

	<b>Interstate Commission for Adult Offender Supervision</b>	<b>Opinion Number</b>  <b>ICAOS 8-2004</b>	<b>Page Number:</b>  <b>1</b>
<p align="center"> <b>ICAOS Advisory Opinion</b>  <b>Issued by:</b>  <b>Executive Director-Don Blackburn</b>  <b>Chief Legal Counsel: Richard L Masters</b> </p>			
<b>State Requesting Opinion</b> Georgia		<b>Dated:</b> <b>20 December</b> <b>2004</b>	
<b>Description</b> <b>Oklahoma sex Offender Court ordered under control of Oklahoma DOC –unsupervised status</b>			

### **Background**

Pursuant to ICAOS rule 6.101, The State of Georgia has requested a formal opinion regarding the following:

*“The file on Charles Grubbs, OK 368590 contains a copy of a Judgment & Sentence on the above offender who is a sex offender and is currently residing in Georgia. Oklahoma maintains that this offender is not eligible under the compact based on the sentence. I am not convinced of this. In fact, I believe that he should be under compact supervision as he is subject to conditions of supervision and is under the authority and control of the Oklahoma Department of Corrections.”*

Article II of the Compact defines “Offender” as: an adult placed under, or subject, to supervision as the result of the commission of a criminal offense and released to the community under the jurisdiction of courts, paroling authorities, corrections, or other criminal justice agencies.

Interstate Commission Rule 1.101 (m) repeats this definition. Rule 1.101 (bb) defines “Supervision” as the authority or oversight exercised by supervising authorities of a sending or receiving state over an offender for a period of time determined by a court or releasing authority, during which the offender is required to report to or be monitored by supervising authorities, and includes any condition, qualification, special condition or requirement imposed on the offender at the time of the offender’s release to the community or during the period of supervision in the community.

The Judgment and Sentence [exhibit A attached] on this case involving one Charles Grubbs states the following:

*It is therefore ordered, adjudged, and decreed by the Court that the defendant Charles R. Grubbs, is guilty of the above descry bed offenses and is sentenced as follows:*

*Term of Imprisonment with Execution of Sentence suspended in part.  
Count Sentenced to a term of:*

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1. *Fifteen (15) years.*

*With all except the first ten (10) years suspended under the custody and control of:*

- (x) *Oklahoma Department of Corrections upon the condition that the defendant does not violate any City, State or Federal laws. Sentence is suspended without supervision. Upon further conditions of suspended sentence, the defendant is order to pay all fines, cost, fees, restitution and assessments.*

*Pursuant to the rules and conditions of probation entered by the Court.*

The Oklahoma Compact Commissioner presents the following:

“While Oklahoma understands that the Judgment and Sentence appears confusing due to the statement that the offender is under the custody and control of the Department of Corrections; this is in reference to the incarcerated portion of the sentence. The judge made it very clear in the court order that this case was to be suspended without supervision. Due to this statement the Department of Corrections is relieved of any responsibilities during the probation portion of the sentence. The only rules and condition listed are for court ordered fines and costs and that the offender shall not violate any City, State, or Federal laws. The courts would be monitoring the monetary responsibilities and new charges would only be addressed if the court became aware of them. A particular agency would not be responsible for monitoring this offender due to the court order to be unsupervised. “

### **Conclusion and Opinion**

**As referenced herein the rules of the Interstate Compact for Adult Offender Supervision define “Offender” as an adult placed under, or subject to supervision as the result of the commission of a criminal offense and released to the community**

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under the jurisdiction of courts, paroling authorities, corrections or other criminal justice agencies. Thus it is clear that under this definition that an offender supervised pursuant to the terms of the Compact and its rules may include an adult placed under supervision by a court, in addition to paroling and corrections authorities.

**“Supervision” is defined as *authority or oversight exercised by supervising authorities, and includes any condition, qualification, special condition or requirement imposed on the offender at the time of the offender’s release to the community or during the period of supervision in the community.* Under this definition it is plain that supervision, as defined under the current compact rules, has two distinct criteria both of which must be satisfied in order for such a relationship to exist under the compact which are: 1) *authority or oversight is exercised by a supervising authority* and 2) *such exercise of authority or oversight includes a condition, qualification, special condition or requirement which is imposed on the offender at the time of release to the community or during the period of supervision in the community.***

The circumstances described in your opinion request are that the Oklahoma offender was clearly placed under the supervision of the Oklahoma Department of Corrections and conditions were imposed upon the offender as part of the suspended sentence that require payment of restitution in addition to other requirements which are conditions of probation.

Both of the above criteria for supervision under the compact have been satisfied and it appears that any transfer of the offender to another state must be under the terms of the Compact and its’ rules.