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<p style="text-align: center;">ICJ Advisory Opinion Issued by: Executive Director: Ashley H. Lippert Chief Legal Counsel: Richard L. Masters</p>			
Description: ICJ authority to conduct records checks for another state on juveniles not subject to ICJ.		Dated: February 24, 2015	

Background:

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

Issues:

ICJ member states are receiving occasional requests to conduct records checks on juveniles not currently involved in the ICJ process, but as a matter of courtesy. This has caused members of the ICJ Executive Committee, who have become aware of this practice, to pose a number of concerns related to the legal authority to conduct such records checks.

Applicable Compact Provisions and Rules:

ICJ Article I, § J.

ICJ Article I, § J. provides that:


“It is the purpose of this Compact, through means of joint and cooperative action among the Compacting states to: . . . (J) establish a system of uniform data collection **of information pertaining to juveniles subject to this Compact** that allows access by authorized juvenile justice and criminal justice officials;” (emphasis supplied).

ICJ Statute Article III, § K.

ICJ Article I, § K. provides that:

“**The Interstate Commission shall collect standardized data concerning the interstate movement of juveniles as directed through its rules which shall specify the data to be collected, the means of collection and data exchange reporting requirements.** Such methods of data collection, exchange and reporting shall insofar as is reasonably possible conform to up-to-date technology and coordinate its information functions with the appropriate repository of records.” (emphasis supplied).

ICJ RULE 2-102: Data Collection

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ICJ Rule 2-102-1. provides as follows:


“1. As required by Article III (K) of the Compact, member states shall gather, maintain and report data regarding the interstate movement of juveniles who are supervised under this Compact and the return of juveniles who have absconded, escaped or fled to avoid prosecution or run away.”

Analysis and Conclusions:

The above referenced provisions of the ICJ Compact Statute and ICJ Rules, clearly evince an intent to provide authority to the ICJ member states to collect, maintain, report, and exchange data ‘concerning’ or ‘pertaining’ to the “interstate movement of juveniles who are ‘subject to’ and ‘supervised under this Compact.’” These provisions further permit such data to be collected and exchanged with regard to “the return of juveniles who have absconded, escaped or fled to avoid prosecution or run away.” See ICJ Art. III, §K and ICJ Rule 2-102-1.

Both the foregoing provisions of the ICJ and the ICJ Rules require the Compact member states to implement the law enforcement and public protection aspects of the Compact through “a system of uniform data collection,” (See Article I, §J) and shall be by means of, “[S]uch methods of data collection, exchange and reporting shall insofar as is reasonably possible conform to up-to-date technology and coordinate its information functions with the appropriate repository of records,” (See Article III, §K).

Consistent with these requirements, the Commission has developed the Juvenile Interstate Data System (JIDS), as referenced above. Because of the sensitive nature of this information, as was previously pointed out in ICJ Advisory Opinion 1-2014, the JIDS ‘application,’ as set forth in JIDS’ Security documentation, “. . . is an electronic workflow system that facilitates state-to-state transfers, returns and travel for juveniles.” Access to the system is required through a “secure web portal provides automation to paper-based processes and creates accountability through all steps in the process. InStream maintains Advanced Encryption Standards defined by the National Institute of Standards and Technology (NIST) for content storage and transmission.” (See ICJ Ad. Op. 1-2014 and the JIDS Security Newsletter, attached and incorporated by reference therein). Further, JIDS meets the criteria set forth by NLETS, the interstate justice and public safety network for the exchange of law enforcement, criminal justice, and public safety related information and is furnished through a web service which is

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utilized by the U.S. Department of the Treasury and the U.S. Department of State, among others, which require secure data exchange. Additionally, all information contained in JIDS is encrypted.

It is apparent that while collection and dissemination of data is authorized under the Compact provisions and ICJ Rules, this authority is limited by the terms of the Compact to *“data ‘concerning’ or ‘pertaining’ to the “interstate movement of juveniles who are ‘subject to’ and ‘supervised under this Compact.’”* See ICJ Art. III, §K and ICJ Rule 2-102-1. Additionally, the Commission has, as it is legally obligated to do, engaged in the ‘due diligence’ required to protect this information from both unauthorized access and disclosure by ICJ member states through the establishment and maintenance of the JIDS system as described above.

The information, about which the ICJ Executive Committee is concerned in making this opinion request, is described as “records checks on juveniles not currently involved in the ICJ process, but as a matter of courtesy.” Thus the express language of the foregoing Compact statute provisions in Article I §J and Article III §K as well as Rule 2-102-1 does not appear to authorize the collection or sharing of information concerning the interstate movement of juveniles who are not ‘subject to’ or ‘supervised under’ this Compact. As the U.S. Supreme Court has determined with respect to statutory construction, “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 \(1997\)](#).

Summary:

In sum, the express language of the foregoing Compact Statute provisions in Article I §J and Article III §K, as well as Rule 2-102-1, does not appear to authorize the collection or sharing of information concerning the interstate movement of juveniles who are not ‘subject to’ or ‘supervised under’ this Compact. However, these provisions do not preclude verification of whether a juvenile is subject to the ICJ.