

INTERSTATE COMMISSION FOR ADULT OFFENDER SUPERVISION

ADVISORY OPINION

At Issue

Whether a receiving state may impose short-term confinement for probation violations on a supervised individual transferred under the Compact when such confinement is authorized by the receiving state's statute for individuals originally sentenced in that state.

Requesting State: North Carolina

Issued By:

Harry Hageman, Executive Director
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Whether a receiving state may impose short-term confinement for probation violations on a supervised individual transferred under the Compact when such confinement is authorized by the receiving state's statute for individuals originally sentenced in that state.

Issued by: Harry E. Hageman, Executive Director and Richard L. Masters, Legal Counsel

Background

North Carolina enacted a statute authorizing the short-term confinement of individuals under its probation jurisdiction, commonly known as a "Quick Dip" sanction, for a period of up to three (3) days at a time in response to violations of supervision conditions. State officials ask whether this statutory sanction may be applied to individuals transferred under the Compact.

Applicable Rules

Rule 1.101:

> 'Revocation' means the course of action by a court, sentencing authority or paroling authority to rescind a supervised individual's supervision term and impose a jail or prison sentence due to an act or pattern of behavior that could not be successfully addressed through documented corrective actions or graduated responses in the community
>
> 'Supervision' means the oversight exercised by authorities of a sending or receiving state over a supervised individual for a period of time determined by a court or releasing authority, during which time the supervised individual is required to report to or be monitored by supervising authorities, and to comply with regulations and conditions, other than monetary conditions, imposed on the supervised individual at the time of release to the community or during the period of supervision in the community.

Rule 4.101 Manner and Degree Supervision:

> (a) A receiving state shall supervise individuals transferred under the interstate compact in a manner consistent with the supervision and risk level of other similarly

sentenced individuals sentenced in the receiving state.

(b) If a supervised individual violates conditions of supervision, the individual may be sanctioned in the receiving state during the term of supervision in a manner consistent with similarly sentenced individuals in the receiving state.

(c) Receiving states shall document the use of incentives, corrective actions, graduated responses, and other supervision techniques.

Rule 4.101-1 Authority to Arrest and Detain:

A supervised individual in violation of the conditions of supervision may be taken into custody or continued in custody by the receiving state.

Rule 4.103 Conditions of Supervision:

(a) At the time of acceptance or during the term of supervision, the receiving state may impose a condition on a supervised individual if that condition would have been imposed on a supervised individual sentenced in the receiving state.

(b) A receiving state shall notify a sending state that it intends to impose, or has imposed, a condition on the supervised individual.

(c) A sending state shall inform the receiving state of any conditions to which the supervised individual is subject at the time the request for transfer is made or at any time thereafter.

(d) A receiving state that is unable to enforce a condition imposed in the sending state shall notify the sending state of its inability to enforce a condition at the time of request for transfer of supervision is made.

Analysis

ICAOS Rule 4.101 requires North Carolina to supervise transferred individuals in the same manner as similarly sentenced in-state individuals of the same risk level. This includes imposing sanctions for supervision violations consistent with those North Carolina applies to its own probationers. Moreover, Rule 4.101-1 specifically states that receiving states may take a supervised individual into custody when conditions are violated.

With that said, ICAOS Rule 4.103(a) and (b) require North Carolina to provide notice of these sanctions to sending states. A short-term confinement sanction imposed in response to a supervision violation, such as North Carolina's "Quick Dip" program, constitutes a condition of supervision for Compact purposes. Rule 4.103 requires the receiving state to notify the sending state of any such condition either at the time of acceptance or during supervision. Thus, while North Carolina may impose this sanction and supervise Compact individuals consistent with its own supervision of in-state probationers, it must notify sending states of this practice. This

notification requirement ensures consistent application of the Compact and allows the sending state to remain fully informed of the supervised individual's supervision status.

Conclusion

A supervised individual transferred to North Carolina under the Compact may lawfully be subject to short-term confinement ("Quick Dip") for probation violations, consistent with sanctions applied to similar individuals originally supervised in North Carolina. However, because this is an "imposed condition" under Rule 4.103, North Carolina must notify the sending state accordingly.