

INTERSTATE COMMISSION FOR JUVENILES

RULES COMMITTEE

Minutes

January 2, 2019

2:00 PM ET

WebEx Teleconference



Commissioners/Designees in Attendance:

1. Jeff Cowger (KS), Chair
2. Judy Miller (AR), Designee
3. Christine Norris (DE), Designee
4. Anne Connor (ID), Designee
5. Tomiko Frierson (IL), Commissioner
6. Galan Williamson (ME), Commissioner
7. Tracy Hudrlik (MN), Commissioner
8. Julie Hawkins (MO), Commissioner
9. Edwin Lee, Jr. (NJ), Designee
10. Charles Frieberg (SD), Commissioner

Members Not in Attendance:

1. Melanie Grimes (DE), Commissioner
2. Kevin Brown (NJ), Commissioner
3. Dale Dodd (NM), Commissioner

Non-Voting Committee Members in Attendance:

1. Stephen Horton (NC)
2. Raymundo Gallardo (UT)
3. Dawn Bailey (WA)
4. Steve Jett (NPJS), Ex-officio

ICJ Staff & Legal Counsel in Attendance:

1. MaryLee Underwood, Executive Director
2. Emma Goode, Training and Administrative Specialist
3. Jennifer Adkins, Operations and Policy Specialist
4. Leslie Anderson, Logistics and Administrative Coordinator
5. Rick Masters, Legal Counsel

Call to Order

Chair Cowger (KS) called the meeting to order at 2:00 PM ET.

Roll Call

Director Underwood called the roll and a quorum was established.

Agenda

T. Frierson (IL) made a motion to approve the amended agenda. A. Connor (ID) seconded. The motion carried.

Minutes

J. Miller (AR) made a motion to approve the December 5, 2018 meeting minutes. T. Frierson (IL) seconded. The motion carried.

Discussion

The Rules Committee discussed and took the following actions on the following two (2) rule amendments as proposed by the Midwest Region.

Rule 1-101 Definitions: Accused Delinquent – Midwest Region

- Chair Cowger (KS) presented the proposed amendment for Rule 1-101 Definitions: Accused Delinquent from the Midwest Region, which would amend the definition to include a juvenile who has been charged as an adult.
- Chair Cowger (KS) provided a brief history of the case that led to this proposal, which resulted in the issuance of Advisory Opinion 04-2018 at the last Executive Committee meeting. J. Hawkins (MO) discussed concerns with the Advisory Opinion 04-2018, indicating she believes it gives the holding state too much authority and conflicts with guidance currently provided in the ICJ Bench Book. She also expressed concerns regarding the modification of definitions that are also included in the Compact, noting that the Rules Committee has previously determined these definitions should not be modified. R. Masters, Legal Counsel, noted that the proposed change to the definition would not contradict the definition in the Compact and noted that the case examples addressed in the Advisory Opinion 04-2018 were distinct from the type of cases that J. Hawkins (MO) presented.
- **J. Miller (AR) made a motion to not recommend for adoption the proposed amendment to Rule 1-101 Definitions: Accused Delinquent. K. Brown (NJ) seconded. The motion carried by a 10-0-0 vote.**

Rule 6-102: Voluntary Return of Return of Runaways, Probation/Parole Absconders, Escapees or Accused Delinquents – Midwest Region

- Chair Cowger (KS) presented a proposed amendment from the Midwest Region to Rule 6-102, which was developed in response to the same case and Advisory Opinion previously discussed.
- The Rules Committee discussed the proposed new paragraph to the rule.
- **T. Frierson (IL) made a motion to recommend for adoption the proposed amendment to Rule 6-102: Voluntary Return of Runaways, Probation/Parole Absconders, Escapees, or Accused Delinquents and Accused Status Offenders as presented and amended. C. Frieberg (SD) seconded. J. Miller (AR) and J. Hawkins (MO) abstained. The motion carried by an 8-0-2 vote.**

The Rules Committee discussed and took the following actions on the following four (4) rule amendments presented by Rules Committee member A. Connor (ID) as proposed by the Idaho State Council.

Section 200: (New Rule) State Councils

- The Rules Committee discussed the proposed new rule to clarify the requirement of states to create, meet, and maintain state councils, as required by the ICJ

Statute Article IX. The new rule will also bolster the ability of the Commission to act if states do not comply with Article IX or this rule.

- **A. Connor (ID) made a motion to recommend for adoption the proposed new rule regarding State Councils to section 200 of the ICJ Rules as presented. T. Frierson (IL) seconded. The motion carried by a 10-0-0 vote.**

Rule 5-101: Supervision/Services Requirements

- Chair Cowger (KS) presented the proposed amendment to clarify that no supervision/service fees be sought by the sending or receiving state on a juvenile being supervised under the ICJ provisions.
- **A. Connor (ID) made a motion to recommend for adoption the proposed amendment as presented to Rule 5-101: Supervision/Services Requirements. T. Hudrlik (MN) seconded. The motion carried by a 10-0-0 vote.**

Rule 1-101 Definitions: (New Definitions) Human Trafficking/Labor Trafficking and Human Trafficking/Sex Trafficking

- Chair Cowger (KS) presented the proposed amendments to add two new definitions to Rule 1-101 related to human trafficking.
- J. Miller (AR) asked for information regarding why such definitions were needed.

Rule 6-105: Return of Juveniles When Abuse or Neglect is Reported

- Chair Cowger (KS) noted that the proposed definitions were related to a proposed amendment to modify Rule 6-105 to require state ICJ offices to report human trafficking, as they are currently required to report abuse and neglect.
- J. Hawkins (MO) expressed concerns that this amendment would mandate that state ICJ offices serve all juvenile victims of human trafficking, and could result in unnecessary detention and detainment during processing for return.
- **A. Connor (ID) made a motion to recommend for adoption the proposed amendment to Rule 6-105 Return of Juveniles When Abuse or Neglect is Reported. The motion fell to the floor for lack of a second.**
- **A. Connor (ID) made a motion to recommend for adoption the proposed amendment to Rule 1-101 Definitions to include the definition for Human Trafficking/Labor Trafficking and the definition for Human Trafficking/Sex Trafficking. The motion fell to the floor for lack of a second.**

Old Business

Rule 6-103: Non-Voluntary Return of Runaways and/or Accused Status Offenders

- Chair Cowger (KS) provided a brief history of the case that led to this proposal and the Advisory Opinion 05-2018 that addresses the issues surrounding the current definition of "Runaways." He noted this was discussed at a previous meeting, wherein J. Hawkins (MO) suggested that the issue would be best addressed by modifying the Rules to allow a requisition to be used in such cases.
- **J. Miller (AR) made a motion to recommend for adoption the proposed amendment to Rule 6-103: Non-Voluntary Return of Runaways and/or Accused Status Offenders as presented and amended. J. Hawkins (MO) seconded. The motion carried by a 10-0-0 vote.**

Rule 1-101 Definitions: Runaways

- Chair Cowger (KS) note that this proposal was developed in response to the same case and Advisory Opinion previously discussed.
- J. Hawkins (MO) stated it was sufficient to address this through the amendment of Rule 6-103, as just discussed, and that amendment of the definition was not necessary.
- R. Masters advised that, unless the definition was amended, an agency could still argue that the juvenile was not a “runaway” as defined by the Compact and therefore not subject to the Compact.
- **A. Connor (ID) made a motion to recommend for adoption the proposed amendment to Rule 1-101 Definitions: Runaways. J. Miller (AR) seconded. The motion carried by a 10-0-0 vote.**

Rule 7-104 Warrants

- Executive Director Underwood reported that significant discussion of Rule 7-104 had been ongoing since early in 2018. At the request of the East Region, members were surveyed regarding challenges with implementing the current rule. Advisory Opinion 03-2018 was also issued regarding interpretation of the rule, as most recently amended. Based on the recommendation of a subcommittee, the Executive Committee submitted a proposal that was discussed by the Rules Committee in FY 18. The Rules Committee voted not to recommend adoption of that proposal but developed a separate proposal.
- Two items of concern were previously tabled for further discussion. First, as described in Advisory Opinion 03-2018, “Rule 7-104 is a mandatory obligation placed upon the home/demanding/sending state to return a juvenile being held on a warrant even if the warrant has been withdrawn.” There may be circumstances in which this is not possible or practical, such as when there is no parent or guardian remaining in the home/demanding/sending state. The Committee was asked to consider if the current language may or may not align with the intended purpose of the rule. Second, some states do not issue warrants for juveniles. Those states have reported difficulty in getting returns, noting that some states interpret this rule to mean that there must be a warrant in NCIC in order for the juvenile to be eligible for return.
- The Rules Committee discussed the proposed language and reached a consensus to amend the proposal language for clarity.
- **J. Hawkins (MO) made a motion to recommend for adoption the proposed amendment to Rule 7-104 (3) Warrants as amended. T. Hudrlik (MN) seconded. The motion carried by a 10-0-0 vote.**
- Chair Cowger (KS) suggested concerns regarding if the language of the rule currently aligns with the intended purpose of the rule regarding the entry of warrants into NCIC be tabled for discussion at the next meeting.

New Business

Issues Referred by the West Region

- Chair Cowger (KS) reported that the West Region referred two issues for review: Should Rules be clarified to address whether ICJ applies to return of juveniles upon release from a correction facility? Secondly, does it matter whether the correctional facility is state or federal? He also noted that ICJ issued a “Best Practice: Return of a Juvenile Serving a Correctional Sentence in Another State”

on July 28, 2018. Chair Cowger (KS) suggested creating a sub-committee to discuss this issue further.

- J. Miller (AR) requested having a discussion topic added to the next meeting agenda to discuss the Rules Committee reviewing Advisory Opinions before they are issued.

Adjourn

- **Chair Cowger adjourned the meeting by acclamation at 4:04 p.m. ET.**