

New York State Council
Interstate Compact or Adult Offender Supervision
NYS Division of Criminal Justice Services
Alfred E. Smith Office Building
80 S. Swan Street
Albany, NY 12210
Thursday, May 16, 2024

Welcome and Opening Remarks:

Matthew Charton, Office of Probation and Correctional Alternatives Assistant Director, Acting Compact Administrator welcomed everyone to the ICAOS Council meeting.

State Council Members Present:

Matthew Charton, Office of Probation and Correctional Alternatives (OPCA) Assistant Director, Acting Compact Administrator (Acting CA)
Dean Defruscio, Division of Criminal Justice Services (DCJS) Executive Deputy Commissioner of Policy and Planning, representing NYS DCJS Commissioner Rossana Rosado
Scott Hurteau, Interstate Bureau Chief for Community Supervision, NYS Deputy Compact Administrator (DCA) – Parole, Interstate Compact for Adult Offender Supervision (ICAOS), representing NYS DOCCS Acting Commissioner Daniel Martuscello III
Chelsea Vizvary, Assistant Deputy Director, NYS Board of Parole, representing Darryl Towns, Chair, NYS Board of Parole
John Watson, Counsel, NYS Office of Victim Services (OVS), representing NYS OVS Director Bea Hanson
Lisa Good, Victim Rights Representative
Mark Mishler, Counsel and Legislative Director, Office of Senator Julia Salazar representing Senator Julia Salazar

State Council Members Not Present:

Honorable Erik Dilan, Assemblymember
Honorable David Weprin, Assemblymember

Vacancies

Judicial Appointment
Senate Appointment

Guests Present:

Timothy, O'Brien, Director of Internal Operations for Community Supervision, NYS Department of Corrections and Community Supervision (DOCCS)

Kelly Palmateer, Manager of the Interstate Compact Unit at DCJS-OPCA and NYS DCA – Probation, ICAOS
Shaina Kern, Compact Office Coordinator, DCJS-OPCA Interstate Compact Unit

Review and Approval of the Agenda:

Acting CA Charton acknowledged the retirement of two State Council members, Robert Maccarone, NYS Deputy Commissioner & Director, NYS DCJS – OPCA and Compact Administrator, and Elizabeth Cronin, Director, NYS OVS. Acting CA Charton also noted two vacancies on the council: judicial representative and senate appointment. Working to fill both vacancies and hope to have positions filled by the fall. Acting CA Charton asked council members to review agenda and if there were any additions to be made. Hearing none, Acting CA Charton requested formal motion to approve the meeting agenda. Motion made by Counsel Watson, seconded by Counsel Mishler. Motion approved.

Review and Approval of October 24, 2023, Meeting Minutes:

Acting CA Charton asked council members to review the minutes from the October 24, 2023, meeting of the NYS Council of the ICAOS and asked for a motion to approve the meeting minutes. The motion was made by Counsel Mishler and seconded by Counsel Watson. Motion approved.

Mission Statement:

Acting CA Charton read the Mission Statement aloud, noting the statement reinforces the purpose and focus of the council. Acting CA Charton stressed that the Council is an active working advisory body, and we are aiming to make the time spent together productive. Acting CA Charton hopes to engage council members and asked members to think about ways in which they may continue to support the work of the compact office. Acting CA Charton provided an example of how, when states were struggling with the timely issuance of interstate warrants for individuals who had absconded from supervision, former Judicial Representative, the Honorable Michael Yavinsky, assisted the compact office. Judge Yavinsky convened a meeting of judges and court clerks throughout NYS, the compact office was able to meet with those key stakeholders and, out of that meeting, a new procedure was developed. Since that time, warrants have generally been issued within the required 15 business day timeframe required by ICAOS Rule and a best practice was developed and posted on the Interstate Commission's website.

Review ICAOS Probation and Parole Compliance Measures:

DCA Palmateer reviewed New York State's compliance percentages, along with the national average, in each of the six compliance areas continuously measured by the ICAOS. DCA Hurteau reviewed the number of applications processed monthly by NYS Parole and NYS Probation from 4/1/2023-3/31/2024 as well as the total active compact cases under supervision each month during the same timeframe.

Acting CA Charton noted that NY is a destination, and that NY has more individual's coming into NY versus going out of NY. Most are residents of NY who have been sentenced in another state or are

those who have resident family in NY in which they are requesting to reside with. Both the probation and parole offices do a very good job of identifying where an individual will be most successful while keeping public and victim safety in the forefront.

Executive Deputy Commissioner Defruscio inquired about NY's strong violation response rate and inquired as to how we are doing so well in this area. DCA Palmateer explained the probation compact office's procedure for handling a violation report received from another state and how the office monitors the local probation department's response to ensure receipt. DCA Hurteau explained the parole compact office's procedure for handling a violation report received, how the compact office and supervisors conference to discuss the violation and then decide as a group how to respond and if warrant is required.

Counsel Watson noted how NY is above average in compliance areas and asked how the volume of cases may affect those percentages. DCA Palmateer explained the work the probation compact office does, and the procedures put in place, to ensure NY's compliance in these areas. Those efforts have influenced the compliance percentages, but the volume of cases may also have some effect as well. DCA Palmateer also noted that every state operates differently and may not have implemented similar procedures to NY. Acting CA Charton noted that he would like to see the focus of the Commission's quality assurance efforts change from timeframes towards how well states are doing in supervision, are states supervising individuals transferred under the compact in the same manner they would their own, how are states responding to non-compliance, and the like.

Introduction to the Interstate Compact for Adult Offender Supervision

Acting CA Charton requested DCA Palmateer provide Council members with a 5,000ft view of the interstate compact process. DCA Palmateer provided a general overview of the interstate transfer process to council members noting that the process begins with a sentence to supervision, that individual requests to or already resides in another state, the officer submits the request for transfer, the receiving state accepts supervision and then the individual can proceed to the receiving state. DCA Palmateer also explained the documents required for submission, possibility of requesting reporting instructions and how supervision responsibility is transferred to the receiving state once the individual has arrived in the receiving state.

Acting CA Charton spoke briefly about supervision in the receiving state and noted the decrease in the submission of violation reports requiring retaking in interstate cases. This decrease really speaks to the fact that receiving states are working with individuals to address non-compliance prior to submitting the violation report and requiring retaking by the sending state.

Focal Issues:

Acting CA Charton noted a new addition to the agenda, focal issues. Issues that either the probation or parole compact offices are experiencing. DCA Palmateer explained two issues the probation compact office is seeing regarding the issuance of full extradition warrants. One, when NY is obligated to issue a full extradition warrant under the ICAOS rules, and the individual is on supervision for a misdemeanor

offense in NYS, the warrant is often issued and entered in NCIC with limited extradition language. Acting CA Charton noted that traditionally police departments do not have misdemeanor warrants labeled as full extradition warrants and most DAs are not going to extradite in those cases. This is contradictory to the requirements under the compact rules and when the compact office attempts to have the warrant language corrected, since it is such an irregular practice, the compact office receives a lot of push back. The second issue is that courts are often calendaring cases, issuing notices to appear and waiting for an individual to fail to appear before issuing the required full extradition warrant after an individual has absconded from supervision. This is problematic as the sending state is obligated under the ICAOS rules to issue the full extradition warrant within 15 business days of receiving notice that the individual has absconded from supervision in the receiving state. Often the case is being calendared for outside the 15-business day timeframe allowed for the issuance of the warrant and the compact office must work with the probation department, the DA's Office, and the courts to educate them on the requirements of the compact and need for the warrant within the timeframe outlined in rule.

DCA Palmateer explained the other issue the compact office is seeing is related to the cost and obligation of retaking under the ICAOS Rules. It is costly for the County to retake an individual who has transferred under the interstate compact and often the District Attorney's Office and the Sheriff's Office do not want to fund, out of their extradition budget, the retaking of an individual who has transferred under the interstate compact. The financial burden then falls on the County Probation Department and Probation often does not have money in their budget to cover those costs. DCA Palmateer inquired about possible funding options or opportunities that might exist for probation departments to help cover the expenses related to interstate retakes.

Counsel Mishler asked if we have any statistics related to the cost of retaking and how much New York has spent retaking individuals who have transferred under the compact. Acting CA Charton explained the difficulties we have had in gathering that information and because the process is not completed by the probation department. DCA Palmateer indicated that this information may be easier to obtain now that the number of violations and retakes have dropped drastically and that the compact office will attempt to gather information in time for our next meeting in October. Counsel Mishler indicated that it seems that there should be money available to DCJS which could be accessed to cover these costs and believes that the Senator might support having some resources made available to the state for this purpose.

Counsel Watson inquired about how the collection of restitution is handled in interstate cases. DCA Palmateer explained that all monies owed are sent back directly to the sending state, the receiving state is not involved in the collection of any monies owed. Acting CA Charton noted that this is the one condition that is not enforced by the receiving state and that the sending state can always submit a violation for failure to pay.

DCA Hurteau indicated that parole does not run into the same issues with regards to funding for retaking as Parole has their own warrant and transfer bureau. One issue that Parole runs into, on the technical side of things, is the inability of parole to incarcerate certain violators for their behavior under Less is More. Parole must then order the individual back to New York State which almost always turns into an absconding situation and then requires Parole to issue a full extradition warrant.

Rule Amendments

Acting CA Charton explained to council members that every other year is a rule making year for the Commission in which the Commission considers rules that have been proposed by regions or committees. New York State has proposed one rule amendment which we are working to gain support for. DCA Palmateer explained the issues with the current wording of the Rule 3.103 and how the current wording does not support the original intent of the rule. DCA Palmateer explained the proposal developed by New York State and expressed that the proposal was created to clarify the population of individuals who meet the criteria to receive mandatory reporting instructions from the receiving state.

Acting CA Charton provided a real-life example that exposes the danger of the language in the existing rule. Explaining there was an individual, on supervision for a domestic violation offense, who had requested to transfer to New York. That individual did not have any real reason to come to New York State, and New York denied the request. The individual then absconded from supervision in the sending state and moved to New York State anyway. He was later located, returned to the sending state on the violation of probation and then, at disposition of the violation in the sending state, the sending state requested mandatory reporting instructions for the individual to come back to New York. That mandatory request for reporting instructions placed an obligation on New York to approve those reporting instructions and did not afford New York the opportunity to look further into the proposed address, location of the victim, etc.

Acting CA Charton reiterated that we are not saying that anytime someone ends up in New York State that we are going to deny that request. We are saying that we would like the opportunity to review the address and to have the discretion, in line with public and victim safety, to say no if the proposed address is not appropriate. The current wording in the rule does not allow for that.

Executive Deputy Commissioner Defruscio inquired about the rights of an absconder and if there is something that limits or prohibits what an absconder can do. Acting CA Charton stated that during pendency of the violation an absconder cannot relocate however after disposition of the violation they can. Acting CA Charton went on to clarify that if an individual had absconded to New York, and had been living in New York for 10 years, we are not looking to deny that request. The compact office is simply looking for the opportunity to verify that the residence is an appropriate place for the individual.

Counsel Watson asked, given our opposition to the practice, is New York sending out requests marked the same way? Acting CA Charton explained that the probation compact office in New York does not allow requests to be forwarded to the other state after the disposition of a violation unless that individual had originally transferred their supervision to the receiving state and was retaken under the interstate compact. Requests for those individuals are submitted to the receiving state as 'expedited' with a detailed justification explaining why that individual needs to be in the receiving state prior to acceptance of the transfer.

Victim Rights Representative Good asked how much of the process the individual on supervision understands. DCA Palmateer explained that it depends on the knowledge of the individual's supervising officer. Interstate is a small portion of what a probation officer does. The individual only knows what

their officer advises them and may obtain additional information regarding the transfer process from the National Office's website. Acting CA Charton added that the probation compact office conducts frequent trainings for the officers in the field.

Member Updates:

Victim Rights Representative Good presented at the Institution for Disaster and Mental Health the Grief of First Responders. Representative Good explained how the work, system wise, is very heavy. Representative Good's take away was that the system harms at every level and if we really want public safety that we must look at the harm and we need to change the culture. How we presently do things is breaking people.

Counsel Watson provided an update on what is happening at OVS. Counsel Watson stated there is an upcoming RFA for Victim Assistance Programs. The Governor put in place state funds to full fund the third and final year of the current contract cycle and additional state funds, thereafter, in case there are any caps in Federal Funding.

Assistant Deputy Director Vizvary did not have any updates to share with regards to the NYS Parole Board.

Counsel Mishler did not have any updates to share.

Victim Rights Representative Good states that Urban Grief has been able to do some innovative work with DCJS Project Rise funding. Representative Good mentioned that she was at city hall prior to the State Council meeting and was able to listen to a panel speak about how we can have a safe summer and reduce some of the violence. One of the things that Urban Grief has been able to do is to provide therapy and group support to individuals who were formally incarcerated and to families whose loved ones are going through the process of criminal proceedings. Urban Grief has been reaching out to Public Defenders Offices to identify cases in which they might offer families some support. It is a stigmatized reach for Urban Grief as they are victim services, but being able to do this work, and to help those to heal and to address the mental health component has a preventive mechanism to keep recidivism down. Executive Deputy Commissioner Defruscio indicated that DCJS is working on the continuation of Project Rise.

Director O'Brien noted the fantastic numbers on compliance and how he continues to be encouraged by the effective communication and collaboration that continues through-out because it lends to highly effective supervision, whether it is probation, parole, or post release supervision.

New Business:

Acting CA Charton advised council members of the ICAOS Rules Committee's work to remove the negative, stigmatizing language, from the compact rules. The term 'offender' has been removed and replaced with 'supervised individual'. The rule proposal package has been released and posted for

public comment. Acting CA Charton advised members that he would provide them with a copy of those proposed changes.

Closing Remarks:

Acting CA Charton thanked members for their continued support of the State Council.