regional representatives were elected to a two-year term and are also members of the Executive Committee. An operating budget was approved. A two percent increase in dues, effective fiscal year 2007, was recommended by the Executive Committee and approved by the full Commission.

Each committee gave the Commission a report on their activities for the year. The Technology Committee had a presentation from Softscape, the vendor contracted to develop a National Adult Compact Information System (NACIS). This system will allow compact members to share information electronically.

Two ad hoc committees, Sex Offender and Audit, were formed. A request was made by Puerto Rico and approved by the full Commission to have the ICAOS forms that require signatures translated into Spanish and posted on the ICAOS website. The forms were also translated into Russian, Chinese (Mandarin), and Vietnamese.

The State of Georgia filed a grievance against the State of Tennessee, alleging that Tennessee's requirement that all offenders transferring into Tennessee have a psychological evaluation is in conflict with compact rules. The National Commission agreed that this practice by Tennessee is a violation of the compact. The Commission filed a lawsuit and the ruling was in favor of ICAOS. The State of Tennessee was ordered to stop requiring psychological reports and to pay court costs to ICAOS.

The National Commission is required to submit an annual report, and the 2005 report will be available in January 2006.

ACTIVITIES OF THE EXECUTIVE COMMITTEE

The Executive Committee is responsible for guiding and overseeing the administration of all Commission activities and for acting on behalf of the Commission, as permitted by the compact, between Commission meetings. The Executive Committee is comprised of a chair, treasurer, vice-chair, victim's advocate, standing committee chairs, and the regional representative from each of the four regions.

Regional representatives were elected during the 2005 Annual Meeting held in Phoenix, Arizona, September 13-14, and will serve a two-year term. Ken Merz was elected as the Midwest regional representative and, therefore, will be a member of the Executive Committee for the next two years.

In an attempt to cut costs, WebEx, a web-based conferencing system, was implemented to reduce travel costs for meetings and training.

ASSESSMENT OF HOW THE INTERSTATE COMPACT IS FUNCTIONING, BOTH WITHIN AND WITHOUT THE STATE

Although there has been an interstate compact in place since 1939 in Minnesota, the new ICAOS is only a few years old. The new rules continue to go through revisions, and the entire country is in transition. There is a great deal of confusion over exactly what the rules mean. Agents have also expressed frustration with the fact that the National Commission makes changes to the forms and rules so often agents have a hard time keeping up with the latest information. Despite this, it is very beneficial to have standardized forms across the country.

The rules are not being interpreted consistently throughout the country, and that has caused some problems. The National Commission has issued several advisory opinions

and has been involved in a number of successful dispute resolutions. It is not realistic for the National Commission to be involved in all disputes; therefore, compact offices across the nation attempt to work out disputes to avoid the formal process. With time and experience, these issues will be resolved. To date, the only formal sanctions imposed by the National Commission have been upon the State of Tennessee for non-compliance.

Within Minnesota, compliance by agents is improving as they receive training. However, compliance is still an issue with the courts. The DOC continues to try and work with and educate the court on the interstate process. Non-compliance is often the result of someone being unfamiliar with the rules. Training for all interested parties has been a priority for the DOC.

Communication is still an issue. Some states can't receive reports via email; some states are still so far behind, paperwork is not processed in a timely manner; and more and more paperwork gets lost between states. Once NACIS is implemented, this problem will be eliminated.

OFFENDER MOVEMENT

	<u>Probation</u>	<u>Parole</u>
Number of offenders under supervision in Minnesota as of December 31, 2005	1487	375
Number of Minnesota offenders under supervision in other states as of December 31, 2005	1900	175
Number of new interstate cases received by Minnesota	615	191
Number of new interstate cases sent to other states by Minnesota	778	160

SUMMARY

Since the compact reached its 35-state threshold required for passage in June 2002, states continue to join. Massachusetts was the 50th state to join, along with the District of Columbia, the Virgin Islands, and Puerto Rico. Rules have been approved, and the oversight structure has been established and continues to move forward. As this compact structure is relatively new, it is still in the development stages and continues to grow and move forward. Overall, the increased awareness the ICAOS has brought has been beneficial across the country.