	Interstate Commission for Juveniles	Opinion Number: 03-2019	Page Number: 1
<p align="center">ICJ Advisory Opinion Issued by: Executive Director: MaryLee Underwood Chief Legal Counsel: Richard L. Masters</p>			
Description: Can a person subject to a juvenile warrant be released on bond when he is considered an adult under the laws of the demanding and holding states based on the age of majority?		Dated: May 23, 2019	

Background:

Pursuant to ICJ Rule 9-101(3), the State of Kentucky has requested an advisory opinion concerning the following issue:

Issue:

A juvenile court judge in Kentucky has set bond because the person in question, having reached the age of majority, is no longer a “juvenile” as defined by Kentucky law. This issue frequently arises about juveniles subject to the ICJ in Northern Kentucky and Southern Ohio. Thus, the question about which an advisory opinion is being sought is:

Can a person subject to a juvenile warrant be released on bond when he is considered an adult under the laws of the demanding and holding states based on the age of majority?

Applicable Compact Provisions and Rules:

ICJ Rule 1-101 defines juvenile as follows:

“Juvenile: any person defined as a juvenile in any member state or by the rules of the Interstate Commission.”

ICJ Rule 7-104(2) provides, in relevant part:


“Holding states shall honor all lawful warrants as entered by other states. . .”

ICJ Rule 7-104(4) provides, in relevant part:

“The holding state shall not release the juvenile in custody on bond.”

Analysis and Conclusions:

It is important to note that whether a juvenile is subject to the ICJ definition of a “juvenile” depends on the laws of the state where the delinquent act or status offense occurred. ICJ Rule 1-101 states, in effect, that the term “juvenile” means any person defined as a juvenile in *any* member state.

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Because the sentence is written in the disjunctive (that is, not “all” but “any”), the laws of the state where the offense occurred trigger the provisions of the ICJ, even if the individual would not be considered a juvenile in any other member state. *See, e.g., Washington v. Cook*, 64 P.3d 58, 58 (Wash. Ct. App. 2003). (“Under Texas law, adult defendant properly charged with a crime while a child was subject to the jurisdiction of the Texas Juvenile Court, and thus the Washington court was required, pursuant to the ICJ, to honor Texas’s rendition request and return the juvenile to Texas, despite the defendant's claim that he was no longer a juvenile.”)

In cases involving the ICJ, jurisdiction over a juvenile is derived from the jurisdiction of the home/demanding/sending state. The issue is not whether the receiving state can extend its jurisdiction past eighteen, but rather whether the home/demanding/sending state can make such an extension. *See In re Appeal in Coconino Cty. Juvenile Action No. J-10359*, 754 P.2d 1356, 1352-63 (Ariz. Ct. App. 1987).

However, in this case, the person is not a “juvenile” under the law of either state. Instead, there is a warrant pending based on a matter that occurred when the person was a juvenile under one state’s law. Notwithstanding the fact that the juvenile has reached the age of majority in both states, the warrant is still valid even if the person in question is no longer a juvenile in either state. Neither ICJ Rule 7-104 (2) nor 7-104 (4) specify that a warrant is no longer valid and does not have to be honored simply because the juvenile has aged out in both states.

Moreover, ICJ Rules 7-104 (2) and 7-104 (4) dictate that holding states “shall honor all lawful warrants as entered by other states,” and “shall not release the juvenile in custody on bond.” Thus, the operative nature of the above rules when interpreted in harmony with each other requires the holding state to honor the home/demanding/sending state’s juvenile warrant, even if the juvenile has reached the age of majority in both states. Unless and until the home/demanding/sending state has withdrawn the warrant, the holding state must hold the juvenile in custody without bond pursuant to ICJ Rule 7-104 (4).

Summary:

The operative nature of the above referenced ICJ rules, when interpreted in harmony with each other, requires the holding state to honor the home/demanding/sending state’s juvenile warrant, even if the juvenile has reached the age of majority in both states. Unless and until the home/demanding/sending state has withdrawn the warrant, the holding state must hold the juvenile in custody without bond pursuant to ICJ Rule 7-104 (4).