

	<b>Interstate Commission for Juveniles</b>	<b>Opinion Number: 04-2014</b>	<b>Page Number: 1</b>
<b>ICJ Advisory Opinion</b> <b>Issued by:</b> <b>Executive Director: Ashley H. Lippert</b> <b>Chief Legal Counsel: Richard L. Masters</b>			
<b>Description:</b> ICJ authority in cases where approval of supervision may violate court orders		<b>Dated:</b> December 11, 2014  <b>Revised:</b> March 14, 2018 <sup>1</sup>	

**Background:**

Pursuant to Commission Rule 9-101(3)<sup>1</sup>, a West Region subgroup, consisting of Idaho, Montana, Nevada, and Oregon, is requesting an advisory opinion regarding the requirements of the Compact and ICJ Rules on the following issue:

**Issue:**

The ICJ Rules require a receiving state to sign off as approving or denying supervision on the Form VIII (Home Evaluation Report Form). ICJ Rule 4-104(4) requires a receiving state to accept supervision in all cases where there is a custodial parent/legal guardian residing in the receiving state and no parent/legal guardian remains in the sending state, with no consideration of the legal ramifications for the youth, parent, victim, and receiving state when the resulting transfer of supervision violates the youth’s court orders. The states in this workgroup are unwilling to sign off as approving supervision with a parent/legal guardian that would put the youth in violation of his/her court orders.

The West Region subgroup is requesting a legal opinion on the following:

Under the current rules, can a receiving state legitimately accept supervision when the intended transfer of supervision violates no contact orders or other court ordered conditions of supervision?

**Applicable Compact Provisions and Rules:**

Article I of the ICJ provides, in relevant part, that:

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; and

---

<sup>1</sup> This Advisory Opinion has been revised to reflect ICJ Rules in effect March 1, 2018. The previously published opinion is available upon request from [ICJadmin@juvenilecompact.org](mailto:ICJadmin@juvenilecompact.org).

	<b>Interstate Commission for Juveniles</b>	<b>Opinion Number: 04-2014</b>	<b>Page Number: 2</b>
<b>ICJ Advisory Opinion</b> <b>Issued by:</b> <b>Executive Director: Ashley H. Lippert</b> <b>Chief Legal Counsel: Richard L. Masters</b>			
<b>Description:</b> ICJ authority in cases where approval of supervision may violate court orders		<b>Dated:</b> December 11, 2014  <b>Revised:</b> March 14, 2018 <sup>1</sup>	

(B) ensure that the public safety interests of the citizens, including the victims of juvenile offenders, in both the sending and receiving states are adequately protected;

ICJ Rule 1-101 in relevant part provides as follows:

Supervision: 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.

ICJ Rule 4-104(4) provides as follows:

Supervision may be denied when the home evaluation reveals that the proposed residence is unsuitable or that the juvenile is not in substantial compliance with the terms and conditions of supervision required by the sending or receiving state, except when a juvenile has no legal guardian remaining in the sending state and the juvenile does have a legal guardian residing in the receiving state.

**Analysis and Conclusions:**

The West Region subgroup is understandably concerned about the potential for endangering the safety of a victim if a juvenile delinquent is transferred from a sending state to a receiving state when no custodial parent or legal guardian resides in the sending state, but such a parent or guardian does reside in the receiving state. Admittedly, there could be situations in which a supervision transfer violates existing ‘no contact’ orders or other legal requirements involving a previous victim, such as a sibling or other family member. However, ICJ Rule 4-104(4) also recognizes the rights of a custodial parent or legal guardian, which must be considered in the determination of whether or not a proposed transfer of supervision is suitable or legally authorized.

The question posed directly addresses a possible dichotomy created by the language of the existing provisions of ICJ Rule 4-101(4). Can a receiving state legitimately accept supervision when the intended residence violates ‘no contact orders’ or other court ordered conditions of

	<b>Interstate Commission for Juveniles</b>	<b>Opinion Number: 04-2014</b>	<b>Page Number: 3</b>
<b>ICJ Advisory Opinion</b> <b>Issued by:</b> <b>Executive Director: Ashley H. Lippert</b> <b>Chief Legal Counsel: Richard L. Masters</b>			
<b>Description:</b> ICJ authority in cases where approval of supervision may violate court orders	<b>Dated:</b> December 11, 2014  <b>Revised:</b> March 14, 2018 <sup>1</sup>		

supervision? Clearly, neither the provisions of the ICJ, nor the ICJ Rules contemplate, or should be interpreted to allow such a result.

Article I of the ICJ provides in Sections A and B that:

“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; and
- (B) ensure that the public safety interests of the citizens, including the victims of juvenile offenders, in both the sending and receiving states are adequately protected;”

Moreover, ICJ Rule 1-101 clearly defines “Supervision” to mean the oversight exercised by the authorities of the sending and receiving states, during which time the juvenile is required to report or be monitored by appropriate authorities **and to comply with regulations and conditions as determined by a court or appropriate authority (emphasis supplied).**

Based upon the plain meaning of both the above referenced provisions of the ICJ and the ICJ Rules, it is clear that a receiving state is not authorized to violate court ordered conditions of supervision. Article I (A) of the Compact expressly requires that compact officials “ensure that the adjudicated juveniles and status offenders subject to this compact are provided adequate supervision . . . in the receiving state **as ordered by the adjudicating judge or parole authority in the sending state” (emphasis supplied).** 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 (1997) (*internal quotation marks omitted*).

It is equally clear that under Article I (B) of the Compact, officials in Compact Member States are also unequivocally required to “**adequately protect**” the public safety interests of the citizens, “**including the victims of juvenile offenders.**” (**emphasis supplied**). **It is axiomatic**

	<b>Interstate Commission for Juveniles</b>	<b>Opinion Number: 04-2014</b>	<b>Page Number: 4</b>
<b>ICJ Advisory Opinion</b> <b>Issued by:</b> <b>Executive Director: Ashley H. Lippert</b> <b>Chief Legal Counsel: Richard L. Masters</b>			
<b>Description:</b> ICJ authority in cases where approval of supervision may violate court orders		<b>Dated:</b> December 11, 2014  <b>Revised:</b> March 14, 2018 <sup>1</sup>	

that administrative rules, such as the above ICJ Rule, promulgated by an administrative agency, such as the Interstate Commission for Juveniles, cannot exceed the delegated authority granted to it by the statute. See *Federal Power Commission v. Texaco, Inc.*, 417 U.S. 380, 394 (1974) (“It, [the applicable statute], does not authorize the Commission to set at naught an explicit provision of the Act.”) *Id.* at p. 394.

**Summary:**

In summary, based upon the terms of the Compact, the above referenced Compact provisions, ICJ Rules and the legal authorities cited herein, that ICJ Rule 4-104(4) does not authorize a receiving state to violate ‘no contact’ orders or other court ordered conditions of the adjudicating judge or parole authority in the sending state.