

	Interstate Commission for Juveniles	Opinion Number: 02-2017	Page Number: 1
<p align="center">ICJ Advisory Opinion</p> <p align="center">Issued by: Executive Director: MaryLee Underwood Chief Legal Counsel: Richard L. Masters</p>			
Description: Out-of-State Juvenile Sentenced to Incarceration		Dated: October 6, 2017	

Background:

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

Issues:

Arizona is requesting a formal advisory opinion regarding whether a juvenile who has been adjudicated delinquent and sentenced to a period of confinement in Iowa may be placed in an Arizona secured facility to serve a court-ordered term of incarceration, with costs to be paid by the State of Iowa.

Applicable Compact Provisions and Rules:

Article I of the Compact, in relevant parts, states:

“The compacting states to the Interstate Compact recognize that each state is responsible for the proper supervision or return of juveniles, delinquents and status offenders who are on probation or parole and who have absconded, escaped or run away from supervision and control and in so doing have endangered their own safety and the safety of others.”

Article I of the Compact further states:

“It is the purpose of this compact, through means of joint and cooperative action among the contracting states to: ... (D) Make contracts for the cooperative institutionalization in public facilities in member states for delinquent youth needing special services; (E) provide for the effective tracking and supervision of juveniles.”

Rule 4-101 (1) states:

“Each state that is a party to the ICJ shall process all referrals involving juveniles, for whom services have been requested, provided those juveniles are under juvenile jurisdiction in the sending state.”

Rule 4-101(2) , in relevant parts, states:

“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. A juvenile shall be eligible for transfer under ICJ if the following conditions are met:

...

- f. i. will reside with a legal guardian, relative, non-relative or independently, excluding residential facilities; or

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- ii. is a full time student at an accredited secondary school, or accredited university, college, or licensed specialized training program and can provide proof of acceptance and enrollment.

Rule 4-101 (5) states:

“A juvenile who is not eligible for transfer under this Compact is not subject to these rules.”

Analysis and Conclusions:

The applicability of the Compact is clearly limited to the “proper supervision or return of juveniles, delinquents, and status offenders who are on probation or parole . . .” and juveniles “who have absconded, escaped or run away from supervision and control.” Because this juvenile was already sentenced and will be transferred to serve a period of confinement in a secure detention facility, the juvenile does not qualify as a “juvenile under juvenile jurisdiction in the sending state,” as required by Article I of the Compact and ICJ Rule 4-101(1). Furthermore, juvenile is not eligible for transfer because the conditions described in ICJ Rule 4-101(2)(f) are not met. Therefore, pursuant to ICJ Rule 4-101(5), the juvenile is not subject to ICJ Rules.

However, it is noteworthy that Article I of the Compact also provides that one of the ICJ's purposes is to authorize “joint and cooperative action among the compacting states to: . . . (D) make contracts for the cooperative institutionalization in public facilities in member states for delinquent youth needing special services . . .” Standing alone, this provision is arguably broad enough to embrace the above situation.

Nonetheless, as was the case with the facility described in ICJ Advisory Opinion 03-2014, the current ICJ Rules do not contemplate the logistical implications which such a group of juveniles would entail. Furthermore, pursuant to ICJ Rule 4-101 (5), “A juvenile who is not eligible for transfer under this Compact is not subject to these rules.” Therefore, while the ICJ does not prohibit the arrangement described above, it does not apply to such juveniles because of the nature of their status as ‘incarcerated.’

Summary:

The ICJ does not prohibit a juvenile who has been adjudicated delinquent and sentenced to a period of confinement in Iowa from being placed in out-of-state correctional facilities in Arizona to serve a court ordered term of incarceration. However, the ICJ does not apply to such juveniles because their status as ‘incarcerated’ means they are not subject to the ICJ.