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<p align="center"> ICJ Advisory Opinion Issued by: Executive Director: Ashley H. Lippert Chief Legal Counsel: Richard L. Masters </p>			
Description: Detention and supervision fees associated with new charges		Dated: April 10, 2012	

Background:

Pursuant to Commission Rule 8-101(3), the state of Idaho has requested an advisory opinion regarding the requirements of the Compact and ICJ Rules on the following issues:

Issues:

If a juvenile is arrested on a new offense in a state other than the juvenile’s home state, could the holding state’s detention center bill the juvenile’s family with detention fees while the new charge is going through the court process?

At what point would the hold on the new charge end, and the ICJ hold begin? Would it be the responsibility of the holding state to notify the home state of when the new charges were settled and the ICJ process had begun?

Could a holding state ever bill the home state for the cost of detention fees? Some states statutorily are not allowed to pay for detention time in another state.

Applicable Compact Provisions and Rules:

Article I, (F) of the Interstate Compact for Juveniles states in relevant part:

“It is the purpose of this compact, through means of joint and cooperative action among the compacting states to: . . . (F) equitably allocate the costs, benefits and obligations of the compacting states;”

Rule 1-101 “Supervision” means:

“the oversight exercised by authorities of a sending or receiving state over a juvenile for a period of time determined by a court or appropriate authority, during which time the juvenile is required to report to or be monitored by appropriate authorities, and to comply with regulations and conditions, other than monetary conditions, imposed on the juvenile.”

Rule 4-104 (4) provides:

“Neither sending states nor receiving states shall impose a supervision fee on any juvenile who is supervised under the provisions of the ICJ.”

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Rule 6-109 (2) provides:

“The holding state shall not be reimbursed for detaining juveniles under the provisions of the ICJ unless the home/demanding state fails to effect the return of its juveniles within the time period set forth in paragraph one (1) of this rule.”

Analysis and Conclusions:

The primary and controlling question asked by the State of Idaho is whether or not a holding state, in which a juvenile arrested on a new offense in a state other than the juvenile’s home state is detained, could impose detention fees upon the juvenile’s family for costs incurred in the detention of such juvenile while the new charge proceeds through the court process?

ICJ Rule 4-104 (4) currently prohibits the imposition of a “supervision fee on any juvenile who is supervised under the provisions of the ICJ.” The term ‘**supervision**’ is broadly defined in ICJ Rule 1-101 as “*the oversight exercised by authorities of a sending or receiving state over a juvenile for a period of time determined by a court or appropriate authority, during which time the juvenile is required to report to or be monitored by appropriate authorities, and to comply with regulations and conditions, other than monetary conditions, imposed on the juvenile.*” While the term ‘fee’ is not defined by the Compact, the plain meaning of the term is ‘*a charge or payment for a professional service*’ or ‘*a privilege*’ or ‘*allowed by law for the service of a public officer.*’ See Random House Dictionary of the English Language, 2nd ed. 1987).

As the Supreme Court has explained concerning the proper approach to interpretation of statutes or related regulations, “Our first step in interpreting a statute is to determine whether the language at issue has a plain and unambiguous meaning ... [o]ur inquiry must cease if the statutory language is unambiguous and the statutory scheme is coherent and consistent.” *Robinson v. Shell Oil Co.*, 519 U.S. 337, 340, 117 S.Ct. 843, 136 L.Ed.2d 808 (internal quotation marks omitted). “[W]hen the statute’s language is plain, the sole function of the courts—at least where the disposition required by the text is not absurd—is to enforce it according to its terms.” *Lamie v. U.S. Trustee*, 540 U.S. 526, 534, 124 S.Ct. 1023, 157 L.Ed.2d 1024 (2004) (internal quotation marks omitted). Unless otherwise defined, we give words in a statute their ordinary, contemporary, meaning. See *Perrin v. United States*, 444 U.S. 37, 42, 100 S.Ct. 311, 62 L.Ed.2d 199 (1979). Interpreting the terms supervision fee against the framework of these principles, it is apparent that a detention fee would certainly fall within the broad definition of these terms which encompass any fees related to the oversight exercised over a juvenile who

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is under ICJ supervision ‘during which time the juvenile is required to report to or be monitored by appropriate authorities.’

Article I (F) of the ICJ allows costs related to carrying out the purposes of the Compact to be equitably allocated among the member states. Thus, while the Commission appears to have the statutory authority under Article I of the Compact to include supervision fees as part of those costs, ICJ Rule 4-104 (4) clearly reflects that the Commission has not seen fit to do so.

Because the current ICJ Rules appear to preclude detention fees from being imposed upon a juvenile or reimbursed except when there is a ‘failure to effect the return of a juvenile’ and no other charges are pending, the questions raised by Idaho concerning the point at which the detention on the new charge ends, and the ‘ICJ detention’ begins or whether or not it would be the responsibility of the holding state to notify the home state of when the new charges were settled and the ICJ process had begun are moot. However, should the Commission ever decide to amend the provisions of the ICJ Rules to allow such fees, these questions certainly appear to be appropriate areas of inquiry and might necessarily result in appropriate provisions which should be incorporated into any such amendment(s).

Idaho also asks whether a holding state could ever impose detention fees upon the home state, and asserts that some states are statutorily precluded from payment for detention time in another state. Under the above analysis, while ICJ Rule 4-104 (4) only deals with imposition of supervision fees upon ‘a juvenile,’ the existence of statutory prohibitions in at least some Compact member states suggests that further research into the nature and extent of such prohibitions, and the number of states in which they exist, would be advisable before attempting to impose such a fee upon the home state. ***It should also be noted that the provisions of ICJ 6-109 (2) allow a holding state to be reimbursed for detention if the home/demanding state “fails to effect the return of its juvenile” within five (5) business days after confirmed notice that due process rights have been met. However, it is clear that this rule cannot be applied while pending charges exist in the holding state. In fact ICJ Rule 6-107 prohibits the return of such juveniles until pending charges are resolved, unless the holding state consents to the return.***

Summary:

In sum, while the Commission appears to have the statutory authority under Article I of the Compact to include supervision fees as part of those costs, ICJ Rule 4-104 (4) clearly reflects that the Commission has not seen fit to do so. Because the current ICJ Rules appear to preclude detention fees, other related questions concerning imposition of such fees upon a juvenile are

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moot. Although ICJ Rule 4-104 (4) only deals with imposition of supervision fees upon ‘a juvenile,’ statutory prohibitions against such fees caution against attempting to impose such a fee upon the home state in the absence of further research into the nature and extent of such prohibitions and the number of states in which they exist. ***Further, the provisions of ICJ 6-109 (2) allow a holding state to be reimbursed for detention if the home/demanding state “fails to effect the return of its juvenile” within five (5) business days after confirmed notice that due process rights have been met. However, it is clear that this rule cannot be applied while pending charges exist in the holding state. In fact ICJ Rule 6-107 prohibits the return of such juveniles until pending charges are resolved, unless the holding state consents to the return.***