

**Interstate Compact for
Adult Offender Supervision**

2010 Report to the Legislature



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BACKGROUND

Since June 1, 1939, the Interstate Compact for the Supervision of Parolees and Probationers (M. S. §243.160) has provided the sole statutory authority in Minnesota for regulating the transfer of adult parole and probation supervision across state boundaries. All 50 states were members of the Interstate Compact for the Supervision of Parolees and Probationers as were the District of Columbia, Puerto Rico, and the U.S. Virgin Islands.

In 1998, a new compact law was drafted. In order for the compact law to become effective, it required passage by 35 states. By June 2002, the threshold of 35 states had been reached, thereby making the compact active in just 30 months. Minnesota passed the legislation in March 2002 (M. S. §243.1605). Currently, this legislation has been enacted into law in all 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 March 1 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; the executive director of the Center for Crime Victim Services; and additional members as appointed by the commissioner of corrections.

The 2009 membership included:

- ✓ Tom Roy, Chair, Arrowhead Regional Corrections Director, representing Community Corrections Act counties;
- ✓ Suzanne Elwell, Vice-Chair, victim's representative;
- ✓ The Honorable Gordon Shumaker, Minnesota Court of Appeals;
- ✓ Ken Merz, Interstate Commissioner, Minnesota Department of Corrections (DOC);
- ✓ Joan Fabian, Commissioner, DOC;
- ✓ Harry Kennedy, Office of Governor Pawlenty;
- ✓ James Early, Office of the Attorney General;
- ✓ Honorable Kurt Zellers, State Representative;
- ✓ Honorable Joe Mullery, State Representative;
- ✓ Honorable Julianne Ortman, State Senator;
- ✓ Honorable Lisa Fobbe, State Senator;
- ✓ Steve King, Mower County Court Services Director, representing county probation officers;
- ✓ Jill Carlson, Director of Field Services, DOC;
- ✓ Chris Bray, Deputy Commissioner, DOC;
- ✓ Doug Johnson, Washington County Attorney; and
- ✓ James Hankes, Chief Public Defender.

Advisory Council staff included:

- ✓ Rose Ann Bisch, Deputy Compact Administrator (DCA); and
- ✓ Randy Hartnett, Policy and Legal Services, DOC.

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 2009, the Interstate Advisory Council held two meetings.

The primary issues addressed by the council during 2009 were the proposed rule amendments voted on by the National Commission in November 2009. During the first council meeting of the year held on June 29, 2009, the proposed amendments were reviewed and recommendations made on some of the amendments. Those recommendations were submitted to the National Commission for review by the Rules Committee. Some of Minnesota's recommendations were incorporated into the rule amendments to be presented to the full commission for a vote. The council also discussed the new juvenile compact law that is being passed in other states. The proposed juvenile legislative language is very similar to that of the adult compact; therefore, the council would be comprised of basically the same membership. The benefits and limitations of having the same council serve for both the adult and juvenile compacts were explored by the members of the council. This is an issue that will continue to be considered if the new juvenile compact language is passed in Minnesota. There was discussion by the council about what the implications would be for Minnesota if the new juvenile compact does or does not pass.

The second council meeting was held October 12, 2009, and the final draft of the proposed rule amendments was reviewed. At this point, the council could only advise as to whether a proposed amendment should be supported. An ongoing issue being monitored by the council is the mandatory return of misdemeanor interstate offenders. Counties normally do not return misdemeanor offenders from other states; however, under the rules of the compact there are certain circumstances when even misdemeanor offenders must be returned from any compacting state. The counties have an issue with the expense related to these returns and often refuse to issue the nationwide warrant and return the offender. Oftentimes counties will discharge offenders from probation so they do not have to return them. The DOC continues to provide training to local county entities regarding the need for nationwide warrants and to return Minnesota offenders no matter the level of offense. The council also continues to monitor the progress of the new juvenile compact.

ACTIVITIES OF THE NATIONAL COMMISSION

The National 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 eighth annual meeting of the National Commission took place November 3-4, 2009, in Reno, Nevada. Present at this meeting were 39 commissioners and nine official designees, giving the commission a total of 48 votes. In addition to the voting members, also in attendance were 4 ex-officio members, 44 deputy compact administrators, and 10 guests.

Rules are only voted on every other year, with 2009 being a year to vote on rules. The National Commission considered and voted on several rule amendments that will become effective March 1, 2010. Some of the rule changes that passed are significant and will change how compact business is conducted across the country. One of the more significant rule changes has to do with offenders being allowed to maintain their employment in another state while they have an application for transfer pending. Under the current rules, once a transfer request is submitted the offender is not allowed to travel to the receiving state, even for employment. Under the new rule, an offender that has employment in the receiving state at the time of the transfer request may continue to work during the investigation. The rule does require that the offender return to the sending state daily during non-working hours. This allows offenders to maintain their employment, which is important for successful rehabilitation.

The Interstate Compact Offender Tracking System (ICOTS) was launched in October 2008. As of April 2009, all compact cases are being managed through this system. Although ICOTS is an evolving system with areas that need to be fixed and enhanced, it has changed the interstate process significantly. Prior to ICOTS, it took several weeks to get a transfer packet from the initiating agent in one state to the investigating agent in another state. Now this can happen in a matter of days. Another benefit of ICOTS is that it is real-time tracking of offenders. Both the sending and receiving state can see the status of any compact case. Prior to ICOTS, receiving states were closing out cases prior to expiration and in violation of the compact, and the sending state was not aware the offender was no longer being supervised. ICOTS allows the sending state to monitor the status of their offenders being supervised by other states.

Eventually, ICOTS will not only serve as an offender tracking system but will also provide demographic information on the movement of offenders across the nation. ICOTS will never replace the need for users to know and understand the rules of the compact.

It is critical for the integrity of the system that users enter complete and accurate information. Many users felt that once ICOTS was launched they no longer had to know the rules. This has resulted in a lot of inaccurate or incomplete information being entered into ICOTS. One of the areas that users tend to miss is sending the Notice of Departure or Notice of Arrival to activate the case. This process is what authorizes the receiving state to begin supervision and for the sending state to know their offender is being supervised. In 2009, a reports function was added to ICOTS that allows supervisors and compact staff to audit different compact functions. This will assist in proactively managing compliance issues.

Training was also a priority at the annual meeting. Rose Ann Bisch, Minnesota's Deputy Compact Administrator (DCA) was involved in conducting two of the training sessions at the national meeting. Bisch was also presented with the Executive Director's Award for her involvement in the compact.

Training continues to be a priority for the National Commission. Training is provided to agents, compact offices, courts, and law enforcement through the National Commission. Minnesota's

DCA is one of the national trainers for ICAOS. In addition to doing training via WebEx, On-Demand Training modules are utilized. This allows users to access training at their convenience. The use of these modules continues to increase each year. A third training format offered is to view a previously recorded session. The Bench Book for Judges and Court Personnel and training materials are reviewed and updated every year.

In 2009, the Commission established a voluntary incident report process for states to report rule infractions. This helps in improving business processes and identifying training needs.

In FY 2008 and 2009, the Commission reduced its expenses by not filling a vacant position and implementing other measures aimed at controlling cost. During FY 2009, the Commission operated below budget. As a cost-saving measure, WebEx continues to be utilized by the National Commission to conduct training sessions and meetings across the country while reducing the expense of travel.

The National Commission is required to submit an annual report on its activities, with the next report available in July 2010. The current FY 2009 annual report as well as past reports and newsletters can be found at www.interstatecompact.org/About/Publications.aspx.

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, during the interim 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. During the 2008 National Commission annual business meeting, Minnesota Interstate Commissioner Ken Merz was elected to a two year-term as chair of the National Commission and, as such, currently serves as chair of the Executive Committee.

The Executive Committee held 12 meetings during 2009. Nine of the meetings were held via WebEx, two of the meetings were held in conjunction with the National Commission meeting, and one was held at the National Office in Lexington, Kentucky.

A Dues Enforcement Policy was adopted by the Executive Committee. Puerto Rico was found in default, and the Executive Committee voted to take legal action against Puerto Rico. Puerto Rico did finally pay its dues. The Executive Committee also addressed the issue of non-payment of dues by Illinois who also eventually paid. An Ad Hoc Dues Committee is being created to look at the dues formula.

A lawsuit was filed against the Commission by a Wisconsin offender. This lawsuit was addressed by the Executive Committee and eventually dropped by the court. A Memorandum of Understanding was signed with the Juvenile Interstate Commission to share resources.

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

The prevailing issues in Minnesota and across the nation continue to be offenders arriving in the receiving state prior to approval and timelines not being met. This results in serious public safety concerns. When timelines such as conducting an investigation, submitting a

Progress Report, submitting a Violation Report, or responding to Violation Reports are not met, they are detrimental to good correctional practices. Although sometimes this delay may be a resource issue within the local corrections office or in the state compact office, this does not change the fact there is still a tremendous impact on public safety. The implementation of ICOTS should help identify the issue of interstate processes not being done in a timely manner and help states address this issue.

Training continues to be a priority with the Minnesota DOC. With the training efforts over the past several years, agents have become more aware of the rules and compliance has improved. However, there is still an issue with Minnesota courts allowing offenders to relocate to another state without proper authority under the compact. Courts attempting to circumvent the compact through the use of travel permits and creative sentencing is not an issue unique to Minnesota.

When the Minnesota DOC becomes aware of these cases, contact is made with the court in an effort to obtain compliance with the rules. Offenders being in Minnesota prior to approval also continues to be a problem.

As mentioned previously in this report, the rule requiring an offender be returned in certain circumstances is still an issue. In Minnesota, supervised release offenders are returned by the DOC and, therefore, return has not been an issue. The state council and the DOC continue to monitor the situation and work with counties to achieve resolution and compliance.

Local counties oftentimes do not understand or appreciate the DOC's role in the interstate compact process and have the perception that the DOC is interfering with their business. Many times this can be resolved through meetings between the DOC and local entities. The DOC continues to offer training to judges, attorneys, and law enforcement. During 2009, the DOC conducted three training sessions specifically designed for court staff and law enforcement.

There was an issue with Minnesota ICOTS users not entering complete and accurate information, which causes a loss of integrity in this national criminal justice offender database. In response to this issue, a policy was developed that requires all new ICOTS users to go through training prior to being given access to ICOTS. Audits are also being conducted in an attempt to correct errors. Unfortunately, some of the errors cannot be detected through the ICOTS reports, and users need to identify and correct the errors on their own.

OFFENDER MOVEMENT AS REPORTED IN ICOTS

	<i>Probation</i>	<i>Parole</i>
Number of offenders under supervision in Minnesota from other states on December 31, 2009	1,120	339
Number of Minnesota offenders under supervision in other states on December 31, 2009	2,254	268

SUMMARY

The Interstate Commission for Adult Offender Supervision is still a relatively new organization. Public safety is a concern when supervising offenders within a state and becomes a greater concern when offenders cross state lines. Multiple jurisdictions involved in the supervision of an offender add to the complexity of providing appropriate supervision. The implementation of State Councils in each compacting state and the National Commission has assisted in raising awareness of the compact law to a level that is required for success. However, compliance issues and public safety concerns that continue to be identified each year are indications that the importance of the compact has still not been recognized by all entities. The success of the compact will always be dependent on all entities in every state following the rules.