



## Division of Criminal Justice Services

**ANDREW M. CUOMO**  
Governor

**MICHAEL C. GREEN**  
Executive Deputy Commissioner

**ROBERT M. MACCARONE**  
Deputy Commissioner and Director

### **New York State Council Meeting**

Interstate Compact for Adult Supervision

NYS Criminal Justice Services

Alfred E. Smith Office Building

80 South Swan Street, Room 118

Albany, NY 12210

Thursday, May 17, 2018

#### **Welcome and Opening Remarks**

Robert Maccarone, Deputy Commissioner and Director of the Office of Probation and Correctional Alternatives

Interstate Commissioner and Compact Administrator and Chair

Welcome Members of the Council and Guests

#### **Introductions of State Council Members**

Honorable Donald O'Geen – Wyoming County District Attorney

Honorable Michael Yavinsky – Supervising Criminal Court Judge – Kings County

Tina Stanford – Chairwoman – NYS Board of Parole

John Watson – Council – Office of Victim Services - designee for Elizabeth Cronin, Director Office of Victim Services

Felix Rosa – Deputy Compact Administrator (DCA) Parole – NYS Department of Corrections and Community Supervision (DOCCS) – designee for Anthony Annucci, Acting Commissioner NYS Department of Corrections and Community Supervision

Dennis Houdek, Esq. (*via phone*)

**State Council Members not present**

Michael Green, Executive Deputy Commissioner NYS Division of Criminal Justice Services

Honorable Philip Ramos – NYS Assembly

**Guests**

Matthew Charton – Deputy Compact Administrator (DCA) Adult Probation – NYS Division of Criminal Justice Services

Kathleen Kiley – Counsel – NYS Board of Parole

Kelly Palmateer – Supervisor, Interstate Unit, NYS Division of Criminal Justice Services

Penney Belcher – Supervisor, Interstate Unit, NYS Division of Criminal Justice Services

Raymond Tashjian – Agency Program Aide, Interstate Unit, NYS Division of Criminal Justice Services

Nicholas Burnash - Agency Program Aide, Interstate Unit, NYS Division of Criminal Justice Services

Karla Snedecor-Flores - Agency Program Aide, Interstate Unit, NYS Division of Criminal Justice Services

Lisa Calogero – Senior Parole Officer – NYS DOCCS

Keisha Israel Agency Program Aide – NYS DOCCS

Charlene Tesla Agency Program Aide – NYS DOCCS

Randy Blades Senior Parole Officer – NYS DOCCS

**Agenda**

NYS Compact Administrator Robert Maccarone requested an approval of today's agenda. All council members approved agenda.

**Minutes**

Compact Administrator Maccarone asked that council members review the minutes of the December 19, 2017 State Council meeting. Council members reviewed with no corrections or additions recommended. Council Member Yavinsky made motion to accept, seconded by Council Member Stanford. Minutes of the December 19, 2017 State Council meeting were approved.

## **Mission Statement**

Compact Administrator Maccarone asked Parole DCA Felix Rosa to read aloud the council's mission statement. The mission state was read with no questions or comments raised

## **State Council Vacancies**

NYS Compact Administrator Robert Maccarone announced that there are currently two vacancies on the Council. Janice Grieshaber-Geddes, Council's Victim Representative has resigned. DCJS has identified a new candidate and is working with the Governor's Office for review and appointment. Honorable Daniel O'Donnell, Assemblyman is no longer the Chair of the Assembly Correction Committee and has stepped down from his council seat. Once we receive Assemblyman O'Donnell's letter of resignation, we will begin to pursue a new candidate from the Assembly. NYS Compact Administrator Robert Maccarone commented that it is our goal to have both positions filled by the Fall 2018 Council meeting.

## **Review of ICAOS Quarterly Audit**

Compact Administrator Maccarone asked DCA Matthew Charton to review the results of the ICAOS compliance audit for the 1<sup>st</sup> quarter of 2018. DCA Charton explained that the Commission had decided to audit compact states on a quarterly basis on certain ICOTS functions. DCA Charton reviewed the compliance data for NYS during this period. He commented that any compliance percentage below 80% is considered failing. DCA Charton reviewed the six ICOTS compliance areas, noting NYS passed every category. DCA Charton did note that NY Probation is focused on Progress Report compliance in the 2<sup>nd</sup> quarter. He noted that since the change in ICAOS rules in June 2017, the Progress Reports submitted require more detailed information and field probation departments were not providing. This has caused some delay in Progress Report submission as now the report is a "managed" activity and the Compact Office reviews the report prior to submission to the sending state. In many cases the Progress Report that was submitted to the Compact Office had to be returned to the field for additional information or corrections which have resulted in delayed submission. DCA Charton was happy to report that in the months of April and May, NYS has had only one Progress Report submitted late. DCA Charton then asked DCA Rosa to review the photo compliance category within the audit. DCA Rosa provided an overview of the Commissions March 2017 "informal" ICOTS photo audit. He related that the results of NYS "informal" audit were considered "poor" by the National Office. Upon follow up with the National Office, it was discovered that the bulk of failing photos were submitted by DOCCS and it was not the quality of the photos but that they were all black and white. DCA Rosa reiterated that States were not informed what the expectations of photos were prior to this audit, as there were no photo standards issued by the Commission prior. DCA Rosa noted that his Office replaced over 1,400 ICOTS photos with color photos that meet the new standards issued after the "informal" audit was completed. In the first quarter of 2018, the National Office again audited ICOTS photos. NYS did well, but still had a 6% failing rate with most failing photos belonging to parole. After discussing with DCA Charton, DCA Rosa contacted the National Office to further discuss the "failing" photos in the audit. It was discovered that the photos meet all the audit standards, but were mislabeled frontal or profile. It was also discovered that some of the sample photos reviewed, were taken before the audit period. The National Office recognized their mistake and the failure rate for ICOTS photos was amended to less than 2%. Compact Administrator Maccarone commented that quarterly audits may not be the best use of resources by the National Office. DCA Charton did confirm that the National Office will

continue to audit on a quarterly basis in 2018. Council Member Michael Yavinsky asked what action is taken by the National Office to remedy those compact states that do not “pass” the standards in a national audit. Compact Administrator Maccarone reviewed the options that the Commission has when states do not pass audits and are found in default. Council Member Stanford asked a question about the quality of Progress Reports that receiving states are sending to NYS. Progress Reports are used by the Board in completing a three-year discharge plan and there are times when the Progress Reports do not contain much information. Council Member Stanford asked DCA Rosa what can be done to ensure other states are completing a report that contains useful information. DCA Rosa replied that he forwards the three-year discharge questionnaire to receiving states for completion and provides that information to the Board for hearing purposes. Since the questionnaire is completed and provides the information the Board is looking for, the Progress Report may not provide a full supervision summary. DCA Charton noted that there is some frustration from the probation field as they feel, at times, they are being held to a different standard than other states in completing Progress Reports. Council Member Stanford asked if NY Probation is seeing a pattern from counties of states that are submitting reports that do not contain the right information. DCA Charton pointed out that since Compact Offices in the sending state do not see incoming reports, it is difficult to see any patterns.

### **ICOTS Victim Notification Service (IVINS)**

Compact Administrator Maccarone gave an historical overview of VineWatch and IVINS, including the impact the NYS Council had in the formation of IVINS. Compact Administrator Maccarone discussed the National Office recent discussions to contemplate suspending IVINS because of cost and resources. He then requested DCA Charton update the Council on IVINS. DCA Charton highlighted the National Offices primary concerns, the first is the number of notifications victims are receiving and victims’ advocates are relating that it is confusing and some victims are opting out of notifications because of this. The second is the cost/resource issue. DCA Charton outlined NYS plan to move forward in this area. The plan is to advocate for fixing IVINS, including the reduction of notifications to victims and any other “bug” that may be found. Request the Rules Committee review and edit the existing rule (Rule 3.108) that governs victim notification to comply with IVINS notification capability and to advocate the promotion of IVINS on a national basis with national resources and guidance. Compact Administrator Maccarone felt that once the rule is reviewed and any changes are made and promulgated, the National Office should audit states to ensure use of IVINS in accordance with the victim notification rule. Compact Administrator Maccarone requested OVS Counsel John Watson bring this issue up with Council Member Cronin for further discussion. Council Member Stanford commented that national victim organizations could be used as a resource to move IVINS forward. Council Member Yavinsky commented that if the responsibility is moved out to States, compliance and quality of victim notification would suffer. John Watson commented that National Association of Crime Victims could be used as contacts for lobbying for victim notification and IVINS. Parole Board Counsel Kathy Kiley suggested that Janet Kopesh of the DOCCS Office of Victims Services can be a strong advocate for this issue. Council Member O’Geen made a request on behalf of the NYS Council for Interstate Compact for Adult Offender Supervision to Compact Administrator Maccarone to continue advocating with the National Office or any committee to ensure IVINS remains active and to make any necessary changes to the Service and/or rules to help victims remain informed and educated. Council member Stanford seconded that motion and all council members agreed.

## **Overview of the Interstate Transfer Process**

DCA Charton requested that the Overview of the Interstate Transfer process be tabled due to time constraints. Compact Administrator Maccarone made a motion to table the overview of interstate transfer and possibly add to the next council meeting agenda. Council Member O’Geen seconded, all council members agreed.

## **New Business**

DCA Charton outlined the Compact Office training plan with a focus on New York City Probation Department, including in-person borough based training.

Compact Administrator Maccarone raised the issue of sex offender management and ICAOS rules. The Rules Committee, which Compact Administrator Maccarone is a member of, will be examining/updating the interstate compact sex offender rules, with a focus on the definition of “sex offender”. DCA Charton provided the rationale and an overview of the Rules Committee charge in this area. Council Member O’Geen commented that if the definition is changed, it would be a good first step in solving any issue. OPCA Kelly Palmateer spoke about the issue of those sex offenders who do not have to register in NY, and who may have to register in the receiving state and how NYS mandates all sex offenders, regardless of registration, remain in NYS until the receiving state grants permission to relocate. Council Member Yavinsky also commented that the definition change sounds necessary. Compact Administrator Maccarone added that terminology is important and needs to be consistent.

Compact Administrator Maccarone raised the issue of “lifetime supervision” and that he addressed the Rules Committee recently on this subject. Compact Administrator Maccarone reviewed the relevant compact rules with the Council. He then asked DCA Rosa to speak about a specific issue that NY Parole had with another state. DCA Rosa provided the details of this transfer issue, including the notion that some states have a “lifetime supervision” statute for certain convictions, but NYS parole does not. He further stated after the “active” period of supervision is concluded and the offender is moved to “lifetime” supervision, the offender cannot be violated for non-compliance and questions whether they can be legally actively supervised during this period. DCA Rosa stated his concern is supervising an offender where active supervision was not intended. Compact Administrator Maccarone spoke about the notion of unsupervised supervision and how it impacts states that do not recognize the concept in their own state. Compact Administrator Maccarone commented that although this specific issue was resolved with the sending state, the larger issue of “unsupervised” lifetime supervision will continue to be reviewed through the Rules Committee. Council Member Yavinsky questioned whether the rules were created prior to the technology being put in place to notify sending states of any new arrest during the period of “unsupervised” supervision. Council member O’Geen concurred with Council Member Yavinsky’s position feeling this notification would satisfy the “monitoring” expectation of the sending state. Compact Administrator Maccarone felt that no one had raised this issue and he would raise it with the Rules Committee.

## **Closing Remarks**

Compact Administrator Maccarone asked if there were any other comments or questions, receiving none, he requested a motion to adjourn. Council member Dennis Houdek motioned for adjournment and was seconded by Council Member Yavinsky.

**Meeting was called to a close at 12:59 PM**

**Next Meeting: Tuesday, October 30, 2018 11a.m. to 1p.m.**