



STATE OF TENNESSEE
BOARD OF PROBATION AND PAROLE
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January 16, 2004

David Guntharp, Chairman- ICAOS
Department of Community Corrections
Two Union National Plaza, 2nd Floor
105 West Capital
Little Rock, AR 72201

Dear Chairman Guntharp:

Please find attached the report from the Ad Hoc Committee on Misdemeanants. I have attached several documents that should give the Executive Committee the entire picture regarding the process used and the action recommended by our committee. The process and the results, we believe, will be supported by a large majority of state commissioners. Further, the committee also recommends expedited action regarding our work that will provide for a vote on this important issue in the near future.

On behalf of the Ad Hoc Committee on Misdemeanants, please know that we appreciate you and the staff of ICAOS for your support, guidance, and hard work throughout this process.

Respectfully submitted,

Jim Cosby
Chairman, Ad Hoc Committee on Misdemeanants

Misdemeanor Committee Report

During the November 2003 business meeting of the Interstate Commission for Adult Offender Supervision, rule 2.105, regarding misdemeanants, was amended which made **all** misdemeanants eligible for supervision under the compact. After the rule passed, many commissioners expressed concern about their respective state's ability to comply with the newly adopted misdemeanor rule. For example, in many states private companies, county agencies, or municipal entities supervise misdemeanors. Further, retaking of misdemeanor cases when violations occur is a jurisdictional problem. Commission Chair, David Guntharp, responded by appointing an Ad Hoc Committee on Misdemeanants to address these concerns and perhaps come forward with a compromise position on the misdemeanor rule. Commissioner Jim Cosby from Tennessee was appointed Chair of the committee and fellow commissioners Doreen Geiger from the state of Washington, Warren Emmer from North Dakota, Benjamin Martinez of Pennsylvania, and Tina Hayes of Florida also agreed to serve on the committee. The purpose of the committee was simply to try and reach a compromise regarding the controversial misdemeanor rule.

The Ad Hoc Committee on Misdemeanants met on December 9, 2003, January 8, 2004, and January 14, 2004 to produce compromise language for the misdemeanor rule as well as a definition of correctional supervision. The committee also determined that a survey of the compact states should be conducted in order to gain input and advice regarding the proposed changes. The survey was conducted and the results were made available on the compact web site and are included as attachments to this report. Further, documents are also attached that reflect the compromise language and the definition of correctional supervision adopted and now being recommended by the committee.

The Ad Hoc Committee on Misdemeanants also discussed compliance issues regarding the misdemeanor rule. There was unanimous agreement among the committee members that the Executive Committee should adopt a position that includes an individual state's efforts to comply with the misdemeanor rule. For example, one state may have conflicting statutes that prevent immediate compliance but that same state is working on legislation to correct the compliance issues. In other words, that good faith effort to come into compliance should be considered by the Executive Committee when deciding compliance issues. Further, the Ad Hoc Committee on Misdemeanants recommended that the Commission lend technical assistance to states making a good faith effort to comply with the misdemeanor rule.

The committee also approved and recommended to the Executive Committee that expedited action is taken on the proposed changes (amended misdemeanor rule and definition of correctional supervision) prior to the full commission meeting in 2004. This action was recommended in order to assist the training committee regarding subject

matter and for the sake of consistency (training on one rule now then perhaps changing it at the full commission meeting later in 2004 requiring retraining).

In summary, the Ad Hoc Committee on Misdemeanants has made a concerted effort to reach a compromise regarding the misdemeanor rule. Further, the committee has recommended a working definition of correctional supervision that will directly impact the eligibility of some offenders. The process included many points of view, at length discussion of majority and minority issues, and timetable recommendations for proceeding with changes. It is the hope of the committee that our work will be accepted and approved by a vast majority of the compacting states.

Respectfully submitted,

Jim Cosby
Chair Ad Hoc Committee on Misdemeanors