

1591 ICJ GENERAL PROVISIONS, VICTIM NOTIFICATION, AND FORMS

Chapter: **Case Management Standards for CP and JJ Field Services**

Section: **Case Transfers and Interstate Compact**



New Hampshire Division for Children, Youth and Families Policy Manual

Policy Directive: **17-12**

Effective Date: **February 2017**

Scheduled Review Date:

Approved:

A handwritten signature in black ink that reads "Lorraine Bartlett".

Lorraine Bartlett, DCYF Director

Related Statute(s): [RSA 169-A](#), [RSA 169-B](#), and [RSA 169-D](#)

Related Admin Rule(s):

Related Federal Regulation(s):

**Interstate Compact for Juveniles Rules:
2-104; 2-105; 3-101; 3-103; 4-102 (1)**

Related Form(s): [ICJ – Victim Notification Supplement Form](#)

Bridges' Screen(s) and Attachment(s):

The Division for Children, Youth and Families (DCYF) is committed to professionalism in the delivery of juvenile probation and parole services while recognizing its responsibility to adhere to the requirements of the Interstate Compact for Juveniles (ICJ). The ICJ, according to its mission, "is established to fulfill the objectives of the Compact, through means of joint cooperative action among the Compacting states to promote, develop and facilitate a uniform standard that provides for the welfare and protection of youth, victims and the public by governing the Compacting states' transfer of supervision of youth, temporary travel of defined offenders and return of youth who have absconded, escaped, fled to avoid prosecution or run away."

Purpose

This policy outlines the General Provisions and ICJ Form requirements of the Interstate Compact for Juveniles including victim notification provisions. This policy is used in conjunction with all ICJ policies.

Definitions

"DCYF" or the **"Division"** means the Department of Health and Human Services' Division for Children, Youth and Families.

"Demanding State" means the state seeking the return of a juvenile with or without delinquency charges (see: [Interstate Commission for Juveniles](#)) [2016].

"Holding State" means the state where a juvenile is located (see: [Interstate Commission for Juveniles](#)) [2016].

"Home State" means the state where the legal guardian or custodial agency is located (see: [Interstate Commission for Juveniles](#)) [2016].

"Interstate Compact for Juveniles" or **"ICJ"** means the agreement pertaining to the legally authorized transfer of supervision and care, as well as the return of juveniles from one state to another, which has been adopted by all member states that have enacted legislation in substantially the same language. The agreement does not include or provide for the transfer of court jurisdiction from one state to another (see: [Interstate Commission for Juveniles](#)) [2010]. The compact is codified in NH [RSA 169-A](#).

"JIDS" means Juvenile Interstate Data System, which is a web-based system required by the ICJ that facilitates the supervision, transfer, acceptance, tracking, and return of youth from one state to another.

"JJS Staff" means staff employed as a Juvenile Probation and Parole Officer (JPPO), Juvenile Probation and Parole Supervisor (JPPS), or Juvenile Justice Field Administrator.

"New Hampshire Interstate Commission for Juveniles - Deputy Compact Administrator" or **"NH ICJ DCA"** means the Division employee who has been designated to act as liaison for the Interstate Compact for Juveniles.

"Receiving State" means a state to which a youth is sent for supervision under the provision of the ICJ (see: [Interstate Commission for Juveniles](#)) [2010].

"Sending State" means a state which has sent or is in the process of sending a youth to another state for supervision under the ICJ (see: [Interstate Commission for Juveniles](#)) [2010].

Policy

- I. Governor or ICJ State Council appointment.
 - A. The Governor appoints the DCYF Director as the New Hampshire ICJ Commissioner.
 - B. The Governor or ICJ State Council appoints the New Hampshire ICJ Deputy Compact Administrator (NH ICJ DCA).
- II. When applicable to the ICJ, New Hampshire may act as:
 - A. The 'demanding state,' 'home state,' or 'sending state' for youth referred from New Hampshire to another compacting state, or who may have runaway, escaped or absconded from New Hampshire and are picked up in another compacting state; or
 - B. The 'holding state' or 'receiving state' for youth referred to New Hampshire from another compacting state or who have been picked up in New Hampshire as a runaway, escapee or absconder from another compacting state.
- III. When actions are required by New Hampshire as a 'demanding,' 'holding,' 'home,' 'sending,' or 'receiving' state, the NH ICJ DCA or designee, working in conjunction with JJS staff and/or DCYF Administrator, shall share responsibility in accordance with their assigned positions.
 - A. Examples include, but are not limited to:
 1. The NH ICJ DCA or designee forwarding case-related information received from other compacting states to an assigned JJS staff;
 2. JJS staff providing the NH ICJ DCA or designee with referral materials for a youth's supervision transfer from New Hampshire to another compacting state; and
 3. A NH ICJ Commissioner approving a NH ICJ DCA or designee request for a youth's transportation from another compacting state.

- IV. The NH ICJ DCA or designee shall develop policies/procedures on how to handle ICJ matters within NH (4-102 (1)). In addition to this policy, the following policies provide specific ICJ procedures:
- A. [Policy 1592](#) outlines the requirements for out-of-state travel permits;
 - B. [Policy 1593](#) outlines the process for interstate transfer of supervision from New Hampshire;
 - C. [Policy 1594](#) outlines the expectations of supervision in New Hampshire as a receiving state;
 - D. [Policy 1595](#) outlines expectations for circumstances in which a youth absconds or a report needs to be made for non-compliance, failed placement, or retaking;
 - E. [Policy 1596](#) outlines ICJ case closure; and
 - F. [Policy 1597](#) includes less frequently used provisions of the ICJ rules including:
 - 1. Release of non-delinquent runaways;
 - 2. Voluntary return of runaways, probation/parolee absconders, escapees, or accused delinquents, and accused status offenders;
 - 3. Non-voluntary return of runaways and/or accused status offenders;
 - 4. Non-voluntary return of an escapee, absconder, or accused delinquent;
 - 5. ICPC recognition;
 - 6. Return of youth when abuse or neglect is reported;
 - 7. Financial responsibilities;
 - 8. Public safety;
 - 9. Charges pending in the holding/receiving state;
 - 10. Warrants;
 - 11. Detention and hearing on failure to return;
 - 12. Transportation; and
 - 13. Airport Supervision.
- V. All communications between states, whether verbal or written, on ICJ issues shall be transmitted between the respective ICJ Offices (2-104 (1)).
- A. JJS Staff may communicate with another local jurisdiction with notification of prior approval from the NH ICJ DCA or designee.
 - 1. A summary of communication must be provided to the NH ICJ DCA or designee and documented in the JIDS web-based data system (2-104 (2)).

2. Communication regarding ICJ business shall respect the confidentiality rules of sending and receiving states (2-104 (3)) and all applicable DCYF and NH Department of Health and Human Services' policies.
- VI. Victim notification requirements are the responsibility of the sending state in accordance with the laws and policies of that state. See Section V-B immediately below for New Hampshire's victim notification law (2-105 (1)), RSA-169-B.
- A. When an ICJ referral will require the assistance of the supervising person in the receiving state to meet these requirements:
 1. New Hampshire JJS staff shall clearly document such requirement in the initial packet using the ICJ Victim Notification Supplement Form including the specific information regarding what will be required and the timeframes for which it must be received (2-105 (2)).
 2. Throughout the duration of the supervision period, the receiving state shall, to the extent possible, provide the NH ICJ DCA or designee with the requested information to ensure the New Hampshire JJS Staff can remain compliant with the laws and policies of New Hampshire (2-105 (3)).
 3. The NH ICJ DCA or designee shall provide copies of all received information to the assigned JJS staff.
 4. It is the responsibility of the NH ICJ DCA or designee, after consulting with the assigned JJS staff, to update the receiving state of any changes to victim notification requirements (2-105 (4)).
 - B. RSA 169-B:35-a II (b), allows the victims of a violent offense and their families, as defined in the statute, to request specific information from the prosecutor subsequent to disposition regarding the youth who committed the offense.
 1. When applicable to a youth's transfer through the ICJ, the NH ICJ DCA or designee shall ensure provisions for exchanging the following information, as requested through the prosecutor, be included in the initial referral packet and for the duration of the youth's case when the adjudicated offense includes: capital, first-degree or second-degree murder; attempted murder; manslaughter; aggravated felonious sexual assault; felonious sexual assault; first-degree assault; or negligent homicide committed in consequence of being under the influence of intoxicating liquor or controlled drugs:
 - (a) Any change in placement;
 - (b) Temporary release, furlough or parole;
 - (c) Interstate transfer;
 - (d) Runaway;
 - (e) Escape; or
 - (f) Release of the youth.

2. The NH ICJ DCA, designee or JJS staff receiving information on the above shall forward the information to the requesting prosecutor.

VII. Juvenile Interstate Data System (JIDS) and ICJ Forms:

- A. Compacting states must use JIDS, the web-based data system approved by the Commission, for e-forms processed through the ICJ (3-101).
- B. Forms approved and adopted by the ICJ may not be changed, altered, or otherwise modified and no other forms may be substituted for approved forms (3-103 (1)).
- C. Commonly used ICJ Forms are linked to the [Department's intranet](#) as well in the header of applicable policies.
- D. Additionally, the NH ICJ DCA or designee has access to all ICJ forms and should be contacted with any questions.

Practice Guidance

How does the Health Insurance Portability and Accountability Act (HIPAA) relate to youth and family information and the ICJ?

- HIPAA privacy rules allow disclosures of protected health information when consistent with applicable law and ethical standards, including disclosures to a law enforcement official reasonably able to prevent or lessen a serious and imminent threat to the health or safety of an individual or the public, or to identify or apprehend an individual who appears to have escaped from lawful custody. Under these provisions, it appears that disclosures of health information required to provide for treatment of juveniles subject to the ICJ, including non-delinquent runaways, would also be exempt from HIPAA requirements.

ICJ Rule- 8-101(3)
Opinion #: [1-2014](#)
Date Issued: 01/23/2014

Does the ICJ allow the disclosure and tracking of protected health information pursuant to the provisions of the ICJ and its authorized rules, and is the disclosure and tracking exempt from the applicability of HIPAA?

- Protected health information may be disclosed for law enforcement purposes when such disclosures are required by law. The disclosure and tracking of protected health information, among authorized Compact Administrators' offices, concerning any juvenile subject to Compact supervision pursuant to court order, as required by the Compact and its authorized rules would be exempt from HIPAA.

ICJ Rules - HIPAA Exemptions
for the ICJ
Opinion #: [1-2011](#)
Date Issued: 02/10/2011

Does the ICJ give states the authority to conduct records checks for another state on juveniles not subject to ICJ?

- 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.

ICJ Rule- 2-102(1)

Opinion #: [1-2015](#)

Date Issued: 02/24/2015

What is the applicability and enforceability of the ICJ rules for juveniles with sovereign tribal nations and reservation lands? Do the ICJ rules apply to juveniles residing in sovereign tribal nations and reservation lands?

- Based upon the provisions of the U.S. Constitution and decisions of the U.S. Supreme Court, in the absence of the Consent of Congress for tribes to enter into agreement with the states as members of the Interstate Compact for Juveniles, no such authority exists under which the provisions of the compact or its rules can regulate transfers of juveniles to and from sovereign tribal nations or reservation lands.

ICJ Rules- None cited.

Opinion #: [4-2010](#)

Date Issued: 07/22/2010

Does the failure or refusal of a county official to properly process the lawful transfer of supervision of a juvenile from one state to another state, and/or the failure or refusal of a county official to supervise a juvenile whose supervision was properly transferred to the state from another state, constitute a violation of the ICJ which would result in potential liability of the county and/or state?

- As in most states counties are specifically classified and recognized as political subdivisions of the State of Idaho. *See for example Bonneville County v. Ysursa, 129 P.3d 1213 (Id. 2005); also Sanchez v. State Department of Corrections, 141 P.3d 1108 (Id. 2006)* which unequivocally recognize that a county is a political subdivision of the State. As a consequence the ICJ provisions and authority apply equally and coextensively to all counties as political subdivisions of the state. Thus, the failure of a county to comply with the provisions of the ICJ and its duly authorized rules is tantamount to a violation by the state and a default in its obligations under the compact and authorized rules.

ICJ Rules - Article VII, Article XIII, Section B., and Article XI, Section C.

Opinion #: [3-2009](#)

Date Issued: 08/31/2009