

**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
Tuesday, October 24, 2023**

Welcome and Opening Remarks:

Robert Maccarone, New York State Deputy Commissioner and Compact Administrator welcomed everyone to the ICAOS Council meeting.

State Council Members Present:

Robert Maccarone, NYS Deputy Commissioner & Director, NYS DCJS – Office of Probation and Correctional Alternatives (OPCA) and Compact Administrator – State Council Chair
Honorable Julia Salazar, Senator
Scott Hurteau, Interstate Bureau Chief for Community Supervision, NYS Deputy Compact Administrator (DCA) – Parole, Interstate Compact for Adult Offender Supervision (ICAOS), representing Acting Commissioner Daniel Martuscello III, NYS DOCCS
John Watson, Counsel, NYS Office of Victim Services (OVS), representing OVS Director Elizabeth Cronin
Lisa Good, Victim Rights Representative
Darryl Towns, Chair, NYS Board of Parole
Alejandro Avellaneda, Legislative Director, representing the Honorable David Weprin, Assemblymember

State Council Members Not Present:

Rossana Rosado, Commissioner, Division of Criminal Justice Services
Honorable Erik Dilan, Assemblymember
Judicial Appointment – vacant
Senate Appointment – vacant

Guests Present:

Mark Mishler, Counsel and Legislative Director, Office of Senator Julia Salazar
Matthew Charton, Assistant Director, OPCA
Kelly Palmateer, Manager of the Interstate Compact Unit at DCJS-OPCA and NYS DCA – Probation
Ebonai Gardner, OPCA Interstate Compact Unit
Tyrone Catoe, OPCA Interstate Compact Unit
Raymond Tashjian, OPCA Interstate Compact Unit

Review and Approval of the Agenda:

Compact Administrator (CA) Robert Maccarone reviewed the October 24, 2023, NYS Council of the Interstate Compact for Adult Offender Supervision (ICAOS) meeting agenda with members. CA Maccarone noted the two vacancies which remain on the Council, and that the Chief Judge of the Court of Appeals advanced the name of a jurist to the Governor's Appointments Office for consideration and approval. The Governor's Appointments Office is also working to obtain a letter of resignation from a former council member, appointed by the Temporary Speaker of the Senate, and will then move forward with appointing a new member. CA Maccarone did not ask for a formal motion to be made to approve the meeting agenda.

CA Maccarone asked Council members to review the minutes from the May 18, 2023, meeting of the NYS Council of the ICAOS and asked for a motion to approve the meeting minutes. The motion was made by Chair Towns and seconded by Senator Salazar. Motion passed.

Mission Statement:

CA Maccarone asked DCA Palmateer to read the Mission Statement aloud, noting the statement reinforces the purpose and focus of the council. DCA Palmateer read the mission statement.

Review ICAOS Probation and Parole Compliance Measures:

CA Maccarone asked DCA Hurteau and DCA Palmateer to review the compliance dashboard reports reflecting New York State's compliance with ICAOS. 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. Chair Towns inquired as to who monitors compliance with these measures in the other states. DCA Palmateer noted that the ICAOS National Office conducts annual audits on states to ensure compliance in these areas and, along with DCA Hurteau, explained processes in place in both the NYS probation and parole compact offices respectively. CA Maccarone expressed the importance of states' compliance in these areas as the national office monitors such performance. DCA Hurteau reviewed the compliance percentages specific to NYS Parole cases. DCA Palmateer reviewed the compliance percentages specific to NYS Probation cases.

Update and Discussion—2023 ICAOS Annual Business Meeting, September 18-21, 2023

CA Maccarone requested that DCA Palmateer report out on the 2023 ICAOS Annual Business Meeting (ABM). DCA Palmateer indicated that there was one rule change proposal that was voted on by the Commission at the ABM. The proposed change was to ICAOS Rule 5.108 Probable Cause Hearing in the Receiving State. DCA Palmateer noted a simple change in the language from "shall" to "may" which allows states with the authority to make warrantless arrests to take an individual into custody and to hold them in custody upon a finding of probable cause and excuses those states without those powers from doing so. The proposed change was approved by the Commission with a 37-10 vote and will become effective 4/1/2024.

Assistant Director Charton requested that DCA Palmateer provide the Council members with background information regarding the probable cause hearing. Legislative Director Avellaneda requested clarification on what technical violation means. DCA Palmateer provided an example and explained that technical violation(s) vary depending on the county/state that is providing supervision. CA Maccarone stated that the probable cause hearing is a constitutional right that must be protected. Assistant Director Charton added that the probable cause hearing acts as an additional safeguard to ensure that the violation is serious and would require the sending state to return the individual. CA Maccarone explained the discretionary retaking process allowed under ICAOS Rule 5.101-2 when there is a new crime conviction in the receiving state.

Mark Mishler had questions regarding the “Less is More” Law and how it may affect parole transfers. DCA Hurteau explained there are many challenges Parole is facing with the requirements to retake under the ICAOS Rules and the legal provisions of Less is More, with respect to what behaviors would constitute violations and retaking.

DCA Palmateer provided Council members with a brief summary regarding the ABM including the release of the amended rule proposal guide, the topics discussed at the collaborative problem-solving session, and the approval by the ICAOS Executive Committee for compact language change. The term “supervised individual” will replace the term “offender” however there will be no change to the Commission’s name or statute, no change to the ICOTS name, etc.

Victim Notification Update:

CA Maccarone indicated that OPCA has developed a proposal for a victim notification system, which builds off the case load explorer case management system, at a cost of approximately \$85,000. DCJS is working to identify a funding stream for that system. This system would be simple and would send notification to victims when certain events transpire in a case and those notifications would be sent to the victim’s handheld device. Victim Representative, Lisa Good, noted that injured shooting survivors and families could also benefit from victim notification, not just Domestic Violence or Sexual Assault victims. These individuals live with a great deal of threat and fear and do not have any recourse. CA Maccarone indicated that this system would be designed to address cases where the perpetrator is on community supervision. Victim Representative, Lisa Good, spoke about the need to find a way to help victims during the court process.

Assistant Director Charton reminded Council members that the Compact was created out of victim safety and encouraged council members to read about Payton Tuthill’s story. Links to the information regarding Payton Tuthill and Pat Tuthill will be sent to council members.

New Business:

No new business.

Closing Remarks:

CA Maccarone announced he will be retiring next year after 47 years in the criminal justice system, and stated it was an honor and privilege to serve the interests of public and victim safety in New York.