

New York State Council Meeting

Interstate Compact for Adult Offender Supervision

NYS Division of Criminal Justice Services

Alfred E. Smith Building

80 S. Swan Street, Room 118

Albany, New York

Tuesday, May 21, 2019

Welcome and Opening Remarks

Robert Maccarone, New York State Deputy Commissioner and Compact Administrator (CA) welcomed members and guests to the Interstate Compact for Adult Offender Supervision (ICAOS) State Council Meeting. CA Maccarone acknowledged newly appointed council member, NYS Assemblyman David Weprin to the Council.

Introduction of State Council members:

Robert Maccarone, Deputy Commissioner & Director, NYS DCJS – Office of Probation and Correctional Alternatives (OPCA) and NYS Commissioner and Compact Administrator

Tina Stanford, Chairwoman NYS Board of Parole

John Watson, NYS Office of Victim Services (OVS) – representing NYS OVS Director Elizabeth Cronin

Honorable Donald O'Geen, Wyoming County District Attorney

Honorable David Weprin, NYS Assembly member

Council members not present:

Honorable Philip Ramos, Assemblyman

Honorable Michal Yavinsky, Supervising Judge, Kings County Criminal Courts

Michael Green, Executive Deputy Commissioner, NYS DCJS

Anthony Annucci, Acting Commissioner, NYS Department of Corrections and Community Supervision (NYS DOCCS)

Dennis Houdek, Esq

Introduction of Guests

Joseph Popcun, Deputy Commissioner for Policy and Planning, NYS DCJS, representing Commissioner Mike Green

Matthew Charton, Probation Deputy Compact Administrator, NYS DCJS - OPCA

Jeff Kirker, Regional Manager, NYS DOCCS

Kathleen Kiely, Counsel, NYS Board of Parole

Jim Carswell, Bureau Chief, Parole Deputy Compact Administrator, NYS DOCCS, representing Commissioner Anthony Annucci

Kelly Palmateer, NYS DCJS – OPCA, Compact Office Coordinator
Penney Belcher, NYS DCJS – OPCA, Compact Office Supervisor
Raymond Tashjian, NYS DCJS – OPCA, Compact Office Program Aide
Karla Snedecor-Flores, NYS DCJS – OPCA, Compact Office Program Aide
Tyrone Catoe, NYS DCJS – OPCA, Compact Office Program Aide
Jordan Cerniglia, NYS DCJS – OPCA, Compact Office Program Aide

CA Maccarone asked to review today's agenda and the minutes from the October 30, 2018 Council meeting. CA Maccarone asked for a motion to approve the October 30, 2018 minutes. Council Member Donald O'Geen made a motion to approve the Council minutes of October 30, 2018, which was seconded by Council Member Tina Stanford. Motion to approve Council minutes of October 30, 2018 passed unanimously.

CA Maccarone reviewed the current vacancies on the State Council. The only current vacancy is the Victim Representative. CA Maccarone did receive a nomination from the NYS Office of Victim Services Director Elizabeth Cronin for this position. This individual is currently under review and we will report back to the Council on any status change.

CA Maccarone requested DCA Charton read the Council Mission Statement aloud, which he did.

CA Maccarone updated the Council on NYS efforts to develop and implement a Victim Notification System to alert victims on movements and actions taken by interstate offenders. CA Maccarone asked Council members to review a letter he had written to the ICAOS Executive Director, Ashley Lippert. The letter focused on New York States ability to contract with a company to access data in the Interstate Compact Offender Tracking System (ICOTS) to trigger notifications for self-registered victims. DCA Charton provided the Council with a brief overview of past and present efforts by NYS to develop a victim notification system and outlined the challenges we have faced in doing so. At this time, we plan to continue to advocate for using data already located in the ICOTS system in developing a victim notification system that works for all interested parties. CA Maccarone informed the Council that we will continue to update them on any new developments, as well as thanking them for their continued support.

DCJS Deputy Commissioner Joseph Popcun asked about the type of notifications that would be provided to victims. CA Maccarone advised DC Popcun that we hope to limit the number of notifications to victims to notice of departure, arrival, absconder so victims do not feel overwhelmed by them. CA Maccarone asked that DCA Charton provide further clarification. DCA Charton described the limited notifications as those that would inform and confirm when the offender is actually moving from one area to another, as well as when the offender has absconded from supervision and their whereabouts are unknown. CA Maccarone commented that we hope to hear from NYS DOCCS further about their thoughts on the notifications.

Council Member Tina Stafford asked that we consider a notification for victims at the point a sentence is terminated. Council Member Stafford felt that victims may be more vulnerable at the point of a sentence discharge because that person is no longer under supervision. Council Member Stafford also raised the issue of partnering with county Sheriff's Offices which currently administer the VINE system. DCA Charton responded that this was previously contemplated; however, the Sheriff Offices' VINE system provides limited notifications, usually when someone is released from local jails or state prison, and our vision provides more notifications concerning the individual's progress on "community supervision". DCA Charton also pointed out that notifications will be triggered by ICOTS data and only community supervision staff are authorized to access ICOTS.

CA Maccarone added that any victim notification system must be accompanied by a strong public information campaign that informs victims, advocacy agencies, courts, prosecutors, defense counsel, and police agencies of victim notification. Parole DCA Carswell pointed out the NYS DOCCS has a Victims Services Office that works closely with officers on any victim sensitive case and they would be a strong partner in any victim notification system development and implementation. CA Maccarone thanked DCA Carswell and noted that we will continue to work closely with DOCCS on this issue. Lastly, DCA Charton notified the Council that Pat Tuthill, who worked closely with NYS and other interested compact states on victim notification at the national level has been replaced as the ICAOS Victim Representative. DCA Charton will update the Council on her replacement.

The next item on the agenda discussed was a compliance review with the ICAOS audit measures conducted by the national office. CA Maccarone asked DCA Charton to review NYS' probation compliance data. DCA Charton reviewed NYS compliance dashboards for both probation and parole with the Council. The compliance data showed that NYS is in full compliance and is 90% or higher in all categories that comprise the dashboard. DCA Charton reiterated DCJS' Office of Probation and Correctional Alternatives reviews the dashboard information on a monthly basis during its "report-out" review. DCA Charton then reviewed the information that is reported monthly, which covers not only the dashboard compliance data, but the number of interstate transfers into and out of NYS. DCA Charton noted that the trend of almost three transfers into New York State for every transfer out on the probation side continues. Parole DCA Carswell reported that on the parole side, DOCCS actually transfers more individuals on supervision out of New York State than into the state. Council Member John Watson did note that during a three-month period NYS was below the compliance percentage of 80% in replies to violation reports. DCA Charton did acknowledge the compliance percentage in that area, and explained the measures taken by NYS to correct the issue and since that time, NYS always been in the 90% range and the twelve-month average is now 90%. It was noted that with the implementation of new ICAOS Rules on violations and re-taking, there are dramatically fewer violation reports, so missing just a few replies will reflect negatively on the monthly reporting.

CA Maccarone then moved to the next agenda item, which is the upcoming ICAOS informal audit on interstate compact warrants. CA Maccarone asked that DCA Charton review the audit measures with the Council. DCA Charton provided a brief overview of the audit and the logic behind what the Commission would be looking for. DCA Charton expressed the difficulty for probation departments in ensuring that warrants are issued by sending courts in accordance with ICAOS rule and that once a state executes the warrant, the locality retakes that probationer as mandated by rule. Since probation is administered at the county level in NYS, there are multiple courts in every county that need to be educated on their responsibilities under ICAOS rules and multiple agencies; usually its the Sheriff's Office, which must retake when warranted.

OPCA has developed a manual tracking mechanism for every violation requiring retaking that is submitted to NYS from other states and ensures timely submission to the appropriate court and that the Court issues a warrant as defined by ICAOS rule. The tracking then ensures the probationer is retaken within the prescribed timeframe. DCA Charton stated the tracking is updated monthly and does drain resources from the Interstate Compact Unit. However, to keep compliant with the ICAOS rules in this area, it must be done. DCA Charton informed the Council that we believe we are in a good position to pass the upcoming audit. Parole DCA Carswell said it is easier on the parole side as they have a centralized tracking system to account for every violation, warrant and retake. CA Maccarone noted that NYS is advocating for the national office to fund changes in ICOTS that would make warrant tracking a managed activity in the software.

Council Member Donald O'Geen asked who pays the extradition costs of retaking an offender from another state? DCA Charton responded that it is the sentencing county that is responsible for covering the retaking costs for a probationer. DCA Charton stated that he understood the financial burden that a county encounters when having to retake an offender from another state. Council Member O'Geen indicated that one retake can deplete his office's annual budget for extraditions. He also asked what implications NYS new "bail reform" may have on this issue? Council Member O'Geen said that his budget for retaking/extradition is three thousand dollars per year; it will take 2-3 people to spend that amount.

CA Maccarone stated that Bail reform poses new challenges, although the impacts on interstate transfer are yet to be determined.

In responding to Member O'Geen's comments on the costs incurred in retaking, CA Maccarone pointed out that at New York State's request, states approved amendment to the ICAOS Rules that now permit a sending state "to recognize" the time spent by a probationer incarcerated in a receiving state for a crime committed in that state. Essentially, the sending State can recognize that penalty and forego the required retaking upon mutual consent of the sentencing

authority and the offender. While limited to sentences of incarceration, this can result in savings to sending states by foregoing the retaking. Council Member O'Geen stated that about 85% of Justice Court Judges, do not know that this process exists. DCA Charton stated he understands that Justice Courts struggle with fully understanding the implications of the ICAOS Rules and continued training is needed. DC Maccarone stated jurisdictions must also carefully consider to whom they grant approval to transfer, and the location of the receiving state, and that interstate transfers is a privilege not a right.

DCA Charton reminded the Council it is ICAOS Rule 5.101-2, which allows sending jurisdictions to fully or partially accept any incarceration period a probationer received for committing a new crime in the receiving state as a disposition to any VOP in the sending jurisdiction. This was implemented to provide relief to sending jurisdictions where the offender was convicted of a new offense in the receiving state.

CA Maccarone moved to the next agenda item, a review of the rule proposals which are to be voted on at this years Annual Business Meeting in October 2019. DCA Charton explained that the current proposals will be out for public comment and provided the Council with the link to review and submit comments. DCA Charton then provided a summary of each rule and the implications on NYS practice.

After hearing the summary of proposals, Council Member O'Geen asked if the Commission would consider a rule on limiting an offender's ability to request transfer if they have a pending warrant anywhere. Council Member O'Geen understands that there is currently an ICAOS Advisory Opinion that states a receiving state cannot deny a transfer request because the offender has pending warrants; however, he believes it is the offender's responsibility to address those warrants and transfer being a privilege, not a right, should not be requested until the offender addresses all outstanding warrants. CA Maccarone thanked Council Member O'Geen for his comments and promised to bring this proposal for discussion with the member states comprising the Eastern Region.

CA Maccarone moved to the next agenda item, which was New Business.

DCA Charton updated the Council on OPCA's efforts to provide training, specifically targeted in NYC. The Council discussed the issue of sending state issuing subpoenas for NYS supervision officers to testify in violation hearings. DCA Charton informed the Council that this is an issue that the Commission is trying to handle at this time. The Commission recently issued a "whitepaper" on the validity of information located in ICOTS (where violation information would be located and transferred between states). Although this issue has not been persistent in NYS, the implications of not complying with a legal subpoena could mean the violation that NYS has submitted will be dismissed and the offender could return to NYS immediately. This

type of scenario is not consistent with the purpose of the compact and can become a dangerous public safety issue.

DCA Charton acknowledged the good job that Parole DCA Carswell has done in taking over the NYS DOCCS Interstate Bureau.

The Council was informed of the next Council meeting date of November 19, 2019.

Meeting adjourned 12:33pm