

Keeping Track—

Updated Compact Keeps Juvenile Offenders from Falling Through the Cracks

After more than five years, a new Interstate Compact for Juveniles is official. The compact, which is designed to keep juvenile offenders from falling through the cracks of the justice system, was approved in 35 states before becoming effective.

by Mikel Chavers

On Sept. 18, 1998, the bodies of Gordon and Barbara Erickstad were found in a desolate area near Selfridge, N.D.—they had been stabbed. Earlier that day, police searched the couple's bloodstained home in Bismarck and found knives in the kitchen sink, according to North Dakota Supreme Court records.

The police investigation focused on the couple's adopted son and his friend from Texas. The two were later picked up in Texas and extradited to North Dakota where they faced charges of murder and other offenses, according to the court documents.

"It was just a horrific deal from one end to the other," said North Dakota Rep. Duane DeKrey. "When it was all done and said, we found out that the Texas kid was under supervision in Texas but had come to North Dakota, and Texas had absolutely no idea where this guy was or what he was up to."

With such a horrific murder involving youth lost in the system fresh in their minds, North Dakota legislators became the first state to pass a special agreement for tracking and monitoring juvenile offenders.

"With this murder at the backdrop and the success of the adult compact, we were able to get it adopted," DeKrey said.

The agreement is the Interstate Compact for Juveniles and it was enacted in North Dakota March 13, 2003. After a more than five-year effort, the Interstate Compact for Juveniles became official when the 35th state—Illinois—passed the agreement when Gov. Rod Blagojevich signed the bill in August.

Fixing a Broken Compact

After taking on the project in 2001, The Council of State Governments' National Center for Interstate Compacts has stayed the course with the updated compact. "NCIC has devoted significant time and resources to making sure that 2008 did not end without something to show for our efforts," said Keith Scott, director of the center, which is based at CSG's Lexington, Ky., headquarters.



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When 2008 began, Scott and his staff were faced with the predicament of having four states that had carryover legislation for the compact from 2007. The center began discussions with sponsors of the carryover legislation in an effort to jumpstart the bills for the 2008 session, according to Scott. At the same time, the center began intensive discussions with potential sponsors in the other respective legislative chambers.

"Fortunately we were successful on both counts in Illinois and Tennessee," Scott said.

And the compact was in dire need of an update, said Ray Wahl, a juvenile court administrator in Utah.

"First of all the compact language was antiquated; it hadn't been updated for quite some time," Wahl said of the original compact, which was written in 1955.

"Then there was this problem that there were three amendments to the original juvenile compact that some states signed on to (and) some states didn't sign on to them," Wahl said. "So it became very confusing for states to know which states were on board with certain stuff and not on board with certain stuff."

And because of the outdated compact, children were falling through the cracks, as in the case of the Bismarck murders. States were literally losing track of their young offenders when they left the state.

"Another big deal is there was really no authority anywhere to promulgate rules about this compact so whatever policies or rules that existed weren't promulgated with the proper authority—and that was part of the reason why they were unenforceable," Wahl said.

So, in effect, even though the old compact is still in place, there's no real way to settle disputes through the compact, Wahl said.

"So you have these, rules that some states were complying with and some states weren't complying with but when a state didn't comply with the rules, there was no way to get a grievance, if you will, or a complaint heard about that," Wahl said.

But the new compact seeks to change all that with a built-in system to review complaints. The juvenile compact language took much the same form as the Interstate Compact for Adult Offender Supervision's language (the compact's equivalent for adult offenders), in that a national commission serves as a rule-making authority.

The new Interstate Compact for Juveniles significantly updates the agreement for tracking and supervising juveniles who move across state borders. The new language provides enhanced accountability, enforcement, visibility and communication and seeks to update a tool for ensuring public safety as well as preserving child welfare.

Because of the outdated compact, children were falling through the cracks, as in the case of the Bismarck murders. States were literally losing track of their young offenders when they left the state.

Now fully updated from the 1955 version, changes in the new Interstate Compact for Juveniles include:

- The establishment of an independent compact operating authority to administer ongoing compact activity, including a provision for staff support;
- Gubernatorial appointments of representatives for all member states on a national governing commission (The commission would meet annually to elect the compact operating authority members, and to attend to general business and rule-making procedures);
- Rule-making authority, provision for significant sanctions to support essential compact operations;
- A mandatory funding mechanism sufficient to support essential compact operations (staffing, data collection, training/education, etc.); and
- Language to compel collection of standardized information on juvenile offenders.

“The new compact was specifically designed to fill in those types of holes,” Scott said. “Everyone has recognized for quite some time that enforcement was lacking. They have also realized that disputes between states have arisen with little in the way of structured resolutions. The current compact, with its interstate commission structure, is specifically set up for the purposes, among others, of providing just such a means of reliable enforcement and conflict resolution between jurisdictions.”

—Mikel Chavers is associate editor of *State News* magazine.



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Of Interest on Compacts ...

The National Crime Prevention and Privacy Compact

EDITOR'S NOTE: The Connections newsletter begins a new feature about national compacts of interest to state officials.

by Joseph F. Zimmerman

In 1998, Congress enacted the National Crime Prevention and Privacy Compact and invited states and territories to enact the compact. Twenty-seven states enacted the compact and 11 other states and two territories each signed a memorandum of understanding indicating their subscription to the compact, which was drafted by the Criminal Justice Information Service of the U.S. Department of Justice.

The purpose of the compact is to facilitate the exchange of federal and state criminal history records only for noncriminal purposes, including background checks for government employment and licensing in the state. Since 1998, federal, state and local law enforcement have submitted arrest fingerprints to the Federal Bureau of Investigation on a voluntary basis. Each agency maintained a system of records for its respective state or local government, and submitted duplicate prints of each arrested and charged individual to the FBI and received in return information on the individual's prior nationwide criminal record. The FBI maintained the fingerprint card and accompanying data in its

criminal history files, a duplicate set of records. The duplication was eliminated by the compact.

The compact's goal is to establish a decentralized records system providing the same service as the then existing centralized FBI system at a lower cost. Since the compact became effective, there has been no need for duplicate federal records, and states no longer need to send the FBI duplicate sets of fingerprints for a person's second or subsequent arrest provided all state legislatures enact the compact. Subsequent inquiries regarding a person automatically produce an index of the states in which that individual has a criminal record, and allow a requesting state to electronically access another state's records directly, provided that state is seeking information for a noncriminal-justice purpose and the requesting unit is authorized to seek the information by its state laws and federal law.

The compact established a 15-member compact council composed of federal and state officers and other members representing user interests appointed by the U.S. attorney general.

The council is authorized to establish operating policies for uses of the Interstate Identification Index and to oversee its use. The council, which is administratively based within the FBI, is composed of the following members:

- Nine members selected from and recommended by the compact officers of the party states for two-year terms;
- Two at-large members nominated by the FBI director for three-year terms;
- Two at-large members nominated by the council chairperson for three-year terms, with one member representing state or local criminal justice agencies and one member representing state or local noncriminal justice agencies;
- One member who is on the FBI's Advisory Policy Board on Criminal Justice Information Services serving a three-year term; and
- One member nominated by the FBI director for a three-year term who is an FBI employee.

The program helps to eliminate duplicate records, improve quality of records and system security, improve response times, save money and also provide a uniform national standard governing interstate dissemination of criminal history records. A state may end its compact obligations the same way it ratified the compact with six months advance notification.

The compact neither diminishes nor expands the responsibility of the FBI and the state criminal history record repositories to permit direct or other access to criminal history under the authority of six prior congressional acts authorizing accessing information for specified criminal justice purposes. These acts are:

The *Security Clearance Information Act of 1985* requires state and local criminal justice agencies to release criminal history records to specific federal agencies for national security background checks.

The *Brady Handgun Violence Prevention Act of 1993* requires a waiting period on handgun purchases to allow time for criminal background checks to be performed on prospective buyers. The act authorizes licensed firearms dealers to access the national instant background check system in order to comply with the required background check.

The *National Child Protection Act of 1993* authorizes states with appropriate statutes to access and review state and federal criminal history records through the national criminal history background check system. This information helps states determine whether care providers for children, the elderly and the disabled have criminal histories affecting their fitness to assume such responsibilities.

The *Violent Crime Control and Law Enforcement Act of 1994* authorizes federal and state civil courts to access FBI databases containing criminal history records, missing person records and court protection orders for use in connection with stalking and domestic violence cases.

The *Housing Opportunity Program Extension Act of 1996* allows public housing authorities to access conviction records of public housing applicants and tenants for applicant screening, lease enforcement and eviction.

The *Native American Housing Assistance and Self-Determination Act of 1996* allows Indian tribes to check federal and state criminal records of applicants for or tenants of federally assisted housing to screen applicants, process eviction and enforce leases.

—Joseph Zimmerman is a professor of political science at Rockefeller College of the State University of New York at Albany. He is the author of more than 30 books and numerous articles, including articles on interstate cooperation, compacts and administrative agreements.

Compact History

Interstate compacts fill the interstice between the national government and states, and date to a 1785 compact between Maryland and Virginia governing fishing and navigation on Chesapeake Bay and the Potomac River. All compacts involved only states until 1961 when the first state-initiated federal-interstate compact—*Delaware River Basin Compact* [75 Stat. 688]—was enacted by the state legislature in Delaware, New Jersey, New York and Pennsylvania, and by Congress.

Congress first initiated a federal-interstate compact by enacting the *Appalachian Regional Development Act of 1965* [79 Stat. 5, 40 U.S.C.App.§1] and inviting thirteen concerned state legislatures to enact the compact contained in the act; all enacted the compact.





Protecting the Great Lakes

Great Lakes - St. Lawrence River Basin Water Resources Compact Takes Effect

In early October, President George W. Bush signed a joint resolution of Congress officially providing consent for the Great Lakes-St. Lawrence River Basin Water Resources Compact, enabling the historic protections to become law.

The compact includes the following points, according to a release from the Council of Great Lakes Governors:

- Economic development will be fostered through sustainable use and responsible management of basin waters.
- In general, there will be a ban on new diversions of water from the basin but limited exceptions could be allowed in communities near the basin when rigorous standards are met.
- Communities that apply for an exception will have a clear, predictable decision-making process, standards to be met, and opportunities to appeal decisions. These processes and standards do not exist under current law.
- The states will use a consistent standard to review proposed uses of basin water. The states will have flexibility regarding their water management programs and how to apply this standard.
- Regional goals and objectives for water conservation and efficiency will be developed, and they will be reviewed every five years. Each state will develop and implement a water conservation and efficiency program that may be voluntary or mandatory.
- There is a strong commitment to continued public involvement in the implementation of the compact.

The compact was developed in collaboration with regional partners who also played a key role in its implementation. Members of Congress, mayors, local government officials and stakeholders were instrumental, according to the Council of Great Lakes Governors.

The national economy depends on the Great Lakes for industrial uses, hydropower, maritime commerce, agricultural irrigation and many other uses, according to the Council of Great Lakes Governors. The Great Lakes are also a globally unique and important environmental resource—and the compact ensures that the lakes are adequately protected, the Council of Great Lakes Governors said.

Protecting the lakes with the new compact was nearly eight years in the making.

In December 2005, following a nearly five-year negotiation, the governors of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin agreed on the compact. The eight Great Lakes states reached a similar good faith agreement with Ontario and Québec in 2005, which the provinces are using to amend their existing water programs for greater regional consistency, the Council of Great Lakes Governors reports.

During 2007 and 2008, each of the eight Great Lakes state legislatures ratified the compact. And preceding the president's approval, the U.S. Senate approved the compact Aug. 1 and the U.S. House of Representatives approved it Sept. 23.

"I applaud President Bush for his action. Together, we have taken a major step to protect the Great Lakes. I am hopeful that this historic cooperation will enable us to accelerate our future efforts," Wisconsin Gov. Jim Doyle, the Council of Great Lakes Governors chair, said in a release.

—For more information on the compact, visit the Council of Great Lakes Governors at www.cglg.org.

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