

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, November 7, 2024

**Welcome and Opening Remarks:**

Matthew Charton, Office of Probation and Correctional Alternatives Deputy Director, Acting Compact Administrator (CA) and Interstate Commissioner welcomed everyone to the Interstate Compact for Adult Offender Supervision State Council meeting. Acting 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, Acting Compact Administrator  
Honorable Julia Salazar, Senator  
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  
John Watson, Counsel, NYS Office of Victim Services (OVS), representing OVS Director Bea Hanson  
Lisa Good, Victim Rights Representative  
Darryl Towns, Chair, NYS Board of Parole

**State Council Members Not Present:**

Rossana Rosado, Commissioner, NYS Division of Criminal Justice Services  
Honorable Erik Dilan, Assemblymember  
Honorable David Weprin, 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:**

Acting CA Charton asked council members to review agenda included with their meeting materials.

### **Review and Approval of May 16, 2024, Meeting Minutes:**

Acting CA Charton asked council members to review the minutes from the May 16, 2024, meeting of the NYS Council of the ICAOS and asked for a motion to approve the meeting minutes. The motion was made by Senator Salazar and seconded by Counsel Watson. Motion approved.

### **Mission Statement:**

Shaina Kern, Compact Office Coordinator, read the mission statement aloud to council members.

### **Review ICAOS Probation and Parole Compliance Measures:**

Acting 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. Acting CA Charton advised the council that the Interstate Commission gathers annually at the ICAOS Annual Business Meeting and that DCA Palmateer would provide an update with regards to the 2024 ABM afterwards.

Acting CA Charton communicated to council members that the Commission's Compliance Committee's main function is to ensure that all states are acting in compliance with the rules of the ICAOS. Acting CA Charton went on to say that compact member states are audited on a quarterly basis in six key areas and acknowledged the hard work of both the NYS Probation and NYS Parole Interstate Compact Offices in maintaining compliance in those areas. Acting CA Charton noted that NYS is the seventh or eighth largest compact member state as far as compact business is concerned. Acting CA Charton went on to explain the differences in how both the NYS Parole and NYS Probation Interstate Compact Offices differ and the challenges that NYS Probation faces when ensuring compliance as NYS Probation is administered at the County level.

DCA Palmateer reviewed NYS's, and NYS Probation's, compliance percentages in each of the six key areas and compared those numbers to the national average. DCA Hurteau reviewed the compliance percentages for NYS Parole and how their percentages compared to the national average. It was noted that NYS was compliant in all areas.

Acting CA Charton explained in more detail what each of the 6 key areas are and why the audit measures, and compliance, is important. DCA Palmateer clarified to council members that the required documents/reports are not completed and submitted by the Probation Interstate Compact Office but by the local probation departments in NYS. DCA Palmateer noted that the Probation Interstate Compact Office staff communicates regularly with local probation departments in the state to ensure these reports are completed accurately and submitted timely. DCA Hurteau described to council members the

difference in the Parole Interstate Compact Office procedure. DCA Hurteau stated that parole supervision is conducted at the field office, but the Parole Interstate Compact Office staff enters and submits all reports in ICOTS to the other states.

### **Update and Discussion on 2024 ICAOS Annual Business Meeting held in Scottsdale, AZ from September 9 – 11, 2024**

Acting CA Charton noted that every year the Commission Members from all states and territories gather in one place for the Annual Business Meeting. There, the Commission reviews emerging trends and issues as they relate to interstate compact work. Acting CA Charton noted that this two-day, face to face, conference allows compacting states/territories to collaborate, obtain training, and to vote on new rule proposals that have been brought forth for consideration.

DCA Palmateer provided council members with general overview of the topics discussed at the 2024 Annual Business Meeting. DCA Palmateer noted that commission members spent time talking about the importance of state compliance and the tools available to states/territories to assist with compliance. DCA Palmateer admitted that the larger focus of the ABM surrounded four different areas which were identified as areas of concerns or potential improvement: probable cause hearings, absconder issues, reporting instructions for individuals who were living in the receiving state at the time of sentencing and/or revocation, and retaking after a new conviction and supervision sentence in the receiving state.

DCA Palmateer commented on the discussion surrounding probable cause hearings and indicated that the discussion focused on the current rules and if the current rules pertaining to probable cause hearings are meeting the needs of the Commission. Acting CA Charton detailed what a probable cause hearing is and explained that the hearing is simply to confirm that there is a likelihood that the violations took place, and that the individual should be retaken by the sending state. Judge Novillo requested clarification on how the probable cause hearings are being conducted and if they are being conducted internally at the probation department. Acting CA Charton advised Judge Novillo that the hearing is conducted at the probation department. DCA Hurteau explained that the process for parole is different. Under Chair Townes there are hearing officers that conduct the probable cause hearing and lawyers are present for the hearing. Judge Novillo requested further clarification as to whether attorneys are present in probable cause hearings conducted by probation. Acting CA Charton and DCA Palmateer advised that an attorney would be present at the individual's request. Acting CA Charton pointed out that the supervised individual may also waive their right to the probable cause hearing. Judge Novillo asked who would take the supervised individual into custody if it were determined that the individual should be returned to the sending state. Acting CA Charton advised that the individual would be held at the local county jail for up to 30 calendar days.

DCA Palmateer advised that the commission discussed the current wording of the ICAOS absconder rule, if a rule change is necessary specifically, if there should be a timeframe established for states to declare an individual an absconder. DCA Palmateer noted that through discussions it was determined that most states already have timeframes in place to declare an individual on supervision an absconder and that a timeframe in the ICAOS rules was not necessary. DCA Palmateer stated that it was also determined that

most issues that arise in absconder situations can be resolved by reaching out to the compact office in the sending/receiving state to discuss.

DCA Palmateer expressed that the discussion surrounding mandatory reporting instructions for individuals who were living in the receiving state at the time of sentencing or following the disposition of a violation or revocation proceeding, was more intense. DCA Palmateer explained the current wording of the rule and the issues that states are seeing based on that wording. DCA Palmateer stated that the plain language of the rule allows individuals, never transferred under the ICAOS rules, to be eligible for mandatory reporting instructions upon disposition of the violation in the sending state which was not the intent of the rule. DCA Palmateer clarified that the original intent of the rule was to allow those individuals who were transferred to a receiving state under the ICAOS rules to be eligible for return to the receiving state after they had been retaken by the sending state and were continued on supervision as a disposition of the violation in the sending state. Acting CA Charton explained the concerns that NYS has with allowing individuals who absconded to NYS to be allowed to return to NYS on mandatory reporting instructions under our current ruling. DCA Palmateer explained that the Commission appears to be split 50/50 on this topic and that she expects this issue will continue to be a topic of discussion until there is a rule change.

DCA Palmateer explained the discussion surrounding revocation and retaking after a new conviction and supervision sentence in the receiving state. DCA Palmateer noted that the conversation focused on the practicality of a receiving state requesting revocation in the sending state's case when the new conviction resulted in a probation sentence in the receiving state and what are the implications of such a request.

Acting CA Charton mentioned that the council, as an advisory group, may be helpful with dealing with some of the issues discussed. Acting CA Charton went on to say that the ICAOS wants individuals on supervision to be in the place where they will be most successful under supervision however the ICAOS rules do not always allow for that. Acting CA Charton pointed out another concern being victims and if certain practices may be putting victims at risk by allowing individual on supervision to be in a place without allowing the receiving state to fully investigate and vet the circumstances. Acting CA Charton stated that these are the areas where council members may be able to provide guidance and assistance.

DCA Palmateer advised council members that at the FY 2024 Annual Business Meeting, the Commission approved the language change package which removed negative, stigmatizing, language from the compact rules. The term 'offender' has been removed from the language and has been replaced with 'supervised individual'.

**FY 2025 RNR (risk, need, responsivity) Assessment:**

DCA Palmateer explained to council members that the ICAOS National Office will not be conducting an official audit in 2025 but will be taking a deeper look at cases in which a supervised individual had been retaken by the sending state and then re-transferred to the receiving state. Acting CA Charton noted that historically there had been violation reports requiring retaking submitted by receiving states that did not truly meet the compact definition of a behavior requiring retaking and mentioned that he

believes the National Office is trying to address issues where this may be happening. New York State was provided six cases to review and to provide a summary on. DCA Palmateer noted that five cases were probation supervision cases, and one case was a parole supervision case. DCA Palmateer noted that a response was submitted in five of the six cases thus far. DCA Hurteau noted that the parole case was retaken by the sending state without a request from NY Parole, as the receiving state, requesting that be done. Acting CA Charton noted that the bulk of probation cases that were reviewed had similar circumstances.

#### **Focal Issues:**

DCA Palmateer advised council members that she will be developing and distributing a questionnaire to county probation departments in NYS to identify the financial impact of retaking on their departments. This data has never been collected and might be helpful in identifying potential funding to offset those costs.

Judge Novillo inquired if states are allowed to hold violation proceedings virtually versus completing retaking. Acting CA Charton advised that the Commission is recognizing and contemplating that idea, but the current rules require retaking. DCA Charton advised that the individual must physically return to the sending state at this time.

Counsel Watson updated council members and advised that OVS is drafting an RFP for the upcoming contact period. Counsel Watson advised that the federal funds should be released in early 2025 and that victim assistance programs who are currently receiving funding, and any new programs looking for funding, can get their applications in and have contracts in place by beginning of the fiscal year, 2025.

#### **New Business:**

Acting CA Charton indicated that the next ICAOS ABM will be held in Puerto Rico, and that 2025 is a rule proposal year. Acting CA Charton advised council members that there will likely be rule proposal to present and review at the State Council Meeting in May 2025. Acting CA noted that if the proposals are not ready at that time, we will attempt to schedule the Fall 2025 meeting prior to the ABM so that the council members will have a chance to review and comment on the proposals. Acting CA Charton mentioned that he would welcome any suggestions for rule changes council members might have.

#### **Closing Remarks:**

Acting CA Charton thanked members for their continued support of the State Council. Senator Salazar made a motion to end the meeting, Judge Novillo seconded.