	Interstate Commission for Juveniles	Opinion Number: 04-2019	Page Number: 1
ICJ Advisory Opinion Issued by: Executive Director: MaryLee Underwood Chief Legal Counsel: Richard L. Masters		Dated: September 9, 2019	
Description: Is the use of an outdated Form VI a legitimate basis for the receiving state to treat the referral of a supervision case as an incomplete referral?		Revised: May 19, 2021 ¹	

Background:

Pursuant to ICJ Rule 9-101(3), the State of California has requested an advisory opinion concerning the following issue:

Issues:

California received a Request for Transfer of Supervision from the state of Delaware. The case packet was placed in JIDS on 12/18/18 and included a signed Form VI dated 10/1/18. The Form VI used was out dated. It is not the updated version of the form that was approved by the Commission and implemented in the Spring of 2018.

After the case was sent to California, the juvenile moved from the jurisdiction listed on the initial Form VI to a different jurisdiction within the state of California. The section on the initial Form VI that listed the placement information was “whited out,” and the new placement was written in. This form was then scanned and uploaded in JIDS by the sending state. Thus, the question about which an advisory opinion is being sought is:

Is the use of an outdated Form VI a legitimate basis for the receiving state to treat the referral of a supervision case as an incomplete referral?

Applicable Compact Provisions and Rules:


ICJ Rule 4-102 (2)(b) provides as follows:

“The sending state shall ensure the following referral is complete and forwarded to the receiving state. Form IV Parole or Probation Investigation Request, Form VI Application for Services and Waiver, Order of Adjudication and Disposition, Conditions of Probation and Petition and/or Arrest Report(s).”

Analysis and Conclusions:

The literal language of ICJ Rule 4-102 (2)(b) requires that “The sending state shall ensure the following referral is complete and forwarded to the receiving state.”

¹ This Advisory Opinion has been revised to reflect the changes to ICJ Forms effective May 2021.

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An outdated Form VI which does not include the amended language concerning the rights of the juvenile and waiver of those rights is a legitimate basis for not accepting the referral because it is arguably incomplete pursuant to the provisions of ICJ Rule 4-102 (2)(b). While the rule in question stops short of requiring that a referral be rejected based solely on the use of an outdated form, the revisions to Form VI include material provisions which directly relate to the due process rights of juveniles being transferred under the ICJ. Furthermore, in this case, the ‘whited out’ entry on the form clearly raises questions about both the authenticity and legitimacy of the form. The totality of the circumstances here, including the use of the outdated form, are clearly sufficient under ICJ Rule 4-102 (2)(b) for the referral to be rejected.

Summary:

While ICJ Rule 4-102 (2) (b) does not require that a referral be rejected solely on the basis of the fact that the Form VI was out of date, the operative nature of the above referenced ICJ Rules require the sending state to ensure that the referral is complete and forwarded to the receiving state. That affirmative obligation coupled with clear indications that the document was tampered with after being approved by the Court and the nature of the information omitted from the form based on the fact it is outdated, taken together are sufficient to justify the refusal to accept the referral under these circumstances.

¹ This Advisory Opinion has been revised to reflect the changes to ICJ Forms effective May 2021.