	Interstate Commission for Juveniles	Dispute Resolution Number 01-2013	Page Number: 1
<p style="text-align: center;">ICJ Dispute Resolution Issued by: Executive Director: Ashley H. Lippert Chief Legal Counsel: Richard L. Masters Date:</p>			
<p style="text-align: center;">States: Utah and Colorado</p> <p>Description: Which Compact should be used when a person commits an offense as a juvenile, but is not adjudicated until reaching the age of majority.</p>			

Background:

The State of Utah (UT) and the State of Colorado (CO) submitted a joint request for a legal advisory opinion. Upon review, it became apparent that the questions in this case constitute a dispute resolution as opposed to a legal advisory opinion for a rule interpretation. A review of the facts of the case, which do not appear to be in dispute, reveals the following:

The State of Colorado submitted a request for transfer of supervision for a 26-year-old sex offender. The offense occurred between 2000 and 2004 when the defendant/juvenile was between 13-17 years old. The victim disclosed the defendant/juvenile’s name on August 14, 2012. The defendant/juvenile was adjudicated on July 30, 2013 for sex assault on a child-pattern of abuse. The defendant/juvenile was placed on two years deferred adjudication in juvenile court.

Colorado inadvertently submitted the case through the Adult Compact due to the defendant’s age (26), that transfer was subsequently denied because of the juvenile sentence. Colorado then submitted the case through the Juvenile Compact, which Utah also denied.

Utah’s position is:


Based upon the fact that the age matrix on the Commission’s website indicates the State of Colorado’s maximum age for probation as 21 years of age, they denied the transfer of supervision. In addition, according to its statements to the Commission, the Utah Juvenile Probation department is not equipped to adequately supervise a twenty-six year old sex offender.

Colorado’s position is:

The defendant is eligible for supervision under the juvenile compact because he was a juvenile when the offense occurred and was adjudicated in juvenile court. Colorado further states, that according to Rule 5-101 (3) “Supervision cannot be denied based solely on the juvenile’s age or the offense.” Colorado’s sentencing structure does not allow for someone who is a juvenile at the time an offense was committed to be convicted in adult court unless the charge is murder.

Dispute Analysis:

ICJ Rule 1-101 defines the term ‘Juvenile’ to mean:

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“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.”(emphasis added).

ICJ Rule 4-101(1): *Processing Referrals* provides that:

“**Each state that is a party to the ICJ shall process all referrals involving juveniles, for whom services have been requested, provided those juveniles are under juvenile jurisdiction in the sending state.**”

The foregoing rule provisions make it clear that under the ICJ rules, states which are parties to the compact are obligated to process all referrals of those persons defined as a juvenile in any member state (*Rule 1-101*) and that each state must transfer supervision of all juveniles for whom services are requested as long as such juveniles are under the juvenile jurisdiction of the sending state. *See ICJ Rule 4-101(1)*.

As the U.S. Supreme Court held, “Applying ‘settled principles of statutory construction,’ we must first determine whether the statutory text is plain and unambiguous and . . . [i]f it is, we must apply the statute according to its terms.” *Carcieri v. Salazar*, 555 U.S. ----, ----, 129 S.Ct. 1058, 1063-1064, 172 L.Ed.2d 791 (2009); See also *Connecticut Nat. Bank v. Germain*, 503 U.S. 249, 253-254 (1992).

Ruling:

Since the twenty-six year old sex offender for whom transfer of supervision was requested by the State of Colorado committed the offenses for which he was adjudicated between the years 2000-04 when he was between the ages of 13-17, even though the adjudication did not occur until July, 2013 due to the fact the victim did not identify the perpetrator until August, 2012, he was considered to be a ‘juvenile’ subject to juvenile court jurisdiction in the State of Colorado. Thus under the ‘plain meaning’ of the above referenced ICJ rules, it appears that acceptance of transfer of supervision of the Colorado juvenile by the State of Utah is required by the ICJ and its duly authorized rules.