

**Interstate Compact for
Adult Offender Supervision**

2011 Report to the Legislature



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BACKGROUND

In March 2002, Minnesota passed statutes §243.1605, 243.1606 and 243.1607 regarding the Interstate Compact for Adult Offender Supervision (ICAOS). Minnesota statute § 243.1606 establishes an Advisory Council on the Interstate Compact for Adult Offender Supervision in Minnesota and 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 2010 membership included:

- ✓ Tom Roy, Chair, Arrowhead Regional Corrections Director, representing Community Corrections Act Counties;
- ✓ Suzanne Elwell, Vice-Chair, Victim's Representative;
- ✓ Honorable Gordon Shumaker, Minnesota Court of Appeals;
- ✓ Honorable Michelle Larkin, Minnesota Court of Appeals;
- ✓ Ken Merz, Interstate Commissioner, Department of Corrections (DOC);
- ✓ Joan Fabian, Commissioner, DOC;
- ✓ Harry Kennedy, Office of Governor Tim Pawlenty;
- ✓ James Early, Office of the Attorney General;
- ✓ Honorable Kurt Zellers, State Representative;
- ✓ Honorable Joe Mullery, State Representative;
- ✓ Honorable Julianne Ortman, Minnesota State Senate;
- ✓ Honorable Lisa Fobbe, Minnesota State Senate;
- ✓ 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;
- ✓ Carolina Llamas, Neighborhood Justice Center Inc Executive Director, representing public defenders; and
- ✓ Sheriff Bill Bergquist, Clay County Sheriff, representing the Minnesota Sheriffs' Association.

Advisory Council staff from the DOC included:

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

The Advisory Council first met on August 21, 2002, and continues to meet on a quarterly basis.

A representative from the Minnesota Sheriffs' Association was added to the council in 2010; this has proven to be a valuable addition. Many compact rules have an impact on law enforcement and it is beneficial to have a law enforcement representative present when proposed rules are discussed or new rules are being implemented.

In calendar year 2010, the Interstate Advisory Council held four meetings.

The primary focus of the council in 2010 was the implementation of the rules effective March 1, 2010, the rule amendments being proposed in 2010, and the passage of the new Juvenile Compact statute in Minnesota.

In reviewing the approved rule amendments effective March 1, 2010, the council felt there would be minimal impact on offenders, caseworkers, or agents and no impact on other entities involved in the compact process.

Upon review of the 2010 proposed rules, the council did have concerns regarding some of the proposals. One concern is the definition of violent offender and the impact it may have on transfers to and from Minnesota. In submitting recommendations to the National Commission, the council felt there was a need for clarity in the definition of violent offender before passage of the proposed rule. It was the opinion of the members of the council that without clarification, there will be issues in how the rule is interpreted and applied across the country. The rule did pass as proposed and without clarification. Members of the council also felt that more information needed to be included in the transfer requests. The information the council requested did not become part of the amended rules as passed.

The new juvenile compact, M.S. §260.515, became law on August 1, 2010. At the recommendation of the Adult State Council members, they shall serve as the members of the Juvenile State Council with a few additions.

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. The commission established a system of uniform data collection (ICOTS), which provides access to information on active cases by authorized criminal justice officials; and coordinates regular reporting of compact activities to heads of state councils, state executive/judicial/legislative branches, and criminal justice administrators. The commission also monitors compliance with rules governing interstate movement of offenders, initiates interventions to address and correct noncompliance, and coordinates training and education regarding regulations of interstate movement of offenders for officials involved in such activity.

The ninth annual meeting of the National Commission took place October 13, 2010, in San Antonio, Texas. Present at this meeting were 46 commissioners and five official designees, giving the commission a total of 51 votes. In addition to the voting members, also in attendance were 5 ex-officio members, 5 non-commissioner deputy compact administrators, and 7 guests.

Rules are normally only voted on every other year; however, 2010 was an exception and rules were voted on during a non-rule year. The National Commission considered and voted on several rule amendments that will become effective March 1, 2011.

A separate DCA Training Institute was held for the first time August 9-11, 2010, in Lexington, Kentucky. Extensive training was provided to DCAs across the country on a variety of compact topics. As one of the national trainers for ICAOS, Minnesota's DCA, Rose Ann Bisch, was one of the trainers at this Institute.

The advantage of holding a training institute for DCAs was it allowed two days to be entirely devoted to training issues. Having the DCA Institute held separately from the full commission meeting meant that the DCAs were not present when the new rule amendments were passed at the full commission meeting. Not being present for the discussion when the new rules are passed is a big disadvantage for states such as Minnesota where the DCA is the one responsible to implement the new rules in the state. When trying to implement a new rule, it has always been a great benefit to have heard the discussion surrounding the passage of the rule. The rule language sometimes requires interpretation and the discussion helps clarify the intent of the rule.

The Interstate Compact Offender Tracking System (ICOTS) was launched in October 2008 through a contract between ICAOS and APPRIS, Inc. APPRIS is the company that developed and maintains ICOTS for ICAOS. 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. It has not only increased the speed in which a case can be transferred and information exchanged, it also allows all those involved in a case to see the same information. This is important for agencies to make sound correctional decisions when supervising interstate offenders. Since the information contained in ICOTS is used by states to make correctional decisions, it is important the information entered into the system is complete and accurate. In 2009, a reports function was added to ICOTS which allows supervisors and compact staff to audit different compact functions. This will assist in proactively managing compliance issues.

Eventually, ICOTS will not only serve as an offender tracking system, it will also provide demographic information on the movement of offenders across the nation.

On March 1, 2010, the ICOTS Public Portal was launched. This allows the public to view limited information about compact cases. The site can be found at:
<https://pwp.interstatecompact.org/PWP>.

The commission continues to provide training to agents, compact offices, courts, and law enforcement through the National Commission. In addition to doing training via WebEx, On-Demand Training modules are utilized. This allows users to access the training at their convenience. The Bench Book for Judges and Court Personnel and training materials are reviewed and updated every year to reflect any changes in the rules.

Under the guidance of Harry Hageman, ICAOS Executive Director, an audit instrument was designed to evaluate each state's compliance with the ICAOS rules. The goal is to have a compliance audit done by the National Office annually for every state. Minnesota was audited in December and overall the audit was positive.

There were four Advisory Opinions issued by ICAOS during 2010. These opinions dealt with a variety of issues, including the impact on the interstate process by new legislation passed in the states of California and Washington.

The National Commission is required to submit an annual report on the activities of the commission and the next report will be made available in July 2011. The current FY 2010 annual report, as well as past reports and newsletters regarding the National Commission's activities, 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, Ken Merz, Minnesota's Interstate Commissioner, was elected to a two year term as the Chair of the National Commission and, as such, served as Chair of the Executive Committee. His term expired at the 2010 Annual Business Meeting and he became an ex-officio of the Executive Committee.

The Executive Committee held 11 meetings during 2010. Eight 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. During 2010, the Executive Committee faced some challenges, one of which was dealing with the tragic slayings of four police officers in the State of Washington by an offender in the state under the Interstate Compact. The Executive Committee met and worked with the State of Washington to address Washington's concerns regarding the Interstate Compact process. In response to Washington's concerns, an ad hoc committee was established to examine all of the violation and retaking rules. The committee drafted a series of proposed rule changes to improve public safety and to clarify states' responsibilities regarding offender violations and the return under the compact. The full commission voted on these rules at the 2010 Annual Business Meeting in San Antonio, Texas.

A second ad hoc committee was formed to address the dues formula. The dues formula has not changed since the inception of the Compact in 2002. This committee continues to work and will have some recommendations for the full commission in 2011.

The third ad hoc committee that was established was to address victim's issues. This committee is being chaired by the commission's ex-officio victim's member, Pat Tuthill. This committee has been charged with looking at all victim issues and making recommendations for possible rule changes.

During FY 2010, they were able to meet all of the commission obligations within budget. Currently the Commission is fiscally sound.

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

In Minnesota, the focus continues to be on public safety and compliance. In preparation for Minnesota's audit by the National Office, the Minnesota Compact Unit did an internal audit working with the Minnesota agents and other states to gain compliance in several areas. The reports now available through ICOTS were very useful in identifying areas of concern. At the beginning of the audit process the number of cases out of compliance was significant. By the time of the National Office audit, the number of cases out of compliance had been significantly reduced.

During 2010, the Minnesota Compact Unit became aware of 12 Minnesota offenders that were allowed to proceed to another state prior to approval and 30 offenders that were in Minnesota from other state prior to approval. All of these cases were addressed and brought into compliance.

A prevailing issue across the nation has been identified as states not issuing nationwide warrants as required and not returning offenders when the return is required under a compact rule. This can create a serious risk to public safety. This issue could become more prevalent in the future as the rules effective March 1, 2011, include additional categories that will require the issuance of a warrant and mandatory retaking.

OFFENDER MOVEMENT AS REPORTED IN ICOTS:

	Probation	Parole
Number of offenders under supervision in Minnesota from other states December 31, 2010.	1216	407
Number of Minnesota offenders under supervision in other states December 31, 2010.	2248	324

SUMMARY

As the Interstate Compact for Adult Offender Supervision continues to move forward the rules continue to be modified and the database continues to be improved with focus toward public safety and accountability. Compliance with the rules of the compact continues to be a priority for the Minnesota Compact Office. However, until compliance becomes a priority with all entities involved in the compact process in Minnesota and across the country, there will always be compliance issues. Budget issues across the country continue to have an impact on public safety and the ability of states to comply with the rules of the compact. State Councils can be instrumental in raising the awareness of the compact law and keeping states focused on public safety when it comes to the Interstate Compact for Adult Offender Supervision.