



## 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 Offender Supervision

NYS Criminal Justice Services

Alfred E. Smith Office Building

80 South Swan Street, Room 118

Albany, New York 12210

Tuesday, May 23, 2017

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

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

Interstate Commissioner and Compact Administrator

Welcome Members of the Council and Guests

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

Jerry Mollen – Deputy Commissioner – Office of Public Safety (representing Commissioner Green)

Tina Stanford – Chairwoman – Board of Parole

Hon. Donald O’Geen – Wyoming County District Attorney

Felix Rosa – Deputy Compact Administrator/Parole DOCCS  
(representing Commissioner Anthony Annucci)

John Watson – Counsel – Office of Victim Services (representing Director Elizabeth Cronin)

### **Introduction of Guests and Additional Staff**

Kathleen Kiley-King – Counsel – DOCCS Parole Board

Matthew Charton – Deputy Compact Administrator Adult Probation – DCJS

Neil Siedenberg – NYC DOP Branch Chief Interstate – NYC DOP

Rodney Levy – Assistant Commissioner – NYC DOP - Manhattan Adult

Ralph Di Fiore – Associate Commissioner –Adult Operations NYC DOP

Tim O'Brien – Director of Internal Operations – DOCCS

Cindi Smith – Administrative Assistant – OPCA - DCJS

### **Council Members Not Attending**

Hon. Phillip Ramos, Assemblyman

Hon. Daniel O'Donnell, Assemblyman

Hon. Michael Yavinsky, Supervising Criminal Court Judge - Kings County-Excused

Dennis Houdek – Attorney

Janice Grieshaber-Geddes – Victim's Rights Representative-Excused

NYS Compact Administrator and Administrator Robert Maccarone asked all to review today's agenda. DA O'Geen made a motion to accept with Chairwoman Stanford seconding. Agenda for April 23, 2017 approved.

Compact Administrator Maccarone then asked that attendees take a minute to review the minutes of the October 12, 2016 State Council meeting. No changes were proposed, John Watson made motion to accept, seconded by Kathy Kiley-King. Minutes of October 12, 2016 meeting were approved.

## **Mission Statement Review**

Compact Administrator Maccarone asked Parole DCA Felix Rosa to read aloud the council's Mission Statement. Mr. Rosa read the statement aloud. There were no questions.

## **Review of Interstate Compliance Data – Probation and Parole**

Probation DCA Charton presented the most recent data – March 1- March 31, 2017. The OPCA Interstate Unit tracks the number of probationers transferred into and out of New York State and reports the data on a monthly basis. The Unit gives closer scrutiny to those interstate transfer applicants who are registered sex offenders or have been convicted of a sex offense, as well as individuals that have been convicted of a domestic violence related offense. The Unit provides more detailed information to local probation departments or receiving states regarding these individuals, including complete criminal history check, active or expired orders of protection and Domestic Incident Reports which either include the offender or the proposed address. The data continues to show that there twice as many individuals transfer into New York State than requesting to transfer out of New York State. DCA Matthew Charton provided that there are approximately 4,000 current interstate transfers being supervised by New York State probation versus approximately 2,000 current transfers sentenced in New York State and supervised by another compact state.

Probation DCA Charton commented on the Notice of Arrival data in the monthly compliance report. He stated that this period of “transit” for interstate offenders is one of the most concerning times. The person has left the sending state and remains unsupervised until his/her successful arrival in the receiving state. He also commented that it remains the sending states responsibility to supervise the offender until he/she reports to the receiving state.

Parole DCA Felix Rosa reported that parole supervises a smaller population of interstate transfers than probation. The data shows, they are currently supervising 1,347 interstate parolees that were sentence in another state. They have a similar number of parolees who were released in New York and are under supervision in another state. Unlike Probation, where supervision is administered at the county level, parole is a state system and the interstate office is connected to field offices through their case management system. In the month of April 2017, parole had 112 cases go out for investigation and of those, 54 were accepted by the receiving state. Parole had 50 incoming transfer requests in that were accepted by their office. Parole DCA Rosa noted that the only DOCCS employees who have access to ICOTS are those in his office in his office, where probation has 58 departments statewide with over 1,000 field

ICOTS users. Parole DCA Rosa noted that control of ICOTS and compliance with ICAOS rules is an easier task for parole than probation.

Compact Administrator Maccarone commended both probation and parole for their continued work in keeping New York State compliant with the federal rules.

### **OPCA Interstate Unit Warrant Tracking System**

The Interstate Compact Offender Tracking System (ICOTS) is the national data base all compact states and territories use to track Interstate Offenders activity. Unfortunately, ICOTS has some limitations in its ability to track certain circumstances where a sending state is responsible for taking action per ICAOS rule but the case is closed in ICOTS. To address these issues, OPCA developed and implemented a Warrant Tracker spreadsheet. There are three scenarios where a sending state is obligated to issue a warrant but the case may be closed in ICOTS;

- An interstate offender has absconded from supervision in the receiving state and the receiving state has submitted the Offender Violation report and the sending county has issued a warrant and the receiving state has submitted the Case Closure Notice in ICOTS. The sending state in this situation is obligated by ICAOS rule to issue a warrant and retake the offender if they are located.
- An interstate offender is convicted of a new felony offense or violent misdemeanor and is sentenced to 180 days or more of incarceration. The receiving state can close their interstate case in ICOTS based on the length of incarceration (180 days+) but the sending state must issue a warrant based on the conviction and file a detainer with the receiving states holding facility.
- An interstate offender is ordered to return to the sending state and the receiving state requests and is granted reporting instructions and a Notice of Departure is submitted in ICOTS. The receiving state can close their ICOTS case with the submission of the Notice of Departure, but if the offender does not return to the sending state as ordered, the sending state is obligated to issue a warrant and retake the offender if apprehended.

Compact Administrator Maccarone commended the OPCA Interstate Unit for their work in this area and commented that he would like to see changes in the ICOTS system to address these scenarios.

### **Implementation of New ICAOS Rules – Violation, Sanction and Retaking**

Compact Administrator Maccarone began a discussion on the new ICAOS rules that will effect violations, sanctions, retaking and progress reports. The implementation date for the new rules is June 1, 2017. Compact Administrator Maccarone is a member of the rules committee and chaired a sub-committee that formulated the rule changes and made recommendations to the executive committee. During the fall 2016 Annual

Business Meeting, the full commission voted on the rule amendments and the proposals passed and now will become federal regulations. The council discussed the inherent unfairness of the current system for both the receiving and sending states, focusing on how supervision for an interstate offender was different than supervision for an individual convicted and supervised in the same state. The ICAOS Commission recognized that interstate transfers had to commit three “significant violations” before a request for retaking could be made by the receiving state. Further comments showed that field officers recognized this and often times submitted violations of supervision on interstate offenders that would not be deemed “significant” to expedite the warrant and retaking process.

Compact Administrator Maccarone related that this had become a nationally recognized problem and created confusion for both sending and receiving states and offenders. The ICAOS Commission concurred that the proposed rule changes would promote offender accountability by holding interstate transfers to the same standard as probationers/parolees who were sentenced in the receiving state. It would enhance public/victim safety by eliminating the three “significant” violation rules and clarifies that any single act or pattern of noncompliance can constitute behavior that requires retaking. It was also noted that when a receiving state submits a violation requiring retaking, the new rules compel that field officer to provide a full documentation of both sanctions and incentives that were used in an attempt to have the offender become compliant. The discussion turned towards the importance of states compact offices as they will be the gatekeepers and enforcers of this new rule. The OPCA Interstate Unit provided their field officers a series of four WebEx training focused on the rule changes.

### **ICAOS/ICOTS VINEWatch**

Probation DCA Charton gave the council an update on VINEWatch system. VINEWatch is a victim notification system that will inform identified victims of a crime of a variety of ICOTS activities. The New York State Council first heard about VINEWatch from a presentation that was done by Mindy Spring of the National Office. After that presentation, the council raised two primary concerns. The first was that notifications were only sent via e-mail. The second issue was victims were not allowed to register anonymously. Compact Administrator Maccarone spoke with the ICAOS Commission and found other states felt similarly. The Commission then spoke with Apriss, the company that owns the VINEWatch system. Apriss has provided text message alerts through VINEWatch and will be allowing states to self-register their victims in the near future. We hope sometime in 2018 this will be implemented.

## **NYC Department of Probation – Interstate Transfers – Centralized Intake Unit**

DCA Charton explained that NYC Probation handles approximately 50% of the interstate transfers that come in to New York so he thought it would be beneficial for the NYC Council to hear from the field about challenges they face on a daily basis. NYC Department of Probation (DOP) was invited to speak to the council about these challenges and graciously accepted.

NYC DOP Associate Commissioner Ralph Di Fiore introduced himself and Rodney Levy, Assistant Commissioner Manhattan Centralized Intake Unit and Neil Seidenberg, Branch Chief Manhattan Centralized intake Unit. Associate Commissioner DiFiore provided a brief history of the centralized interstate intake unit. Associate Commissioner DiFiore provided an overview of the services and functions of the centralized intake unit. He spoke about some of the challenges the department have overcome as well as the challenges that remain. He also related that he appreciates the partnership between OPCA and their department and looks forward to continued cooperation and collaboration. Assistant Commissioner Levy talked about the staffing of the intake unit and how at this time they are down but hopes to provide additional staff to the unit in the near future. He also related his appreciation for the training OPCA has provided the department, noting they have 94 new probation officers that were recently hired and will likely be supervising interstate cases.

Branch Chief Seidenberg then spoke about the process of handling outgoing transfers, focusing on the challenges that the high volume of interstate cases his unit receives. Branch Chief Seidenberg also provided the process his unit follows when a high risk case (sex offender – domestic violence offender) is transferred to their department. This includes a positive home contact and communication with the victim of the crime if able. He stated that one of the biggest challenges they face is that there are “so many moving parts” with staff and supervisors moving between boroughs, offenders moving between boroughs, different levels of supervision, etc. and the kiosk reporting system. He also related that the addition of Caseload Explorer has been critical in advancing their tracking of interstate cases.

Branch Chief Seidenberg thanked the interstate unit staff for coming down to conduct in-person training and for providing Webinars introducing the new rules. Branch Chief Seidenberg spoke about the challenges that NYC DOP encounter with interstate offenders, such as obtaining warrants as there is high volume of judges in the city, working the other NYC agencies like corrections, and conducting probable cause hearings when necessary.

Probation DCA Charton commented on the creation and distribution of the ICAOS Judicial Bench Card and the ICAOS Jail Administrators Desk Card to assist and inform both courts and jail administrators throughout New York State. DCA Charton also spoke about the distribution of a recent State Directors Memorandum #2017-3, which requires all new ICOTS users—Probation Officers-- to receive basic ICAOS rule and ICOTS functionality training within 60 days of being granted access.

Compact Administrator Maccarone commended New York City on the improvements they have made and feels NYC DOP Commissioner Ana Bermudez's support has played an important role in this improvement.

### **New Business**

Parole DCA Felix Rosa commented on an issue that recently surfaced for their office. A sex offender transfer in from Indiana who parole was supervising had his active supervision converted to inactive supervision per their new state statute. New York does not allow for inactive supervision raising the issue of a compact eligible offender who resides in New York and has parole supervision out of Indiana where Indiana statute mandates he be under inactive supervision and New York will either have to be complicit in violating Indiana law or allowing a compact eligible offender to remain in New York without the benefit of supervision. Compact Administrator Maccarone stated he spoke with Indiana about this issue and it is something the Commission will review at the Annual Business meeting.

Compact Administrator Maccarone related that the ICAOS Annual Business Meeting will be held this September in Pittsburgh, PA. Compact Administrator Maccarone said he recently attended the Rules Committee Meeting in Indianapolis, IN and they have several new rule proposals to address at the annual business meeting. The rule proposals will be posted for public comment on July 1, 2017 and OPCA will ensure the council members are provided with a copy.

The next meeting of the NYS Council is scheduled for October 24 2017.

### **Meeting Adjourned**

Motion by Felix Rosa to adjourn, seconded by John Watson. Meeting adjourned at 12:35 PM.

