

**Interstate Compact for Adult
Offender Supervision**

2007 Report to the Legislature

**Minnesota Department of Corrections
1450 Energy Park Drive, Suite 200
St. Paul, Minnesota 55108-5219
(651) 361-7200
TTY (800) 627-3529
February 2007**

**This information will be provided in alternative
format upon request.**

**The total cost of salaries, printing, and supplies
incurred in development and preparation of this
report was \$2,640 (reported as required by M.S. 3.195).**

**Printed on recycled paper with at least 10 percent
post-consumer waste.**

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. The Interstate Compact for the Supervision of Parolees and Probationers was enacted into Minnesota law on June 1, 1939 (M. S. §243.160).

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 compact at that time, 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 improvements to 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 modern data collection and an information-sharing system among the states, and was 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) was introduced into each state legislative process. By June 2002, the threshold of 35 states had been reached, thereby making the compact active in just 30 months. Minnesota passed legislation in March 2002 (M. S. §243.1605). Currently, this legislation has been enacted into law in 50 states, Puerto Rico, the U.S. Virgin Islands, and the District of Columbia.

The legislative language establishes a council in every state. M.S. §243.1606 directs the Minnesota State Council to report to the governor and the 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.

Membership: The Honorable Gordon Shumaker, Minnesota Court of Appeals; Ken Merz, Interstate Commissioner, Department of Corrections (DOC); Commissioner Joan Fabian, DOC; Suzanne Elwell, 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, Director of Field Services, DOC; Doug Johnson, Washington County Attorney; James Hankes, Chief Public Defender; Tom Roy, Arrowhead Regional Corrections Director.

Advisory Council staff 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 continues to meet on a quarterly basis unless there is no business for the council that quarter.

In calendar year 2006 the Interstate Advisory Council held four meetings. The Honorable Julianne Ortman is the chair and Tom Roy is the vice-chair.

The council reviewed proposed rule changes presented by the National Commission and voted on at the 2006 Annual Meeting. As the national commissioner, the council gave Ken Merz direction on how to vote on the proposed rules.

Training was an issue addressed by the State Council during 2005 and again in 2006. Attempts to get on the agenda with prosecuting attorneys were not successful again this year. However, material was made available to the County Attorneys electronically. Judiciary training continues to be an issue addressed by the State Council. It was suggested that something be added to the Minnesota Judge's Bench Book regarding the interstate process. The council also felt changes to the National Compact Bench Book should be sent to the Minnesota Court Administrators for distribution to the judiciary. Technology was another area discussed by the council during 2006. ICAOS has been working on the development of a national offender-tracking database. The system is

called the National Adult Compact Information System (NACIS). Don Blackburn, ICAOS Executive Director, attended the February council meeting to address questions and concerns regarding NACIS. It was agreed that Minnesota would like to interface with the national database. The goal is to have the Minnesota system functioning at the time NACIS is implemented. Although NACIS is on hold, Minnesota is moving forward with development of a state database to track interstate offenders.

The council examined the issues of incoming interstate offenders and the need for an End-of-Confinement Review Committee (ECRC) before the offender arrives in Minnesota. Two areas of concern were identified: 1) What to do when the sending state refuses to notify the offender of his/her ECRC meeting and provide the offender the opportunity to waive his/her right or attend the hearing, and 2) How to assign an accurate community notification level when the sending state will not provide or does not have the required documents. The psychologist that prepares the ECRC paperwork needs certain information to complete the MNSOST-R, which is the tool the ECRC uses to assign a notification level. Without complete information, the level is subject to an administrative appeal. In past cases with insufficient information, the administrative law judge has granted the appeal. The council was split on how to address these issues. Some of the council members felt when there is inadequate information to assign a level based on the MNSOST-R, the offender should be assigned a level 3. Other members felt a level 2 would be more appropriate in these cases. Some suggested a preliminary level until adequate information was obtained. The concern with this approach is that Minnesota may never receive enough information to do a MNSOST-R and assign a level. There was not a consensus by the council; the DOC will continue to look at the issue.

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/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 fifth annual meeting of the National Commission took place October 1-5, 2006, in Phoenix, Arizona. Present at this meeting were 52 of the 53 members including the U.S. Virgin Islands, Puerto Rico, and the District of Columbia, giving the commission a total of 52 votes. In addition to the voting members, also in attendance were ex-officio members, compact staff, attorneys, legislators, and 73 deputy compact administrators. The commission considered and voted on several rule amendments. There were not a lot

of significant rule changes in 2006. This would indicate that many of the big issues with the rules have been addressed in the past few years. All of the new rules except one became effective January 1, 2007.

Each committee gave the commission a report on their activities for the year. The Technology Committee reported that Softscape, the vendor working on the National database, has not met their deadlines nor delivered the product as promised. Several tests were conducted on NACIS across the nation. Minnesota took part in these tests. The concept looked promising; however, the system had some serious flaws. ICAOS and Softscape have entered into binding arbitration in order to cancel the existing contract.

During 2006 there were 15 advisory opinions written and posted by ICAOS. Two were reconsidered, and four are pending. There were three dispute resolutions written and posted, with one still pending. Two formal complaints were filed, both by Ohio. The first one was Ohio vs. Pennsylvania, and the second was Ohio vs. Texas. In the Pennsylvania case, the offender was allowed to remain in Ohio after the compact case was closed and the second offender in that case was allowed to remain in Ohio after the case was rejected. In this case, the two offenders killed a child while they were in Ohio illegally. In the Texas case, an offender was also allowed to remain in Ohio without an approved interstate plan. The offender moved to Ohio without the knowledge of Texas; however, once Texas discovered the offender was in Ohio, they allowed him to remain there while they tried to get the case transferred. During that time the offender was indicted in Ohio for the offenses of rape, kidnapping, aggravated murder, and tampering with evidence. Upon investigation, both states had a \$10,000 fine imposed and suspended against their state. A corrective action plan was developed for each state. Upon successful completion of the terms of the action plan, the order imposing the fine shall be vacated.

In 2005, an ad hoc committee on sex offender issues was established. The committee made some suggestions to the full commission for consideration. It was decided at the 2006 annual meeting that sex offender issues are so critical the ad hoc committee needed to be continued for at least one more year. ICAOS has established a partnership with NIC and the Center for Sex Offender Management to address sex offender issues and the compact process.

Training has been made available through the ICAOS website in three different formats. The first allows anyone to attend a live training session from a personal computer, the second is to view a recorded session, and the third is on-demand training. Close to 1,000 agents, compact staff, and other corrections professionals have been trained through one of these three methods.

The National Commission is required to submit an annual report on the activities of the commission and was made available in January 2007.

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. As the Regional Chair, Ken Merz, the Minnesota compact commissioner, is a member of the Executive Committee.

During 2006, the Executive Committee approved funding to have all DCAs attend the ICAOS Annual Business Meeting.

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

During the 2006 ICAOS meeting, several issues were identified by the regions. The issues basically could be divided into two categories:

- 1) Rules that are not clear and are being interpreted differently by states. This is being addressed through rule revisions, advisory opinions, and training.
- 2) Lack of compliance with rules. This results from criminal justice officials not having the knowledge of the compact rules and lack of staffing in compact offices across the nation. ICAOS and Minnesota are both committed to providing ongoing training. Minnesota has made training available to all entities of the criminal justice system. Lack of staffing needs to be addressed by most states in the country to make the compact process more efficient.

There were two formal complaints addressed by the National Commission in 2006. In both cases, the fine was suspended to allow the states involved to come into compliance with the rules. The commission is committed to helping states come into compliance as opposed to being purely punitive.

Communication is still an overall issue for the compact process. Some states can't receive reports via email, and many states are still so far behind that 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 from other states December 31, 2006	1,399	382
Number of Minnesota offenders under supervision in other states December 31, 2006	2,055	182
Number of new interstate cases received by Minnesota in 2006	566	197
Number of new interstate cases sent to other states by Minnesota in 2006	846	156

SUMMARY

All 50 states, the District of Columbia, the U.S. Virgin Islands, and Puerto Rico are members of the revised compact. Although there continues to be compliance issues under the new compact, the benefit of this compact is that there is a process to address issues to bring states into compliance. As this compact structure is relatively new, it is still in the development stages and continues to grow and move forward. Overall, the new compact has brought an increased awareness of the interstate compact in all states, which has been beneficial to public safety.