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<p align="center">ICJ Advisory Opinion Issued by: Executive Director: MaryLee Underwood Chief Legal Counsel: Thomas Travis</p>		
<p>Description: ICJ Rule 7-103 Not Applicable to Youth Placed in Residential Facilities Pursuant to ICPC</p>	<p>Dated: April 10, 2025</p>	

Background:

Pursuant to ICJ Rule 9-101(3), the State of New Hampshire requested an interpretation of ICJ Rule 7-103 and its relevance to youths placed in residential facilities under the Interstate Compact on the Placement of Children (ICPC).

Issue:

Pursuant to ICPC, Vermont Department of Mental Health (DMH) placed a non-delinquent youth in a residential facility in New Hampshire. This was a private placement, i.e. the youth was not involved with juvenile justice or child protective services. Instead, the parents worked with DMH to fund this out-of-state residential placement pursuant to the Interstate Compact on the Placement of Children (“ICPC”).

At the time of placement, the youth was not subject to the Interstate Compact for Juveniles (“ICJ” or “Compact”). Due to the youth’s behavior, the residential facility gave Vermont DMH a 30-day discharge notice, i.e., advised that they would discharge the youth in 30 days. The youth’s behavior escalated, resulting in pending charges in New Hampshire for assaulting facility staff and a law enforcement officer. At the time of the request, the youth was detained in New Hampshire.

New Hampshire requested a rules interpretation to determine whether ICJ Rule 7-103 requires the resolution of the youth’s pending charges in New Hampshire before the youth could be returned to Vermont.

Applicable Provisions of the Compact and Rules:

[Article I of the Compact](#) sets for the purposes of the Compact. It states, in relevant parts:

The compacting states to this 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

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doing have endangered their own safety and the safety of others. The compacting states also recognize that each state is responsible for the *safe return of juveniles who have run away from home and in doing so have left their state of residence. . .*

It is the purpose of this compact, through means of joint and cooperative action among the compacting states to: . . . (C) return juveniles who have run away, absconded or escaped from supervision or control or *have been accused of an offense to the state requesting their return. . . (emphasis added)*

[ICJ Rule 4-101: Eligibility Requirements for the Transfer of Supervision](#) provides, in relevant part:

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

(f) will reside with a legal guardian, relative, non-relative or independently, excluding residential facilities . . .”

(5) A juvenile who is not eligible for transfer under this Compact is not subject to these rules.

[ICJ Rule 7-103: Charges Pending in Holding/Receiving State](#), which provides: “Juveniles shall be returned only after charges are resolved when pending charges exist in the holding/receiving states unless consent is given by the holding/receiving and demanding/sending states’ courts and ICJ Offices.”

Analysis and Conclusions:

Under the plain meaning of the rules, the youth is ineligible for the Compact and thus Rule 7-103 does not apply to this scenario. ICJ Rules only apply to youths who are either (1) eligible for an ICJ transfer of supervision or (2) accused of an offense by a state requesting their

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return. Based on the information provided, the youth is not eligible under either criterion, and thus, ICJ Rule 7-103 does not apply to the scenario described.

First, the youth is ineligible for transfer of supervision. In this case, the youth was placed in a residential facility under the ICPC, and ICJ Rule 4-101(2)(f)(ii) specifically excludes youths placed in residential facilities from eligibility for ICJ transfers. And because this youth is not eligible for a transfer of supervision pursuant to the ICJ, it follows that ICJ Rule 7-103 does not apply. More directly, "A juvenile who is not eligible for transfer under this Compact is not subject to these rules." ICJ Rule 4-101(5).

Likewise, and even though the youth’s behavior resulted in new and pending charges in New Hampshire, Rule 7-103 still does not apply. ICJ Rules are ultimately governed by the terms of the Compact statute. Article I of the ICJ—which defines the scope of the Compact— extends to “juveniles, delinquents and status offenders who are on probation or parole and who have absconded, escaped or run away from supervision and control ...” and “juveniles who have run away from home and in doing so have left their state of residence.” Specifically addressing returns, Compact makes clear that the ICJ’s purpose is to: "return juveniles who have run away, absconded or escaped from supervision or control or have been accused of an offense to the state requesting their return." *Id.* at Art. I(C). Nothing in the facts presented suggests any of these circumstances apply: the youth did not abscond, escape, or run away from supervision and was not accused of an offense by another state requesting their return. Therefore, ICJ Rule 7-103 is not applicable.¹

¹ This result is further confirmed by consideration of Section 700 of ICJ Rules in context. Those Rules—which include Rule 7-103—address “Additional Return Requirements for Sections 500 and 600.” And these sections address "Supervision in the Receiving State" and "Voluntary and Non/Voluntary Return of Juveniles/Runaways" respectively. As the title indicates, these rules only extend to youths returned in accordance with *other* ICJ Rules regarding transfers and returns. Said another way, the section title confirms that ICJ Rule 7-103 is only intended to apply to youths already subject to the Compact.

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Summary:

ICJ Rules related to returns apply only to youths who are otherwise subject to the Compact, meaning they either (1) are eligible for transfer of supervision, (2) have absconded, escaped, or run away from supervision, or (3) have been accused of an offense by another state requesting their return. Absent one of these circumstances, the ICJ Rules do not apply. Thus, even if a youth is subsequently charged with offenses during their placement in a residential facility under the ICPC, Rule 7-103 does not apply.