

New York State Council
Interstate Compact for Adult Offender Supervision
NYS Division of Criminal Justice Services
Alfred E. Smith Office Building
80 S. Swan Street
Albany, NY 12210
Thursday, May 15, 2025

Welcome and Opening Remarks:

Matthew Charton, Office of Probation and Correctional Alternatives Deputy Director, Compact Administrator (CA) and Interstate Commissioner welcomed everyone to the Interstate Compact for Adult Offender Supervision State Council meeting. CA Charton asked Council Members and guests present to introduce themselves and to provide a brief overview of their office.

State Council Members Present:

Matthew Charton, Division of Criminal Justice (DCJS), Office of Probation and Correctional Alternatives (OPCA) Deputy Director, Compact Administrator
Dean Defruscio, Division of Criminal Justice Services (DCJS) Deputy Commissioner of Policy and Planning, representing NYS DCJS Commissioner Rossana Rosado
Mark Mishler, Counsel and Legislative Director, Office of Senator Julia Salazar representing Senator Julia Salazar
Honorable David Weprin, Assemblymember
Honorable Edwin Novillo, Queens County Criminal Court, Judicial Representative
Scott Hurteau, Interstate Bureau Chief for the New York State Department of Corrections and Community Supervision (NYS DOCCS), NYS Deputy Compact Administrator (DCA) – Parole, Interstate Compact for Adult Offender Supervision (ICAOS), representing NYS DOCCS Acting Commissioner, Daniel Martuscello III
Bea Hanson, Director, NYS Office of Victim Services (OVS)
Lisa Good, Victim Rights Representative
Ziran Guo, representing NYS Board of Parole Chair Darryl Towns

State Council Members Not Present:

Honorable Erik Dilan, Assemblymember
Senate Appointment – vacant

Guests Present:

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

Review and Approval of the Agenda:

CA Charton asked council members to review agenda included with their meeting materials. Agenda approved. The agenda mostly focuses on the review of the rule proposals being put forth for vote at the 2025 ICAOS Annual Business Meeting. CA Charton mentions there are 22 proposals in total however the council will be reviewing the 7 rules identified by DCA Palmateer to be the most impactful. CA Charton notifies council members that the rule proposals are open for public comment and notes that there is a link provided to each council member so that the rules and comments can be reviewed in their entirety later.

Review and Approval of November 7, 2024, Meeting Minutes:

CA Charton asked council members to review the minutes from the November 7, 2024, meeting of the NYS Council of the ICAOS and asked for a motion to approve the meeting minutes. Motion approved.

Mission Statement:

CA Charton read the mission statement aloud to council members.

Review ICAOS Probation and Parole Compliance Measures:

CA Charton spoke to council members about the Interstate Commission and explained that the Interstate Commission consists of a representative from each compact member state and 3 territories, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands. CA Charton explained the role of the ICAOS National Office in auditing metrics, in certain areas, for compact member states on a quarterly basis. CA Charton notes that NY is traditionally one of the largest states for interstate transfers. On the probation side NY is the 5th largest state and for both probation and parole together, the 8th largest state.

DCA Palmateer explained the change in the format of the reports due to the Commission's switch to Tableau. DCA Palmateer explained each measure, reviewed NYS's, and NYS Probation's, compliance percentages in each of the six key areas and compared NY's numbers to the national average. DCA Palmateer explained that, with regards to probation's compliance, that the compact office at DCJS must work with the local probation departments to ensure compliance as the data/reports are submitted by them. DCA Hurteau explained that parole's process is a bit different in that the information is provided by the field office in NY, but the compact office submits the report themselves.

DCA Hurteau reviewed the average number of cases that were supervised by parole per month noting. CA Charton noted the difference in office operations between parole and probation.

DC Defruscio requested clarification on what 80% means. DCA Palmateer clarified that 80% is the compliance threshold established by the Commission. DC Defruscio inquired if the National Office is looking at the local probation department with regards to compliance with that threshold or the State as a whole. DCA Palmateer explained that compliance is measure at the State level.

CA Charton advised that the compact office has access to reports which advise as to county's compliance in these areas. CA Charton notes that we can monitor county's compliance that way and luckily, NY has not had compliance fall below 80% consistently. Sometimes, smaller counties may fall below 80% in one month simply based on the limited number reports due during that month. If the county has 3 or 4 transfers in, and two are overdue, that really impacts the compliance percentage. DC Defruscio asked, in those circumstances, is action needed or necessary. DCA Palmateer indicated that the compact office would contact that department to determine the reason for the delay in the submission of the report and if there is anyway that the compact office can assist the department in meeting the required timeframes. DCA Palmateer explained the different procedures put in place by the NYS probation compact office to assist counties in maintaining compliance. CA Charton advised that when a state is found to be non-compliant during an audit, the commission requires the state to develop an action plan. DCA Palmateer added that the compact office provides quarterly trainings to probation staff on issues when they have been identified as a systemic issue.

Director Hanson requested clarification on parole's deportation cases and OOSI case. DCA Hurteau explained that deportation cases are those cases where the individual has been deported, but still owes time to the Department of Corrections. DCA Hurteau explained that they are not monitored unless the individual comes back into the United State. He went on to explain that OOSI cases are individual who are in custody outside of NYS.

Review and Discussion Regarding ICAOS Rule Proposals – Voting to occur at the 2025 ICAOS Annual Business Meeting, October 1, 2025, San Juan, Puerto Rico

CA Charton explained to council members that every other year is a rule making year for the Commission. Committees and/or Regions can submit a proposal for a rule change for consideration. CA Charton noted that there are 22 rules proposals being voted on at the 2025 ICAOS Annual Business Meeting in San Juan this year. Commissioners from each State will gather in San Juan and have one vote.

DCA Palmateer explained the format of the rule proposals being reviewed. DCA Palmateer started the discussion by reviewing the absconder rule change "package". DCA Palmateer explained that each state will receive one vote for all three rules, the change in definition, the changes proposed to 4.109-2 Absconding Violation and to 5.103-1 Retaking Absconders. DCA Palmateer provided the current definition of abscond and the new proposed definition. DCA Palmateer noted the proposed language in the definition is ambiguous, open for interpretation in the receiving state and will likely cause inconsistencies in application. Counsel Mishler commented that the advantage of the proposal is that it requires consideration of the mental state of the individual being declared an absconder and that they have taken action to make themselves unavailable for supervision. DCA Palmateer spoke about the various steps departments must take to declare an individual an absconder under the current wording in Rule 4.109-2 and that compact offices should ensure that absconder violation reports are being

submitted for individuals who have absconded and only after the state has taken the necessary steps per ICAOS rule, and in accordance with their own department's policies, to declare the individual an absconder. CA Charton thanked Counsel Mishler for the comment, noted that his point is well taken and that he believes it is covered in the actual requirements for declaring someone an absconder.

DCA Palmateer indicated that the rules are open for public comment until the first week of June. The comment period allows states to make suggestions on the proposals. Those comments are then reviewed and considered by the committee that submitted the proposal. That committee can then make any changes they feel appropriate. Changes to the rule cannot be made from the voting floor at the annual business meeting. DCA Palmateer encouraged council members to continue to raise questions, comments and ideas.

DCA Palmateer proceeded with explaining the current wording and requirements under Rule 4.109-2 Absconding Violation. DCA Palmateer then explained the proposed changes to the rule and that the changes in section B, are cause of concern. DCA Palmateer went on to state that the timeframe being imposed is not only difficult to identify and enforce but it may also pose some potential liability issues for local probation departments. DCA Palmateer reviewed the proposed changes to 5.103-1 and discussed the challenges the proposal may present to states geographically. DCA Hurteau explained that Parole also has concerns about the 30-day time frame being proposed in Rule 4.109-2. CA Charton commented that the rules is trying to get states to do a full investigation to ensure that the individual has in fact absconded, however the 30-day time frame being suggested does cause concern.

DCA Palmateer explained the proposed changes to Rule 2.106 and that the rule was proposed to clarify which deferred sentences qualify for transfer under the compact. DCA Palmateer noted that the proposed change does not accomplish this and limits eligibility to only those who received a deferred sentence and are a resident of the receiving state or have resident family in the receiving state. DCA Palmateer proposed that NY's comment with regards to this proposal include a suggestion that the language be changed to reflect a reference to Rule 3.101 section (a) through (c), and not the entire rule.

DCA Palmateer explained the changes proposed to Reporting Instructions for Sex Offenders. DCA Palmateer commented that the rule does a few things. The rule moves existing language in regarding reporting instructions for sex offenders to a new rule, addresses cases in which the individual was sentenced virtually, and clarifies what documentation needs to be included in the request. DCA Palmateer stated that our comment for this proposal would include a suggestion to include wording that mirrors language already used within the ICAOS rules. That language would indicate that if the proposed residence is invalid due to existing state law or policy, the receiving state may deny reporting instructions. This language provides more clarity with regards to the denial of mandatory reporting instructions. CA Charton notes that it has been a struggle for years, trying to figure out the best place for an individual on supervision for a sex offense to be successful while considering public safety.

Director Hanson asked, if we agree with the intent of the rule, what options there are for minor language changes if there is an up or down vote. DCA Palmateer explained that the comment period allows states to make such suggestions. Those comments are then returned to the committee that

proposed the rule. That committee can take the comments into consideration and make changes that they believe should occur.

DCA Palmateer discussed the proposed creation of a new rule, Mandatory Reporting Instructions for Supervised Individual Released from Incarceration in the Receiving State noting that the rule moves existing language from Rule 3.102 to its own rule. DCA Palmateer noted support for the move to its own rule as the current language is contained within a rule unrelated to reporting instructions however, there are concerns about allowing a sending state 15 business days to submit a request for reporting instructions for an individual who is released from incarceration in the receiving state and is requesting to reside there. CA Charton added that he feels it is all about communication and notifying the other state that there is an individual in their community. This allows them timely access to supervision and services. The three-week timeframe seems unnecessary and is too long.

DCA Palmateer then presented the proposed changes to Rule 3.103 Mandatory Reporting Instructions for Supervised Individual Living in the Receiving State. DCA Palmateer noted that states across the nation have long interpreted this rule differently. DCA Palmateer explained the intent of the rule when it was created, how the plain language is being interpreted now, and how the proposed changes will affect practice. DCA Palmateer notes concerns with the wording and practice that allows individual who have absconded to the receiving state to be eligible for mandatory reporting instructions and immediate return to that state after disposition of a violation hearing in the sending state. CA Charton gave an example of a domestic violence situation and explained to council members the potential issues with simply allowing an individual, who absconded to the receiving state, to return to the receiving state upon disposition of a violation without first verifying the address and situation in the receiving state.

DCA Palmateer then spoke of the proposed changes to Rule 4.105 Arrival and Departure Notifications. DCA Palmateer explained that NY would not support the changes to this rule as the notice of departure act as notice to the receiving state that an individual has left the sending state. It serves as a tracking mechanism and if not submitted upon departure, it serves no purpose.

DCA Palmateer presented the proposed changes to Rule 5.101-2 Discretionary Process for Violation Disposition and explained current rule and practice. DCA Palmateer noted that NY would not support this proposal as it requires the sending state to conduct a violation hearing and eliminates the ability for the sending state to have the individual sign a waiver for the hearing.

DCA Palmateer advised council members on the probable cause hearing rule being proposed by the East Region. DCA Palmateer explained that the rule establishes a timeframe in which the hearing must be held and requires that the report regarding the hearing provides details and information pertaining to each violation charge. DCA Palmateer noted that NY would support this proposal.

DCA Palmateer presented a new rule proposal which combines two existing rules regarding retaking procedures and sending state transport and authority during retaking. DCA Palmateer advised that NY would support this rule however would suggest the wording in section A may be problematic. DCA Palmateer notes that there are certain violations that do not require a warrant, and the sending state

can issue a warrant at any time. The proposed wording would eliminate discretionary retaking by the sending state from this rule. DCA Palmateer suggests a comment to remove section A in its entirety.

Financial Impact of ICAOS Retaking

CA Charton suggesting moving this agenda item to the fall 2025 agenda.

Focal Issues/New Business:

None

Update from Council Members:

None

DRAFT