

	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 supervision		Dated: October 24, 2011 Revised: March 14, 2018 ¹	

Background:

Pursuant to ICJ Rule 9-101(3)¹, 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 supervision 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 supervision 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:

ICJ Rule 1-101 provides definitions, including:

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

ICJ Rule 5-103(3)(c) states:

A duly accredited officer of a sending state may enter a receiving state and apprehend and retake any such juvenile on probation or parole consistent with probable cause requirements, if any. If this is not practical, a warrant may be issued and the supervising state shall honor that warrant in full.

¹ This Advisory Opinion has been revised to reflect ICJ Rules in effect March 1, 2018. The previously published opinion is available upon request from ICJAdmin@juvenilecompact.org.

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Analysis and Conclusions:

ICJ Rule 5-103 governs the return of a juvenile to the sending state when an ICJ supervision 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 not specifically mention secure detention, Section 3(c) 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 supervision 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 supervision 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 5-103, 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 supervision 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.