

**Interstate Compact for Adult
Offender Supervision**

2005 Report to the Legislature

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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. The Interstate Compact, M. S. §243.16, 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 has 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 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 a modern data collection and 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) saw acceptance in the states. By June 2002, the threshold of 35 states had been reached, thereby becoming active in just 30 months. Minnesota passed legislation in March 2002, M. S. §243.1605. Currently, legislation has been enacted into law in 49 states, Puerto Rico, 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 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. The commissioner of corrections has invited other interested agencies to send representatives.

Current membership: The Honorable Gordon Shumaker, Minnesota Court of Appeals; Ken Merz, Department of Corrections (DOC); Harley Nelson, DOC; Commissioner Joan Fabian, DOC; Policy Manager the office of Governor Pawlenty, vacant; Jeri Boisvert, Executive Director of the Office of Justice Programs; James Early, Deputy Attorney General; The Honorable Doug Meslow, State Representative; The Honorable Sheldon Johnson, State Representative; The Honorable Jane Ranum, Minnesota State Senate; and The Honorable Julianne Ortman, Minnesota State Senate.

Additional participants include Tom Neilon, Mower County Court Services Director; Bill Guelker, DOC; Doug Johnson, Washington County Attorney; James Hankes, Chief Public Defender; Tom Roy, Arrowhead Regional Corrections Director; and Rose Ann Bisch, DOC (staff).

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.

January 14, 2004

New members were given an overview of the Interstate Compact.

Ken Merz and Rose Ann Bisch attended the second annual meeting of the National Commission in Little Rock, Arkansas, November 2-5, 2003. The majority of the meeting was to discuss and vote on the new rules. Ken Merz reviewed certain rules that Minnesota had concerns with and the outcome of these concerns at the meeting. Not all rules were passed, as Minnesota would have preferred.

The National Commission established several committees including finance, compliance, training, and rules; Merz has been assigned to the compliance committee.

The issue of non-compliance and how fines would be addressed in Minnesota were discussed. Ken Merz explained that initially the DOC will be fined, and under statutory language the department will in turn fine the offending entity.

Training issue – Judge Shumaker said judges need to have the information. Judge Shumaker asked if Rose Ann Bisch has had any contact with the judges training department. Bisch indicated that she had and was supposed to attend the judges meeting last winter; however, it was cancelled due to budget issues. She is still in contact and hopes to get on the judges' agenda in the future.

Review of the State Council Legislative Report 2004; the DOC is required to prepare this report yearly.

Extradition issues and the Interstate Compact - Rose Ann Bisch reported that the compact office is having a lot of difficulty with Minnesota counties doing extradition hearings on interstate cases. Under the Interstate Compact, the sending state has the right to retake an offender.

- Ken Merz said that we should try and address this issue with judges in training.
- Judge Schumaker suggested the DOC contact the Attorney General's office.
- James Early will contact others in the Attorney General's office and find out who could help us address this issue.

- Jim Hanks suggested we make a note for extradition officers to be posted in the jails.
- Judge Schumaker asked if the DOC could prepare a bullet list for judges and jails.

July 21, 2004

Rose Ann Bisch explained a lawsuit in which a parolee from New York was denied an interstate transfer to South Carolina where the victim of the offense lived. A lawsuit was filed but was dismissed by the court. There are 90 days to appeal the decision to the Supreme Court; it has been over 90 days.

Massachusetts and the Virgin Islands are the only entities still operating under the old compact. Minnesota did not repeal the old compact language and therefore is able to continue to conduct business with Massachusetts and the Virgin Islands.

The 2003 Annual Report of the Interstate Commission for Adult Offender Supervision was distributed and discussed. The new rules take effect August 1, 2004. The National Commission will meet again in October in Atlanta, Georgia. The Minnesota DOC hosted a 1 ½ day meeting with the border states of South Dakota, North Dakota, Wisconsin, and Iowa to discuss agreements and disagreements related to the new compact.

The National Commission wants to meet to address training issues on a national level to provide accurate training for all involved.

Another issue is to develop a uniform reporting system on a national level. A contract was awarded to a software developer about a month ago to develop a uniform data processing system to accommodate all on a national level and to create a website to access the correct forms and accurate data regarding the new compact. A committee was formed to work with the software developer to discuss what information needs to be accessible. Three people from each region have been assigned.

The supervision of misdemeanants rule amended on March 12, 2004, was discussed. Some states are not happy with the new rule. Liability issues were discussed, and it has been determined that further legal opinion is needed. This will be discussed at the next national meeting.

Rose Ann Bisch has been conducting training sessions around Minnesota informing corrections personnel of the new features and changes of the Interstate Compact. Nedra Fitzloff-Meyer from the Hearings and Release Unit is helping with the training. Bisch has updated the DOC policy manual regarding the new compact, which can be accessed on the DOC webpage along with the updated forms that need to be completed.

Judges in Minnesota will probably be trained in December. The National Commission's General Counsel is going to draft a letter to State Court Administrators for distribution to the judges. At the December judges' session, the new Interstate Compact should be on their agenda, and the national commission will send some of their staff to assist in the training if requested. Currently, lack of information seems to be the biggest problem that needs to be addressed.

A draft of legislative initiatives will be ready for the next meeting of the State Council.

The Juvenile Interstate Compact is going to be revisited. Senator Foley has introduced a bill on the new regulations. The national commission wants juveniles under a separate national commission, thus requiring a separate state council. The Minnesota State Council wants to include juvenile and adults under one council, whereby they would add some members with juvenile expertise. More direction in this area is needed.

A representative from Senator Ranum's office was asked to discuss with Senator Ranum the idea of mentioning to her legislative colleagues who are members of this council to send a representative when they are unable to attend these meetings.

November 3, 2004

Massachusetts and the Virgin Islands still remain the only two entities that are operating under only the old compact. Progress is being made in Massachusetts; perhaps by April 2005 they will become members of the new compact.

Ken Merz and Rose Ann Bisch attended the national commission meeting held in Atlanta, Georgia, October 25-27, 2004. A copy of the approved amendments and additions to the rules for the Interstate Commission for Adult Offender Supervision was distributed. A discussion followed regarding language changes, additions, and deletions to rules.

The Information Technology Committee Report was discussed. The National Interstate Commission for Adult Offender Supervision sent out a request for proposals (RFP). The vendor awarded the contract is Softscape. The cost of the contract originally was \$1,300,000, but it was negotiated down to \$900,000. The web-base system similar to CriMNet in Minnesota is scheduled for operation by May 1, 2005. Eventually, all records and reports will be handled and transferred electronically. Softscape has included some staff members who have correctional backgrounds to design and implement the program.

A meeting has been scheduled with the Minnesota DOC Information and Technology Unit (IT) on November 16, 2004, to discuss the national initiatives and what needs to be accomplished in Minnesota to achieve them. There is also a designated IT representative from every state to review the development of the system.

Bill Guelker suggested that end-user issues and agent ideas and suggestions be included. Randy Hartnett brought up data practice issues regarding media access to client records. Data practice statutes need to be addressed. Hartnett is going to send a memorandum to Merz regarding these issues, including restrictions for data base psychiatric evaluations.

Rose Ann Bisch has trained over 500 agents in Minnesota regarding the new Interstate Compact rules and regulations that went into effect August 1, 2004. She is planning on giving an update in January and also a one-day training session for new agents.

A broadcast message was sent to Minnesota judges through the Judiciary Education and Organization Agency explaining the new rules and regulations of the Interstate Compact that went into effect August 1. It was suggested that agents should be advised to educate judges when it became necessary. Judge Shumaker promised to try and get Bisch on the agenda for upcoming judiciary meetings.

Doug Johnson suggested that a message be sent to the County Attorneys Association for distribution as was done with the judiciary system. James Hankes thought the same should be done for the Public Defenders Association.

Ken Merz discussed three legislative initiatives: (1) The need for legislative representative attendance at state council meetings, and the need to make all people voting members and define a "quorum" to transact business. (2) Under the old interstate compact, we were required to send a report to the state legislature every two years. Under the new compact, we are required to send an annual report that explains the new regulations and reporting requirements to the legislature and the national commission. As a result, the interstate unit has to prepare two separate legislative reports every other year. (3) The DOC may need to develop a fiscal initiative to send to the Governor that will cover the increased costs that will be incurred by the new annual dues, the increased workload for data collections and tracking, and for possible fines and attorney fees.

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 National Commission had a conference call meeting on March 12, 2004, to vote on amending compact rule 2.105. Forty-four voting members were present to establish a quorum. The amended rule to restrict misdemeanor eligibility under the compact was passed. As a result of this vote, certain misdemeanor offenders can live in a state other than the sentencing state without being accepted through the Interstate Compact process.

Sessions were provided by ICAOS for one representative of each state to be trained on the new rules. Training for the midwest and western regions was in Phoenix, Arizona, March 14-16, 2004. The session for the south and eastern regions was held in Florida March 29-31, 2004. Additional people could be sent by individual states at their own expense. Minnesota sent Rose Ann Bisch, the DOC Interstate Deputy Compact Administrator, to the session in Arizona.

Each state was asked to identify a legal representative for their state to the National Commission. These legal representatives will be dealing with the new compact laws and their impact regarding liability issues, extradition laws, waiver issues, etc. Randy Hartnett of the DOC was assigned as Minnesota's representative. Hartnett attended a training session by ICAOS in Cincinnati, Ohio, June 27-29, 2004.

The National Commission also asked every state to identify a technology professional for that state. Minnesota identified Margarita Rock of the DOC as the contact for Minnesota.

The third annual meeting of the National Commission took place October 25-27, 2004, in Atlanta, Georgia. Present at this meeting were 47 of the 49 member states, the District of Columbia, and Puerto Rico, giving the commission a total of 49 votes. 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. The amended rules take effect January 1, 2005.

New officers were elected to a two-year term, and the operating budget for 2005 was approved.

Each committee gave the commission a report on their activities for the year. In addition to the committee report, the Technology Committee had a presentation from Softscape, the vendor that was awarded the contract to develop a national database and process for electronically sharing information.

The commission is moving forward with development and implementation of a national database and electronic transfer of cases. A contract has been signed with Softscape to develop and administer the database. The database is scheduled to be operational May 1, 2005. Some states will be ready to immediately use the electronic transfer process and national database, and other states will come on board as their state develops the technology to interface with the national system.

Pennsylvania has filed a lawsuit against ICAOS on a procedural issue regarding how rule 2.105 was passed. The initial ruling by the court was for the National Commission. However, the State of Pennsylvania is appealing the ruling.

The State of Georgia filed a grievance against the State of Tennessee, alleging that Tennessee's requirement for all offenders transferring into Tennessee have a psychological evaluation is in conflict with the rules of the compact. The National Commission agreed that this practice by Tennessee is a violation of the compact. Tennessee was contacted by the ICAOS executive director and legal council, but still refuses to come into compliance with the rules. At the national meeting in October, the commission voted to take further action against the State of Tennessee up to and including filing a lawsuit.

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.

Executive Committee officers were elected during the 2004 meeting and will serve a two-year term. The following committees were established: Compliance, Finance, Information Technology, Rules and Training, Education, and Public Relations. The majority of work is done through these committees.

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

The new compact is in effect and the new rules became effective August 1, 2004. Therefore, the rules are new to everyone and the entire country is in transition. There is a great deal of confusion over exactly what the rules mean.

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.

SUMMARY

Since the compact reached its 35-state threshold required for passage in June 2002, states continue to join with a current membership of 49 states, the District of Columbia, and Puerto Rico. Rules have been approved, and the oversight structure has been established and continues to move forward.