 Interstate Commission for Juveniles	Opinion Number: 03-2012	Page Number: 1
ICJ Advisory Opinion Issued by: Executive Director: Ashley H. Lippert Chief Legal Counsel: Richard L. Masters		
Description: For purposes of the detention and return of a probation or parole absconder who is an 'adult' in the home/demanding state, but is still a 'juvenile,' in the holding state, must the holding state treat that person as an adult or does the law of the holding state apply?	Dated: August 23, 2012	

Background:

Pursuant to Commission Rule 8-101(3)¹, the state of Ohio has requested an advisory opinion regarding the requirements of the Compact and ICJ Rules on the following issue:

Issues:

For purposes of detention and return of a person serving a juvenile probation or parole sentence who absconds or flees to avoid prosecution (youth with a warrant from another state) and who has the status of an adult in the home/demanding state (in this case Michigan), but is still classified as a juvenile in the holding state (in this case Ohio), must the holding state treat that person as an adult or does the law of the holding state regarding the age of majority apply?

Applicable Compact Provisions and Rules:

Rule 1-101 provides as follows:

“Juvenile: a person defined as a juvenile in any member state or by the rules of the Interstate Commission, including accused juvenile delinquents, adjudicated delinquents, accused status offenders, adjudicated status offenders, non-offenders, non-adjudicated juveniles, and non-delinquent juveniles.”


Rule 4-104-6¹ provides as follows:

“The age of majority and duration of supervision are determined by the sending state. Where circumstances require the receiving court to detain any juvenile under the ICJ, the type of incarceration shall be determined by the laws regarding the age of majority in the receiving state.”

Analysis and Conclusions

In determining whether or not ICJ compact supervision over a person defined as a ‘juvenile’ is ‘triggered,’ under the compact, Rule 4-104-6¹ clearly specifies that the ‘age of majority’ and thus whether or not the individual qualifies for supervision and transfer are determined by the

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'sending state.' However, Rule 4-104-6¹, also requires that in the event a receiving state court is required to *"detain any juvenile under the ICJ, the type of incarceration shall be determined by the laws regarding the age of majority in the receiving state."*

If the youth in question is serving a juvenile probation or parole sentence and absconds or flees to avoid prosecution (youth with a warrant from another state), Rule 4-104-6¹ creates an exception whereby the receiving state law regarding the age of majority applies to incarceration of **juveniles**, (emphasis supplied). This exception arises where *"a receiving state court is required to detain any juvenile under the ICJ"* (emphasis supplied). Even though such an individual is already classified as an adult in the State of Michigan, based on the foregoing provision of Rule 4-104-6*, if detained and returned pursuant to the ICJ, such youth may be treated as "juveniles."

As the Supreme Court has explained concerning the proper approach to interpretation of statutes or related regulations, "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." *Robinson v. Shell Oil Co.*, 519 U.S. 337, 340 (1997) (internal quotation marks omitted).

Summary:

Based upon the provisions of the ICJ, and ICJ Rule 4-104-6¹, if the youth in question is serving a juvenile probation or parole sentence and absconds or flees to avoid prosecution (youth with a warrant from another state), Rule 4-104-6¹ creates an exception whereby the receiving state law regarding the age of majority applies to incarceration of **juveniles**, where *"a receiving state court is required to detain any juvenile under the ICJ"*. Under this rule, even though such an individual is already classified as an adult in the State of Michigan, based on this rule, if detained and returned pursuant to the ICJ, such youth may be treated as a "juvenile."

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