State Councils for Interstate Juvenile Supervision

Revised 08/18/09

Need for Change

- Lack of compliance
- Inability to enforce
- Time to complete transfers
- States passed conflicting laws
- Resistance to change

New Compact

- The Interstate Compact for Juveniles, a new interstate agreement, significantly updates the 50-year-old mechanism for tracking and supervising juveniles that move across state borders.
- Providing enhanced accountability, enforcement, visibility and communication, the new compact updates a crucial, yet outdated tool for ensuring public safety and preserving child welfare.

History

- Original Juvenile Compact came about in 1955.
- Law in 40 states with more to join (8/09).
- Provides for the welfare and protection of juveniles and the public.
- The ICJ Commission's Executive Committee and national office provide oversight to compact operations.
- Is the only legal process for returning runaways and transferring probation supervision.
Primary changes to the original Juvenile Compact (1955) 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.
- Mandatory funding mechanism sufficient to support essential compact operations (staffing, data collection, training/education, etc.).
- Compel collection of standardized information.
- Requires every state to establish a State Council for Interstate Juvenile Supervision for greater visibility within state government.

Interstate Compact for Juveniles

- Establishes an independent compact operating authority;
- Creates a national governing commission, Interstate Commission for Juveniles (ICJ Commission) representing all member states;
- Creates a more formal, recognized, and flexible rule-making authority;
- Every state shall establish a State Council for Interstate Juvenile Supervision;
- ICJ Commission has statutory authority to enforce compliance; and
- Establishes uniform system for reporting, collecting & exchanging data.

Purpose

- Promote public safety
- Protect rights of victims
- Control movement of youth
- Provide for effective tracking
- Supervision
- Rehabilitation
- Ability to enforce compliance

2009 ICJ Transition Rules

- The new Interstate Compact for Juveniles (ICJ) became a viable entity in 2008 when the 35th state (Illinois) joined.
- The Inaugural Meeting of the Interstate Commission for Juveniles (ICJ Commission) was held in December 2008.
- The Commissioners voted to accept the 2009 ICJ Transition Rules, which are identical to the national Association of Juvenile Compact Administrators (AJCA) Rules.
- These Rules will be followed until the ICJ Commission votes and promulgates new Rules in December 2009.
- The Transition Rules allow old compact states to continue to interact with new compact states for one year.
Interstate Commission for Juveniles

National Structure

Executive Committee
- Donna Bonner, TX, Chair
- Ray Wahl, UT, Vice-Chair
- Dennis A. Casarona, KS, Treasurer
- Summer Foxworth, CO, Chair, Compliance Committee
- Ray Wahl, UT, Chair, IT Committee
- Gary Hartman, WY, Chair, Rules
- Jean Hall, FL, Chair, Training, Education and PR

Rules Committee
- Eastern Region Rep

Technology Committee
- Midwestern Region Rep

Compliance Committee
- Southern Region Rep

Training, Education, and PR Committee
- Western Region Rep

Finance Committee
- Executive Director

Interstate Compact for Juveniles

Legal Background For Interstate Compacts

Interstate Compacts

Interstate Compacts are contractual agreements between the states enacted through legislative means and adopted to resolve a dispute, study a problem, or create an on-going administrative mechanism for managing an interstate agreement.
Interstate Compacts, continued

- Agreements between states authorized under Article I, Section 10, Clause 3 of the U.S. Constitution – the “Compact Clause”

- The U.S. Supreme Court has consistently held that Congressional consent is only required for compacts that tend to increase the political power of the states in a manner that encroaches upon or interferes with the just supremacy of the United States.

Interstate Compacts, continued

- Approximately 200 Compacts formed since the founding of the U.S.
  - About 38 are inactive
  - On average, each state is a member of 23 Compacts
- Creation of the Port Authority of New York and New Jersey in 1922 signaled a new era in regulatory Compacts.

Why are compacts so appealing?

Important Advantages:
- Flexible, enforceable means of cooperation.
- Interstate uniformity without federal intervention – i.e., best of both worlds
- States give up right to act unilaterally, but retain shared control (“collective sovereignty”).
- Alternative/deterrent to federal intervention and preemption
- Power sharing among the states

Crime Control Act 4 U.S.C. Section 112 (1065)

Authorizes and encourages states to form Interstate Compacts for cooperative efforts and mutual assistance in the prevention of crime.
Implications of Congressional Consent

- Congressional Consent:
  - Transforms an Interstate Compact into federal law under the “law of the union doctrine.” This transformation is not only for jurisdictional or interpretative purposes. Consent makes a Compact substantive federal law.
  - Makes a Compact enforceable under the Supremacy Clause and the Contract Clause.

Implications, continued

- Places ultimate responsibility for interpretation and enforcement in the federal courts, and ultimately the U.S. Supreme Court.
- Requires that all courts give effect to a Compact even to the extent that state law (constitutional or statutory) must yield to its terms and conditions.
- Makes available to aggrieved parties the full range of federal court enforcement including not only the relief authorized by the Compact but also federal injunctive relief where necessary.
- A state court cannot declare an Interstate Compact to be invalid on state constitutional grounds without subjecting that normally unreviewable decision of state law to further U.S. Supreme Court review to protect the federal interest and the interests of the other signatories.

Legal Authority Summary

- Article I, Section 10, Clause 3 of the U.S. Constitution authorizes Compacts between states;
- A Compact with Congressional consent becomes a “law of the United States.”
- The U.S. Supreme Court recognized that Congressional consent transforms a compact into federal law under the Compact Clause.
- Compact rules supersede any state laws in conflict with them.

Interstate Commission for Juveniles

Rules
Rulemaking Power

- Commission rules must be adopted in a manner that is substantially similar to the process of the Administrative Procedures Act.
- Once adopted, the rules have the force and effect of statutory law and supersede any inconsistent state laws.
- Majority of state legislatures can reject a proposed rule.

Enforcement Power

- ICJ Commission has authority to enforce the Compact and its rules upon the states by:
  - Requiring remedial training
  - Requiring mediation/arbitration of dispute
  - Imposing monetary fines on a state
  - Seeking relief in federal court, most likely by obtaining an injunction to curtail state action or compel compliance

Population Served

- Delinquent youth (alleged, charged, or adjudicated)
- Non-Adjudicated youth (under juvenile court jurisdiction and given terms of supervision)
- Status offender youth (alleged, charged, or adjudicated)
- Runaway youth (a child under juvenile jurisdictional age limit established by the state who has run from his/her home state without the consent of parent, guardian, person, or agency entitled to his/her legal custody)

Who is NOT Covered?

- Children and youth going to another state for placement in residential or foster care;
- Children and youth going to another state for educational purposes; and
- Children and youth under a court order from another state for mental health treatment.
Comparable Compacts

- Interstate Compact on the Placement of Children (ICPC)
- Interstate Compact on Mental Health (ICMH)
- Interstate Compact on Educational Opportunity for Military Children (MIC3)
- Interstate Compact for Adult Offender Supervision (ICAOS)

Interstate Commission for Juveniles

Forming State Councils

Empowerment

- Each state is required by statute to establish a state council to advise (and may exercise oversight) and advocate concerning that state's participation in:
  - the ICJ Commission's activities, and
  - its intrastate affairs dealing with the Compact.
- An active state council can have a positive influence on a state's Compact operations.
  - State councils can serve as an advocate when seeking resources, improving operations, resolving disputes, and conducting training.

Membership

- States determine the structure, composition, and budget of their state council.
  - must include at least one representative from the legislative, executive and judicial branches of government, victim's groups, and the Compact Administrator, Deputy or designee. (Compact Article IX)
  - The Commissioner is the Compact Administrator, Deputy or designee and is appointed by the appropriate appointing authority in each State and in consultation with the State Council for Interstate Juvenile Supervision. (Compact Article III.B.)
Serving Juveniles While Protecting Communities

Interstate Compact for Juveniles

State Structure

- Provide mechanism for empowerment of Compact process;
- Assist in developing state’s Compact policy;
- Determine qualifications for membership on Council; and
- Appoint designee when Commissioner is unable to attend national meeting.

* Minimum membership requirements shown

Appointments

- The appointment process is often cumbersome and lengthy.
- Take the initiative to recommend suitable candidates for appointment to the State Council who are willing to serve. This may speed up the appointment process.

Appointments, continued

- Factors to consider when recommending appointments include:
  - Is the candidate willing to serve on the council?
  - Does the candidate have a demonstrated interest in the compact process?
  - Is the individual well known in the juvenile justice community?
  - Is the candidate influential?

Interstate Commission for Juveniles

Education and Role of State Council Members
Council Members Should Become:

- Familiar with the Compact and its purpose.
- Educated on your state’s Compact process.
- Familiar with how your state appoints the Compact Administrator and Commissioner.
- Familiar with the authority vested in the Interstate Commission.
- Familiar with the process if the Commissioner cannot attend a Commission meeting.

Council Members, continued

- Assist in determining if Compact office has adequate staff for the operation of the Compact.
- Become familiar with the rules of the Commission and discuss any desired additions.
- Assist Commissioner in developing a network within your state to assist with the Compact process.
- Discuss the addition of other members that may lend assistance to the Compact process.

Preliminary Activities for the Council

- Develop the Council’s
  - Bylaws
  - Mission statement
  - Short and long term plans
  - Goals and objectives
- Establish Meeting Procedures
  - Scheduling
  - Notices
  - Meeting minutes
  - Voting procedures

Staying Energized

- Projects that are helpful to the ICJ Office and suitable for engaging the Council include:
  - Developing a dispute resolution policy and procedure
  - Assessing Compact Office workloads and needs
  - Recommending changes in Compact Office business process and procedures
  - Recommending changes to the Compact rules
Contact

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