

**CASE NUMBERS 1-1-2021 to 12-15-2021:**

*Transfer-of-Supervision Cases*

To Oklahoma – 106

From Oklahoma – 50

*Return Cases*

To Oklahoma – 23

From Oklahoma – 35

*Travel Cases*

To Oklahoma – 82

From Oklahoma - 59

## **Unusual Cases / Situations**

#1) Recently, *in the same weekend*, there were two pairs of youths picked up, *in Oklahoma*, in cars reported to be stolen, from locations *in Nebraska*. The two youths in one pair were from one city / county in Nebraska and were picked up in a certain city / county, in Oklahoma. The other pair originated from a different city / county, in Nebraska, and were picked up in a second city / county, in Oklahoma. Neither set was tied to the other, but their alleged crimes and times of apprehension times were identical.

#2) Another youth, "N.G." had been through one of OJA's Level E group homes. Not only did he complete treatment, there, he obtained his high-school diploma, and he earned a training certificate indicating that he was qualified to do construction work, upon his departure. He was sent, through Interstate Compact, to a relative, in Kansas City, Missouri. He had a promising future, but, sadly, eight days after his arrival, he, reportedly, was shot in the front yard of his relative's home. Details are still forthcoming.

## Items of Interest from 2021 Annual Business Meeting

The national ICJ office has changed their mission statement. The new statement is as follows:

**“Mission:**

The Interstate Commission for Juveniles, the governing body of the Interstate Compact for Juveniles, through means of joint and cooperative action among the compacting states, preserves child welfare and promotes public safety interests of citizens, including victims of juvenile offenders. With a focus on racial justice, the Commission provides enhanced accountability, enforcement, visibility, and communication in the return of juveniles who have left their state of residence without permission and in the cooperative supervision of delinquent juveniles who travel or relocate across state lines.”

There were four days of virtual meetings, lasting approximately four or five hours, each day, 10-4-2021 through 10-7-2021. I experienced no technological difficulties with the virtual meetings, throughout the entire process. All aspects of the ABM seemed to go smoothly. The keynote speakers focused on encouraging everyone to maintain personal integrity, self-care, and to pursue racial justice and racial equality in all aspects of our endeavors.

Highlights from my notes are as follows:

- The temporary suspension of rules enforcement ended 10-08-2021.
- A new software package known as Tableau will be put into use, to work with the UNITY system, for reporting and planning purposes.
- New software training modules will be introduced to assist individuals in learning how to use Tableau.
- 4,860 individuals were involved in the online UNITY training modules.
- All of the rules proposals passed, except for the rule proposal concerning ICJ Rule 8-101 -Travel Permits.
- The ICJ Commission has a budget surplus, on hand, of \$1,900,000.00, currently, and that is growing at 5.5%, in an investment fund.
- The emphasis for the upcoming year will be to focus upon racial justice and racial equality in all aspects involving ICJ.

## **Annual Business Meeting Committee Reporting Highlights**

- *Executive* – The committee is focusing on improving data systems for better outcomes, promoting member engagement & leadership development, addressing gaps in rules & resources, and leveraging relationships to promote awareness & improve outcomes. In May 2021, the national ICJ office launched UNITY to more than 4,500 users nationwide, for sending information back-and-forth, securely, among the states - replacing the JIDS system. Compliance with rules was (temporarily) suspended, due to the effects of the COVID-19, until 10-8-2021.
- *Finance* - Due to careful fiscal management, the Commission finished FY2021 within the planned budget of \$1,402,000. The Commission's investment accounts grew by 5.5% in FY2021 with the end of the year balance of 1,918,421.
- *Information Technology* - The Information Technology Committee provided countless hours of time and expertise throughout the months leading up to the roll out of UNITY in May 2021 and continued to provide technical support and practitioner wisdom as the ICJ acclimates to UNITY.
- *Legal Counsel* - Judicial training and Compact Administrator training concerning the legal aspects of the Compact and its administrative rules is also being addressed, in part, by the General Counsel's office under the auspices of the ICJ Executive, Rules, and Training Committees. Legal Counsel was also involved in the review of ICJ Bench Book and related resources due to the transition from JIDS to UNITY, as needed.
- *Training* - The Training Committee members presented numerous training sessions related to UNITY, both before and after the transition from JIDS to UNITY.
- *Compliance* - The Executive Committee approved the 2020 State Council Report on March 18, 2021. As of March 1, 2021, all 52 member states/territories had submitted their 2020 State Council Reports. As of that date, 44 states reported fully formed state councils and only three (3) states had no State Council. Seven (7) states did not meet in 2020, ten (10) of which cited COVID-19 as a barrier, and 19 states reported at least one membership vacancy.

Letters were sent to the governor's office of the states without a council, to request assistance with the formation of a council in accordance with ICJ Article IX; Rule 2-107 and Administrative Policy #01-2011. In addition, the committee agreed to offer Training and Technical Assistance to states that reported no state council or a partially formed state council, which had not met in the last six (6) years. Additionally, letters advising of the committee's decision to take no punitive action were sent to states that had a state council that did not meet in 2020.

- *Rules* - Based on the date of the 2021 Annual Business Meeting (ABM), the Rules Committee further developed a calendar with deadlines for rule proposal submissions, review, posting for public comment, etc. The Rules Committee then reviewed the comments provided after posting and made additional changes to the proposals for clarity. It cannot be stressed enough that comments made by member state staff and Commission members is invaluable to providing sound rule proposals.
- *Racial Justice Ad Hoc* - The Racial Justice Ad Hoc committee has been established to examine and support juvenile justice systems throughout the nation in an effort to eliminate both explicit and implicit bias and to minimize inequities in the work the Commission is empowered to conduct. The committee's stated purpose is to analyze data regarding ICJ operations, as well as ICJ Rules, policies, and resources and to make specific recommendations for change to the Commission aimed at promoting racial equity.

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<b>ICJ Advisory Opinion</b> <b>Issued by:</b> <b>Executive Director: MaryLee Underwood</b> <b>Chief Legal Counsel: Richard L. Masters</b>			
<b>Description:</b> Does the prohibition against communication between ICJ member states as provided in ICJ Rule 2-104 forbid all communication between a supervised juvenile and prior case workers in the sending state once supervision is accepted?		<b>Dated:</b> August 19, 2021	

**Background:**

Pursuant to Commission Rule 9-101(3), the ICJ Executive Committee has requested an advisory opinion regarding the requirements of the Compact and ICJ Rules on the following issue.

**Issues:**

The Commonwealth of Kentucky ICJ Office has asked whether the prohibition against communication between ICJ member states as provided in ICJ Rule 2-104 forbids all communication between a supervised juvenile and prior case workers in the sending state once supervision is accepted.

As described by Kentucky’s ICJ Commissioner, “Once a transfer of supervision is accepted (home evaluation approved) by the Receiving State, Kentucky locals are not permitted to communicate with the youth/family directly and/or provide supervision. The receiving state assumes the duties of supervision over the juvenile and the youth is governed by the same standards of supervision that prevails for its own juveniles per Rule 5-101-1.”

Kentucky also contends, “this is not the standard practice for all ICJ offices/states. There are locals of sending states that continue to communicate with youth/families and/or supervise.” Kentucky further states that “when this occurs it is difficult for all parties involved and that many times wrong information is . . . given, workers are played against each other from both states and supervision can fail.” Kentucky interprets the rule to mean that all communication needs to go through the ICJ offices and that no local to family/youth communication should occur from the sending state once transfer of supervision is accepted.

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**Applicable Compact Provisions and Rules:**

Article I. A. of the Interstate Compact for Juveniles (“ICJ”) provides:

“It is the purpose of this compact, through means of joint and cooperative action among the compacting states to:

(A) ensure that the adjudicated juveniles and status offenders subject to this compact are provided adequate supervision and services in the receiving state as ordered by the adjudicating judge or parole authority in the sending state.”

ICJ Rule 2-104: *Communication Requirements Between States* provides:

1. All communications between states, whether verbal or written, on ICJ issues shall be transmitted between the respective ICJ Offices.
2. Communication may occur between local jurisdictions with the prior approval of the ICJ Offices in both states. A summary of communication shall be provided to the ICJ Office and documented in the electronic data system.
3. Communication regarding ICJ business shall respect the confidentiality rules of sending and receiving states.

ICJ Rule 5-101(3) and (4) provide:

3. Both the sending and receiving states shall have the authority to enforce terms of probation/parole, which may include the imposition of sanctions. Any costs incurred from any enforcement sanctions shall be the responsibility of the state seeking to impose such sanctions.
4. The receiving state shall furnish written progress reports to the sending state on no less than a quarterly basis. Additional reports shall be sent in cases where there are concerns regarding the juvenile or there has been a change in residence.

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**Analysis and Conclusions:**

The literal language of Rule 2-104 1 requires that “**all communications between states, whether verbal or written, on ICJ issues shall be transmitted between the respective ICJ Offices**” (**emphasis supplied**). While this language does not specifically refer to local case workers nor does it mention the family or the supervised juvenile whom is the subject of supervision, this provision broadly refers to “**all communications between states whether verbal or written**” and clearly identifies “ICJ issues” as the subject matter of such communications between respective ICJ offices.

The interpretation of statutes or administrative rules in “a holistic endeavor. “ A provision that may seem ambiguous in isolation is often clarified by the remainder of the statutory (or regulatory) scheme because the same terminology is used elsewhere in a context that makes its meaning clear, or because only one of the permissible meanings produces a substantive effect that is compatible with the rest of the law.” *United Savings Ass’n v. Timbers of Inwood Forest Associates*, 484 U.S. 365, 371 (1988) (citations omitted).

Reading the above subsections of the ICJ rules together suggests that the intent of ICJ Rule 2-104, as a whole, is to prevent ICJ administrative personnel in sending states from interfering with the supervision of the juvenile who is transferred to a receiving state. However, it is equally clear from the remaining provisions of ICJ Rule 2-104 that it is not the purpose of the rule to prevent any communications whatsoever from occurring concerning the juvenile but simply to ensure that both states are aware of and approve of the communication. See ICJ Rule 2-104 2. Once supervision has been transferred, while agreed upon communications concerning the juvenile are not forbidden, communications with the family members by sending state officials are generally not warranted.

While the receiving state is clearly responsible for supervision of a juvenile once the transfer process is complete, the ICJ Rules also contemplate that continued supervision under the ICJ is anticipated to be a cooperative process in which both the sending and receiving states continue to both communicate and work together in the supervision process. For example, under ICJ Rule 5-101(3), “both the sending and receiving states shall have the authority to enforce terms of probation/parole, which may include the imposition of sanctions.” Moreover, under Rule 5-101(4), the receiving state is responsible for furnishing “written progress reports to the sending

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state on no less than a quarterly basis” and additional reports “shall be sent in cases where there are concerns regarding the juvenile or there has been a change in residence.

A supervised juvenile’s caseworker, whether in the sending or receiving state, is likely to be one of the most stable and knowledgeable individuals in the life of a delinquent juvenile, who needs emotional support affirmation and encouragement which should be appropriately communicated to the supervised juvenile and can be a powerful motivating tool. When properly managed, such communications support one of the primary purposes of ICJ as expressed in Art. I, A. “It is the purpose of this compact, **through means of joint and cooperative action among the compacting states to: (A) ensure that the adjudicated juveniles and status offenders subject to this compact are provided adequate supervision and services in the receiving state as ordered by the adjudicating judge or parole authority in the sending state.**”

### Summary

Based upon a consideration of the context of the above ICJ rules, the purpose of ICJ Rule 2-104 is not to prevent communication between sending and receiving states after the transfer of supervision occurs, but only to require that such communications be managed in an orderly manner with the knowledge and consent of both states involved in the supervision process.