

INTERSTATE COMMISSION FOR JUVENILES

Rules Committee Meeting Minutes

August 10, 2022
2:00 p.m. ET
Via Zoom



Voting Members in Attendance:

1. Stephen Horton (NC), Commissioner, Chair
2. Caitlyn Bickford (NH), Commissioner, Vice Chair
3. Judy Miller (AR), Designee
4. Michael Farmer (CA), Designee
5. Mary Kay Hudson (IN), Commissioner
6. Tracy Hudrlik (MN), Commissioner
7. Julie Hawkins (MO), Commissioner
8. Edwin Lee, Jr. (NJ), Designee

Non-Voting Members in Attendance:

1. Nita Wright (IN)
2. Anna Butler (KY)
3. Michael Tymkew (MI)
4. Kelly Palmateer (NY)
5. Raymundo Gallardo (UT)
6. Dawn Bailey (WA)

Members Not in Attendance:

1. Jennifer LeBaron (NJ), Commissioner

Guest in Attendance:

None

National Office Staff & Legal Counsel in Attendance:

1. MaryLee Underwood, Executive Director
2. Emma Goode, Logistics and Administrative Specialist
3. Jenny Adkins, Operations and Policy Specialist
4. Amanee Cabbagestalk, Training and Administrative Specialist
5. Joe Johnson, Systems Project Manager
6. Rick Masters, Legal Counsel

Call to Order

Chair Horton (NC) called the meeting to order at 2:00 p.m. ET.

Roll Call

Director Underwood called the roll and acknowledged that a quorum was established.

Agenda

M. K. Hudson (IN) made a motion to approved the agenda as presented. M. Farmer (CA) seconded. The motion passed.

Minutes

- T. Hudrlik (MN) noted that she attended the June 1 meeting; however, she stepped away during the meeting and was not present for voting on three motions.
- R. Masters, Legal Counsel, advised it was not necessary to reflect in the meeting minutes as a quorum was present during the motions.
- **J. Miller (AR) made a motion to approve the June 1, 2022 meeting minutes as presented. J. Hawkins (MO) seconded. The motion passed.**

Discussion

Committee Survey Results: Travel Permit Notifications

- During the June meeting, the Rules Committee agreed to complete a survey to explore usage of the ICJ Travel Permit and areas of redundancies.
- Chair Horton (NC) expressed his appreciation to the Rules Committee members for completing the Travel Permit Notification Survey. The survey results included comments from Michigan, Utah, and Washington, in addition to the responses to the following five (5) questions:
 1. When should a Travel Permit be required?
 2. When are Travel Permits redundant?
 3. When do you issue a Travel Permit? When do you think it is unnecessary?
 4. If you encounter an out-of-state youth, under what circumstances would you prefer they have a travel permit?
 5. What does your state do with travel permits from another state?
- The survey responses covered a broad scope of policies and procedures by states. He encouraged the Rules Committee to focus on areas around the ICJ Rules rather than states' policies and procedures.
- T. Hudrlik (MN) responded to answers to question 2:
 - In response to the comment "When a youth already resides in the receiving state at the time of disposition," she commented that this is not redundancy; it is a way to notify states that the juvenile is in their state.
 - In response to the comment "When a juvenile is just visiting another state" she commented that this is the premise of a Travel Permit.
- Chair Horton (NC) suggested that the term "streamline" may be the more appropriate term rather than "redundancy."
- M. K. Hudson (IN) commented that the fundamental purpose of a travel permit is to protect the juvenile and provide proof of permission for juvenile to be in a specific location. She suggested travel permits should always be required, unless there is a reason not to provide a travel permit. She suggested developing a framework to analyze each incident.
- J. Hawkins (MO) cautioned that in the past travel permits were required for everything, which overwhelmed state systems. The rules were modified to be broad and leave it to the discretion of the states to send only when the rules require or more often if they preferred.
- S. Horton (NC) noted the parameters in place for travel permits when the case involves a Juvenile Sex Offender (JSO), a violent offense, or an offense committed with a weapon. He suggested narrowing the scope of the discussion to focus on issues related to sending a travel permit when the juvenile is already

in the state.

- J. Hawkins (MO) added the most redundant use is when a travel permit accompanies a referral packet which also contains a Form IV: Parole or Probation Investigation Request.
- M. K. Hudson (IN) recalled the survey was conducted to gather information about specific incidents where travel permits seemed unnecessary. She suggested focusing on the use of a travel permit with a transfer of supervision case.
- J. Miller (AR) suggested the issue is more directly related to a function within UNITY than an ICJ Rule. Chair Horton (NC) replied that UNITY is developed in accordance with the ICJ Rules.
- D. Bailey (WA) added that ICJ does not define sex offense or violent offense; therefore, she relies on Washington State laws to determine when offenses are sex offenses and violent offenses. She sometimes questions checking the “NO” box in UNITY, as offenses may have involved sex and could have been pled down to lesser charges. The lack of a definition also causes confusion among local officials
- M. Farmer (CA) recalled his past issue with an attorney who focused on the word “adjudicated” in Rule 8-101(1) (a) which prompted his question as to whether or not the rule should be more general rather than specific in paragraph 1.
- A. Butler (KY) commented that the discussion was going in two directions and expressed the need to bring back the focus to redundant usage of the travel permit for this meeting and rules language at another meeting.
- Chair Horton (NC) moved the focus of the discussion of Travel Permits for the Transfer of Supervision.
- A. Butler (KY) asked if travel permits are needed when the juvenile is not traveling for vacation; transferring to the receiving state; or already in the receiving state. She suggested not completing the Travel Permit Form and using another approved ICJ Form such as the Form VI: Application for Services and Wavier. J. Hawkins (MO) supported the idea and noted that the ICJ Form IV Parole or Probation Investigation Request also captures the needed information.
- M. Farmer (CA) commented that the ICJ Rules were written when referral packets were mailed via U.S.P.S. J. Miller (AR) expressed that she has experienced issues since the new UNITY data system was introduced. Director Underwood agreed the issue became more prominent during the development of UNITY because decisions had to be made how the rules apply to specific scenarios in order to lead the user down the correct workflow path.
- J. Miller (AR) shared that her interpretation of the Rule 8-101 regarding relocation is that the juvenile relocated before the packet was submitted. She suggested modifying UNITY to have an option NOT to send a Travel Permit when the juvenile is already in the receiving state.
- J. Hawkins (MO) agreed and referenced Rule 8-101, Paragraph 1(B)(ii) “... pending a request for transfer of supervision...” M. Farmer (CA) questioned whether the word “pending” is intended to mean pending a home evaluation or pending receipt of a referral packet.
- R. Masters, Legal Counsel, commented that if the ultimate purpose of the travel permit is to establish the location of the youth, it may not be necessary to prepare anything additional once location is established.
- A. Butler (KY) suggested that establishing the location is not the purpose the travel permit for transfer of supervision cases. Chair Horton responded that a purpose is to ensure safety and travel permits should be sent if the juvenile is

relocating prior to receipt of the referral packet.

- The Rules Committee discussed using the Form VI and/or Form IV for notification rather than travel permits. Chair Horton (NC) commented that submitting a travel permit does not ensure safety when the juvenile is already in the receiving state.
- J. Hawkins (MO) noted the Rules Committee proposed an amendment to Rule 8-101 which should be revisited before proposing additional revisions to the rule. She suggested the amended language to start the discussion: “issue a travel permit for testing residence, pending the referral packet.”
- J. Miller (AR) suggested a change to the UNITY workflow regarding the transfer of supervision. Director Underwood explained the UNITY enhancement process, noting that a Subcommittee of the Information Technology Committee recently completed the process of selecting enhancements to be made within the next year.
- M. Farmer (CA) commented that the travel permit “testing residence” is misused. Often times, sending state personnel have already decided to proceed, but use the travel permit as testing residence to extend the time allowed before sending the referral packet.
- J. Hawkins (MO) suggested amending Rule 8-101, paragraph (1)(b)(ii) to replace “relocating” with “testing a residence when” She indicated she would prefer the committee think about it and discuss at the next meeting.
- **J. Hawkins (MO) made a motion to table the discussion until the next meeting of the ICJ Rules Committee. J. Miller (AR) seconded. The motion passed.**

Ground Transportation Supervision

- Chair Horton (NC) recognized the work of the members of the Rules Subcommittee on Ground Transportation Supervision. In addition to himself, the following Rules Committee members participated:
 - M. K. Hudson (IN)
 - N. Wright (IN)
 - J. Hawkins (MO)
 - J. Miller (AR)
- J. Hawkins (MO) presented the recommendation to amend both Rule 7-106: Transportation and Rule 7-107: Airport Supervision.

Rule 7-106: Transportation

- The first amendment proposed was to move paragraph (4) in Rule 7-107: Airport Supervision to Rule 7-106: Transportation, as a new paragraph (8). The paragraph would read:
 - In the event of an emergency situation including but not limited to weather, accident, mechanical issue, delayed flight, or missed flight, that interrupts or changes established travel plans during a return transport, the ICJ member states shall provide necessary services and assistance, including temporary detention or appropriate shelter arrangements for the juvenile until the transport is rearranged and/or completed.
- By moving the language to Rule 7-106, the provision would apply to all return travel. The change would provide states the authority to assist with the temporary detention/shelter of youth in any emergency situation caused by a disruption of an established travel plan.

- J. Hawkins (MO) added that prior to the reorganization the ICJ Rules, ground and airport provisions were addressed in the same rule. The proposal is a proactive approach to provide authority for states that may, on occasion, be asked to provide assistance in an emergency situation.
- T. Hudrlik (MN) voiced concern about requiring all Compact states to provide ground transportation assistance when a juvenile is being transported through their state. Airport surveillance is arranged in advance, and appropriate personnel are notified and available. Providing support for ground transportation would be different, in that it would require action without any notice. She expressed that she did not see how it would be possible to meet needs without notice or why ICJ would be involved. For example, if there is a car wreck or auto breakdown along a highway, law enforcement offices would become involved. The juvenile would be escorted by an adult. Therefore, it would not be necessary for ICJ to be involved. Additionally, the emergency could happen in a rural area that would not have facilities to hold the juvenile.
- M. K. Hudson (IN) commented that the proposal originated from a concern with unforeseen situations via ground transportation. She suggested it would be better to enlist the assistance of the state ICJ Office to make the best decision for the safety of the juvenile and community, rather than the ground transport team.
- T. Hudrlik (MN) cautioned against using the word “shall” and asked what paper work would be provided to locals. M. K. Hudson (IN) suggested by replacing “shall” with “may” in the proposal would be a better solution. The proposal is intended to provide authority to a state when requested with valid reason. If states are providing assistance as a courtesy, the same question applies. Either way an incident would require a level of communication and working through a process. The issue was raised as a concern.
- J. Miller (AR) commented that Arkansas requested assistance and Missouri provided assistance recently when respite care was needed. In Missouri if there were authority within the rules, the state would have more readily provided the respite care. The Arkansas Compact office receives lots of calls and requests regarding juveniles that are not ICJ cases. She views the ICJ as a liaison of assistance for resources.
- Chair Horton (NC) commented that he too was opposed initially. There are a lot of “what ifs” and unanswered questions and asked if the issue would be better addressed in a best practice. No action was taken.
- **J. Hawkins (MO) made a motion to adopt the proposed amendment to Rule 7-106: Transportation in include the new paragraph 8 to read: “In the event of an emergency situation including but not limited to weather, accident, mechanical issue, delayed flight, or missed flight, that interrupts or changes established travel plans during a return transport, the ICJ member states may provide necessary services and assistance, including temporary detention or appropriate shelter arrangements for the juvenile until the transport is rearranged and/or completed.” J. Miller (AR) seconded. The motion passed by an 8-0-0 vote.**

Rule 7-107: Airport Supervision

- After the discussion, J. Hawkins (MO) withdrew the proposal to remove paragraph 4 in Rule 7-107. The paragraph and the term “shall” should remain in Rule 7-107: Airport Supervision.

Old Business

{J. Hawkins (MO) and R. Gallardo (UT) left the meeting early; however, a quorum was retained.}

Legal Memo on ICJ Limits on Issuance of Bail by Holding State

- Chair Horton updated that Rick Masters was in attendance to present his Legal Memorandum: ICJ Limits on Issuance of Bail by Holding State. R. Masters provided an update on his research in the June Rules Committee meeting; however, the memo was not available at that time. Director Underwood apologized to M. Farmer (CA) for misstating in the West Region August meeting that the Rules Committee had reviewed the legal memo. The legal memo was shared to address questions referred to the committee, but does not require a vote of approval by the Rules Committee.
- R. Masters, Legal Counsel, advised that the analysis would support compliance action against a state that issued bail in contradiction of the Compact.
- J. Miller (AR) asked if the legal memo was similar to a legal white paper and how Commission members would share and access the information. Director Underwood explained that the legal memos address state specific issues and are generally shared with the states involved only. R. Masters, advised he could convert it into an advisory opinion or a legal white paper to share with the full Commission. The content would not change, only the formatting would be modified.
- J. Miller (AR) supported having it available for all members to access. D. Bailey (WA), one of the states involved, supported the availability of something in writing to be helpful.
- **J. Miller (AR) made a motion that the legal memo be converted into an ICJ Legal Advisory Opinion for publication. M. K. Hudson (IN) seconded. The motion passed.**

New Business

2023 Rules Calendar

- Chair Horton presented a proposed calendar for the Rules Committee looking ahead into 2023 a rules year. After the 2022 Annual Business Meeting (ABM), the Rules Committee will meet monthly with February 28, 2023 being the deadline for submission of proposed rule amendments to the Rules Committee.
- **T. Hudrlik (MN) made a motion to approve the 2023 calendar as presented. C. Bickford (NH) seconded. The motion passed.**

Returning ICPC Juveniles Whose Placement Has Failed

- J. Miller (AR) mentioned the issue in the June meeting and requested that the topic remain on the agenda. She was asked to complete an ICJ Form III for a juvenile placed by a Court in a residential treatment center and the placement failed. J. Miller (AR) agreed to draft the concerns and will contact R. Gallardo (UT) prior to the next meeting.
- Vice Chair C. Bickford (NH) updated that she oversees ICPC in her state and offered her assistance outside the meeting.

Adjourn

Chair Horton adjourned the meeting by acclamation without objections at 3:38 p.m. ET.