February 13, 2004

TO: All Compact Administrators
FR: Donald LaFratta, President

RE: Proposed Modification of Misdemeanor Eligibility Rule

As President of the Parole and Probation Compact Administrators Association I am writing to inform all Compact and Deputy Compact Administrators of the importance of the vote that is scheduled to take place on March 12th by the Interstate Commission for Adult Offender Supervision on its proposed changes to its rules 2-105, 1-101 and 2-106. The existing rules, along with the proposed modified language can be found at: www.adultcompact.org. Given that after the 12th we will have to live with whatever is voted on it is imperative that all voting Commissioners not only fully understand the plain language of the rules but also the practical implications that these rules may impose on member states. As your state’s compact expert I ask that you share your thoughts and your experience on this matter with your state’s Commissioner.

As currently written rule 2.105 extends eligibility to all misdemeanor cases. That is, all misdemeanors fall under the umbrella of the compact’s authority, and as such are subject to transfer rules. The proposed change would exclude a significant numbers of these currently eligible misdemeanants, based upon sentence structure or crime classification. The proposed wording would establish specific criteria or a threshold which must be reached for an offender to be eligible. Although the first two listed criteria are straightforward, the third, involving the definition of a “minor offense” presents a new concept to compact operations. Crimes that would be considered minor offenses and therefore presumably excluded would include, among others, crimes involving threats of domestic violence, stalking, and crimes involving only an “attempt” to commit bodily injury. In addition, offenders whose instant offense is of a “minor” nature but have a history of restraining orders, violence, or sexual convictions, which mandate that they register as a sex offender in the sentencing state, may also be excluded under this proposed change.

The upcoming vote also seeks to modify the definition of “supervision”, as contained in rule 1.101. Although this modification appears minor a possible unintended consequence may be the exclusion of felony cases from compact authority. Rule 3-101, the primary rule governing compact eligibility, makes no distinction between misdemeanor or felony cases. It states that an offender is eligible provided there remains, “three months or more or an indefinite period of supervision”. By modifying the definition of supervision to, “during which the offender is required to report to or be monitored by supervising authorities” felony cases under what some states have termed “unsupervised”, “administrative” or “banked caseloads” arguably could be excluded. Although the new wording is presumably targeted to exclude “unsupervised” probation cases it may have the unanticipated result of excluding felony cases.

What all voting Commissioners must be aware of before they cast their vote is that is that offenders not covered by Compact rules are able to relocate to any state, at the discretion of the sending state, without notice to the receiving state.
While I recognize that the PPCAA, has no official standing within the Commission to voice opinions or concerns, our constitution mandates that we reach out and “represent Compact interests on behalf of our member states…” We would be derelict in our responsibility if we did not at the very least request that our members educate their Commissioners as to their understanding of the implications of the proposed rule changes.

We share the new Commission’s desire to implement the most relevant, responsible, effective and workable rules that concerned and interested parties can construct. As President, I believe that the outcome of the vote on the rules on March 12th has the potential to significantly impact public safety. I urge you to please read and analyze the proposed rules and share your analysis with your voting representative. Your efforts at this critical time may ultimately decide which offenders are permitted to enter or leave your state under compact supervision.