

INTERSTATE COMMISSION FOR JUVENILES
Juvenile/Adult Issues Ad Hoc Committee



Minutes

October 22, 2019

2:00 p.m. ET

Teleconference

Commissioners/Designees in Attendance:

1. Julie Hawkins (MO), Chair
2. Tomiko Frierson (IL), Commissioner
3. Cathy Gordon (MT), Commissioner
4. Caitlyn Bickford (NH), Commissioner
5. Cathlyn Smith (TN), Commissioner
6. Daryl Liedeker (TX), Commissioner

Commissioners/Designees in Not Attendance:

1. Jeff Cowger (KS), Commissioner
2. Nina Belli (OR), Designee

Non-Voting Committee Members in Attendance:

1. Ellen Hackenmueller (AK)
2. Tracy Bradley (FL)
3. Maxine Baggett (MS)
4. Candice Alfonso (NJ)
5. Stephen Horton (NC)
6. Natalie Primak (PA)
7. Amanda Behe (PA)
8. Richetta Johnson (VA)
9. Joy Swantz (WI)

ICJ Staff in Attendance:

1. Marylee Underwood, Executive Director
2. Jennifer Adkins, Operations and Policy Specialist
3. Joe Johnson, Systems Project Manager
4. Rick Masters, Legal Counsel

Call to Order

Chair J. Hawkins (MO) called the meeting to order at 2:00 p.m. ET.

Roll Call

Executive Director Underwood called the roll and a quorum was established.

Agenda

D. Liedeker (TX) made a motion to approve the agenda. T. Frierson (IL) seconded. The motion carried.

Discussion

Review of Purpose Statement

- Chair J. Hawkins (MO) presented the mission statement to the committee. The committee was established to examine issues that arise in cases when an individual is considered a juvenile in some states and an adult in others. Specifically, the intersection between adult and juvenile courts regarding due process in the context of returns to determine if proposal for rule amendments should be made to the Rules Committee for review.

Defining the Issues

- The committee discussed the definition of a juvenile as outlined in the *ICJ Bench Book 3.2 Juvenile Covered by the Revised ICJ*, where it states that laws of the state where the offense occurred determines whether the juvenile is subject to the provisions of Compact. While mentioned in the Bench Book, issue is not directly addressed in the Rule 600 series regarding returns. Nonetheless, the issue is specifically addressed in relation to transfers of supervision, as set forth in *Rule 4-101: Eligibility Requirements for the Transfer of Supervision*.
- The floor was opened for discussion regarding if there should be a rule in Section 600 addressing eligibility for returns or if a “Best Practice” or other guidance document should be drafted to provide direction to the Commission and other stakeholders on how to proceed with returns involving individuals that are classified as an adult in one state and a juvenile in another.
- Chair J. Hawkins (MO) reminded members that dealing in such issues can be very difficult due to the number of different entities and agencies involved, and differences between states’ ages of majority, criminal codes, and statutes of limitations.
- The committee discussed numerous cases and issues encountered related to differing interpretations of the Bench Book and ICJ Rules regarding returns. Topics discussed included reluctance of courts to issue a requisition stating an individual is a juvenile when they are considered an adult in the demanding state; and OJJDP violations when a holding states views the individual as an adult and holds them in adult detention for lengthy periods of time even though the charges from the demanding state are juvenile charges.
- A. Behe (PA) also stated concerns that an ICJ official has the legal authority to sign off on a requisition that they are seeking extradition of an individual who in some cases is considered an adult.
- C. Alfonso (NJ) discussed issues with a case where New Jersey was provided written documentation by the National Association of Extradition Officials (NAEO), the NJ Governor’s Office, and the PA Governor’s Office that they had overstepped the authority of the ICJ after an adult warrant for a juvenile was received in their office and they proceeded with the ICJ due process and extradition. The letter informed the New Jersey office that in proceeding with extraditing the individual through the juvenile process, they changed the status of their prosecution since due process protections in family and juvenile court are very different than the due process for adults in criminal court, changed the classification of the offense and the individual’s legal posture. The New Jersey office was

advised that any future adult warrants for a juvenile are to be turned over to the Governor's Office to be assigned as a Governor's Extradition Warrant for a fugitive of justice. Those cases will then be handled by the Governor's Office and prosecutors respectively. She reminded the committee that this is a major issue that they need to be mindful of as it can lead to legal peril for the prosecution if the ICJ fails to handle these cases appropriately.

- R. Masters discussed Legal Advisory Opinion 04-2018 regarding whether a person should be returned as a juvenile when being detained as a juvenile in the holding state, but has an outstanding warrant from an adult court in the home state. He stated that the information C. Alfonso (NJ) had brought to light was an issue may not have been fully considered before the opinion was issued. He will review this further and address with the Executive Committee to determine if Legal Advisory Opinion 04-2018 should be amended to address further issues or withdrawn.
- The committee also discussed the juvenile extradition process as outlined in ICJ Bench Book 2.1.3 Extradition of Juveniles and Status Offenders. The section states that the use of formal extradition as envisioned in Article IV, Section 2 may be appropriate when pre-adjudicated juveniles are facing charges that could subject them to trial as an adult in the demanding state. Committee members expressed concern that application of the Compact may violate due process rights, as outlined in Article IV, Section 2, in that by juveniles in these cases are not afforded the same rights as the adult. The committee agreed this warranted further discussion at a later meeting.
- The committee came to a consensus that a Rule Proposal did need to be drafted to address the lack of assigned jurisdiction for classification of a juvenile/adult and definitions regarding these cases in Section 600.
- The committee agreed to draft the Rule proposal amendment to add that the laws of the demanding state determine whether an individual is classified as a juvenile or adult.
- C. Alfonso (NJ), A. Behe (PA) and N. Primak (PA) volunteered to draft the rule proposal for presentation and review at the next committee meeting.
- Executive Director Underwood requested the draft be provided to the National Office no later than November 18, 2019 so that it may be distributed with the meeting reminder to all committee members for review before the meeting.

Data Discussion

- The committee reviewed the ICJ Age of Majority Matrix document and agreed that it does not appear to contain accurate information. The committee will discuss further review and conducting a survey of the states to obtain updated information at a future meeting.

Old Business

No Old Business to report.

New Business

- The committee discussed other issues that bridge between juvenile/adult cases that should be topics of discussion at future meetings, including:

- How ICJ Rules regarding mandatory acceptance and failed placement apply in transfer of supervision cases where an individual is over the age of majority in one state;
- Whether ICJ Rules regarding no bail apply to individuals held in the adult facilities, where a juvenile warrant has been issued yet there are pending adult charges in the holding state;
- How should extradition/return be processed when an individual is chronologically a juvenile, but pending charges as adult in another state? Should the ICJ return process or the Uniform Criminal Extradition Act be applied?
- For an individual is classified as an adult in the demanding state but a juvenile in the holding, what travel plan issues must be addressed? Adult transport requires an accompanying escort on flights and the identification process for airports will be more stringent.

Adjourn

T. Frierson (IL) made a motion to adjourn the meeting. C. Smith (TN) seconded. The meeting was adjourned at 2:53 p.m. ET.