

	Interstate Commission for Juveniles	Opinion Number: 04-2011	Page Number: 1
<p align="center"> ICJ Advisory Opinion Issued by: Executive Director: Ashley H. Lippert Chief Legal Counsel: Richard L. Masters </p>			
Description: Non-adjudicated juveniles held in secure detention for a failed placement.		Dated: October 24, 2011	

Background:

Pursuant to Commission Rule 8-101(3), a request has been made by the West Region of the ICJ Compact member states.

The case giving rise to this opinion request involves a general question concerning whether a “non-adjudicated” juvenile offender whose out-of-state placement has failed, may be placed in a secure detention center while awaiting return to the sending state.

Issues:

Can a non-adjudicated juvenile offender, such as a youth subject to a deferred adjudication, whose out-of-state placement under the Interstate Compact for Juveniles (ICJ) has failed, be placed in a secure detention center while awaiting return to the sending state?

Applicable Law and Rules:

Rule 1-101: Non-Adjudicated Juveniles:

“all juveniles who are under juvenile court jurisdiction as defined by the sending state, and who have been assigned terms of supervision and are eligible for services pursuant to the provisions of the Interstate Compact for Juveniles.”

Rule 1-101: Warrant:

“an order authorizing any law enforcement or peace officer to apprehend and detain a specified juvenile.”

Rule 6-104(2): Return of Juveniles Whose ICJ Placement Has Failed:

“Upon notifying the sending state’s ICJ Office, a duly accredited officer of a sending state may enter a receiving state and apprehend and retake any such juvenile on probation or parole. If this is not practical, a warrant may be issued and the supervising state shall honor that warrant in full.”

Analysis and Conclusions:

Rule 6-104 governs the return of a juvenile to the sending state when an ICJ placement has failed. The text of the rule does not distinguish between a non-adjudicated juvenile and any other juvenile who is subject to transfer of supervision under the ICJ. While the text of the rule does

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not specifically mention secure detention, Section 2 of this rule directly empowers a ‘*duly accredited officer of a sending state*’ to ‘*enter the receiving state and apprehend and retake any such juvenile,*’ (one whose placement has failed). Furthermore, in circumstances where this alternative ‘*is not practical*’ the rule explicitly authorizes a warrant to be issued and requires that ‘*the supervising state shall honor the warrant in full.*’ The term “warrant” under the Compact is specifically defined as an “*order authorizing any law enforcement or peace officer to apprehend and detain a specified juvenile.*”

As in other cases of statutory construction, the provisions of the Compact statute and rules should be interpreted in harmony with other sections of the statute, and “*plain meaning is examined by looking at the language and design of the statute as a whole.*” *See, Lockhart v. Napolitano, 573 F.3d 251 (6th Cir. 2009).* Consistent with a “harmonious” interpretation, reading these sections of the rule, including the defined terms, reveals a clear intent that where circumstances are such that the retaking and return, by the sending state, of a juvenile offender whose placement has failed cannot otherwise be practically accomplished, the Compact authorizes apprehension and detention of the juvenile. The U.S. Supreme Court has held, “. . . interpretations of a statute which would produce absurd results are to be avoided if alternative interpretations consistent with the legislative purpose are available.” *See, Nixon v. Missouri Mun. League, 541 U.S. 125 (2004); Griffin v. Oceanic Contractors, Inc., 458 U.S. 564, 575 (1982).*

Summary:

Under the authority of ICJ Rule 6-104, and consistent with a “harmonious” interpretation of the provisions of the rule, including the defined terms used therein, where circumstances are such that the retaking and return, by the sending state, of a juvenile offender whose placement has failed cannot otherwise be practically accomplished, the Compact and its rules authorize both apprehension and detention of a juvenile, subject to the other relevant provisions of the ICJ rules regarding juvenile detention.