	Interstate Commission for Juveniles	Opinion Number: 02-2015	Page Number: 1
<p style="text-align: center;">ICJ Advisory Opinion Issued by: Executive Director: Ashley H. Lippert Chief Legal Counsel: Richard L. Masters</p>			
Description: Signatures on the IA/VI Form		Dated: August 24, 2015	

Background:

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

Issues:

Minnesota is requesting a formal advisory opinion regarding the signatures required on the Form IA/VI Application for Services and Waiver. Frequently Minnesota receives a transfer request where the Form IA/VI is not signed by the Judge, or in the case of parole, the compact official. In these cases, states refuse to provide the signed document until the transfer is approved. It is Minnesota's position the judge or compact official should be signing the document before the request is accepted. In fact, the way the form is written, an investigation should not be submitted prior to the judge or compact official signing the form.


Minnesota's practice has been to conduct the investigation, but not approve the transfer until after the judge signs the document. There have been times the sending state will take several months to get the judge's signature and cases where they refuse to get the signature at all until the case is accepted. In Minnesota's experience, the juvenile is already in our state and when we deny the transfer, they leave the juvenile in Minnesota anyway.

In a recent case, the sending state refused to provide the signed Form IA/VI so when the reply was due Minnesota denied the request because the Form IA/VI was not signed by the judge. The sending state allowed the denial to sit in JIDS without being processed for over a month. Eventually, the sending state did put the Form IA/VI with the judge's signature in JIDS and sent a Form V activating the case even though Minnesota had denied the request. As a result, the juvenile was in Minnesota for several months while waiting for the judge's signature and during that time was not being supervised.

The following are the issues Minnesota is asking be addressed:

1. Based on the language on the Form, should the request even be sent without the required signature of the judge or compact official allowing the juvenile to make the request?
2. If the investigation can be sent, should it be investigated without the judges or compact official's signature?
3. Should it be accepted without the signature of the judge or compact official?
4. What happens if the case is accepted and the signature is never obtained?

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	Interstate Commission for Juveniles	Opinion Number: 02-2015	Page Number: 2
ICJ Advisory Opinion Issued by: Executive Director: Ashley H. Lippert Chief Legal Counsel: Richard L. Masters			
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5. If the signature is not necessary for the transfer to be investigated or approved, why is the signature required on the form, could that create a legal challenge?

Applicable Compact Provisions and Rules:

“RULE 4-101: Eligibility Requirements for the Transfer of Supervision

...

2. No state shall permit a juvenile who is eligible for transfer under this compact to relocate to another state except as provided by the Compact and these rules.”


“RULE 4-102: Sending and Receiving Referrals

Each ICJ Office shall forward all its cases within five (5) business days of receipt. Each ICJ Office shall adhere to the following screening process when sending and receiving referrals. Supervision shall not be provided without written approval from the receiving state’s ICJ Office. The sending state shall maintain responsibility until supervision is accepted by the receiving state.

1. Each ICJ Office shall develop policies/procedures on how to handle ICJ matters within their state.
2. Each ICJ Office shall ensure all requests and coordination for ICJ supervision are between ICJ Offices.
3. The ICJ Office in the sending state shall comply with the rules listed below:
 - a. State Committed (Parole) Cases – The ICJ Office in the sending state shall ensure the following referral documents are complete and forwarded to the receiving state forty five (45) calendar days prior to the juvenile’s anticipated arrival: Form IV, Form IA/VI and Order of Commitment. . .”
 - b. Probation Cases – The ICJ Office in the sending state shall ensure the following referral documents are complete and forwarded to the receiving state within five (5) business days of receipt: Form IV, Form IA/VI, Order of Adjudication and Disposition, Conditions of Probation and Petition and/or Arrest Report(s).

Analysis and Conclusions:

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	Interstate Commission for Juveniles	Opinion Number: 02-2015	Page Number: 3
ICJ Advisory Opinion Issued by: Executive Director: Ashley H. Lippert Chief Legal Counsel: Richard L. Masters			
Description: Signatures on the IA/VI Form		Dated: August 24, 2015	

Minnesota asks several questions which all ultimately can be reduced to a central issue, namely whether a request for transfer of supervision of an eligible juvenile under the compact can permissibly be processed without the signature of the ‘sentencing’ judge or compact official? An examination of the ICJ rules reveals that the unambiguous language of ICJ Rule 4-102, 3 a and b leave no question that in both parole and probation cases, the ICJ Office in the sending state **shall ensure that referral documents, including the Form IA/VI, are “complete and forwarded to the receiving state.”**(emphasis supplied).


Since the term “complete” is not defined in either the provisions of the Compact or ICJ rules, recourse to the dictionary is all that is necessary in order to determine the plain meaning of the word, which is, “having all the necessary or appropriate parts, elements, or steps.” (Webster’s Dictionary 2015). Without question, Form IA/VI requires the signature of a judge or compact official in order to be “complete.”

The above language of ICJ Rule 4-102 is “plain and unambiguous” in its mandatory obligation placed upon the sending state to “ensure” that Form IA/VI is “complete and forwarded to the receiving state.” Moreover, ICJ Rule 4-102 forbids any state from permitting a “juvenile who is eligible for transfer under this compact to relocate to another state except as provided by the Compact and these rules.” As the U.S. Supreme Court has made clear, “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.” See *Robinson v. Shell Oil Co.*, 519 U.S. 337, 340 (1997). The above language of ICJ Rule 4-102 is “plain and unambiguous” in its mandatory obligation placed upon the sending state to “ensure” that Form IA/VI is “complete and forwarded to the receiving state.” Moreover, ICJ Rule 4-102 forbids any state from permitting a “juvenile who is eligible for transfer under this compact to relocate to another state except as provided by the Compact and these rules.” Thus, based on the literal language of ICJ Rule 4-102, the sending state is required to obtain the signature of the judge or Compact official in order to comply with this rule. The receiving state has no authority to accept or supervise a case until permission is given by either the court of competent jurisdiction or Compact official by means of signing the Form IA/VI.

Summary:

Based on the literal language of ICJ Rule 4-102, the sending state is required to obtain the signature of the judge or Compact official in order to comply with this rule. The receiving state

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 Interstate Commission for Juveniles	Opinion Number: 02-2015	Page Number: 4
ICJ Advisory Opinion Issued by: Executive Director: Ashley H. Lippert Chief Legal Counsel: Richard L. Masters		
Description: Signatures on the IA/VI Form	Dated: August 24, 2015	

has no authority to accept or supervise a case until permission is given by the court of jurisdiction or Compact official through the signing of the Form IA/VI.

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