

# New York State Council Meeting

Interstate Compact for Adult Offender Supervision  
NYS Division of Criminal Justice Services  
Alfred E. Smith Office Building  
80 South Swan Street, Room 118  
Albany, New York 12210

Wednesday, October 12, 2016

## **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

## **Introduction of State Council Members**

Hon. Michael Yavinsky/Supervising Judge of Kings County/Brooklyn Criminal Court

Hon. Donald O'Geen/Wyoming County District Attorney

Felix Rosa/Deputy Compact Administrator/Parole DOCCS-designee for Acting NYS DOCCS Commissioner Anthony Annucci

John Watson/Counsel, Office of Victim Services representing Director Elizabeth Cronin

Kathy Kiley-King/Counsel, Parole Board representing Chairwoman Tina Stanford

## **Introduction of Guests and Interstate Unit Staff**

Tim O'Brien/Director of Information Operations DOCCS

Matt Charton/Deputy Compact Administrator Adult Probation DCJS

Cindi Smith/Secretary 2/OPCA

Kelly Palmateer/Compact Office Coordinator and Juvenile Probation DCA

Chip Tashjian/ Agency Program Aide - Juvenile Compact Unit

Karla Snedecor-Flores/ Agency Program Aide - Adult Compact Unit

Penney Belcher/Adult Supervisor/ Interstate Unit

James Haworth/ Agency Program Aide - Adult Interstate Unit

Tyrone Catoe/ Agency Program Aide - Adult Interstate Unit

### **Council Members Not Attending**

Hon. Phillip Ramos, Assemblyman

Hon. Daniel O'Donnell, Assemblyman

Dennis Houdek, Attorney

Janice Grieshaber-Geddes/Victim's Rights Representative

Compact Administrator Robert Maccarone asked Probation DCA Matthew Charton to introduce the DCJS-OPCA Interstate Unit staff that was present. Staff each spoke briefly on their interstate job duties and Mr. Maccarone thanked them for the remarkable work they do.

Compact Administrator Maccarone asked Kelly Palmateer, OPCA Interstate Compact Office Coordinator and Juvenile Probation DCA, who is a member of the Interstate Commission for Human Trafficking Committee, to update the council on her work. Kelly addressed the council that although the national committee primarily focuses on runaways, OPCA Interstate is currently working with DCJS Human Trafficking Director Carl Boykin, and Nora Cronin of OTDA to develop models, policies and practices for local probation departments to identify, interview/assess (including the use of the Vera Institute's Human Trafficking Identification tool) and address the needs of potential victims of human trafficking. OPCA, along with Carl Boykin and Nora Cronin will give a short presentation to The NYS Council Probation Administrators Executive Committee on November 10, 2016 on this issue. A webinar is also being planned for probation departments and all other interested parties. Upon completion of this work, DCJS-OPCA will present the model in a State Director's Memorandum which will be sent to all probation departments. Compact Administrator Maccarone thanked the interstate staff who are involved with this project and opened the discussion for any questions from council members. Council members had no further questions

Compact Administrator Maccarone then moved to review of the minutes from Thursday, April 21, 2016 meeting. Honorable Michael Yavinsky made a motion to accept and District Attorney Donald O'Geen seconded. All council members approved and the motion passed and the minutes were accepted.

Council Chair Maccarone then asked members to review their meeting's agenda.

### **Mission Statement Review**

Compact Administrator Maccarone asked Probation DCA Matt Charton to read aloud the council's Mission Statement. There were no questions.

## **Review on the ICAOS Rules Committee – Approved Rule Amendments**

Compact Administrator Maccarone asked Probation DCA Matt Charton to introduce three (revised) bench/desk cards that are designed to assist courts/judges and Jail Administrator/Sheriff's Depts. in the handling of interstate issues that often arise. Compact Administrator Maccarone also stated he plans to conduct a short presentation on these matters at the NYS Sheriff's Association annual training. The three cards presented to the council were:

1. Jail Administrators Desk Card – To use when an interstate offender is being lodged at the local jail facility and the lodging agency does not have a signed commitment order and also covers the retaking process
2. ICOAS Bench Card – for use when an interstate offender is before a court and wished to transfer their probation to another state or when the courts deal with other interstate related matters.
  - a. Parole DCA Rosa said judges need to realize that an interstate transfer is not a fugitive from justice and then are not subject to go to an extradition hearing
  - b. Compact Administrator Maccarone thanked Judge Yavinsky for his assistance on the development of the ICAOS Bench Card
3. ICJ Bench Card – to assist courts in the transfer and return of juvenile delinquents and status offenders.

Compact Administrator Maccarone also thanked the DCJS Office of Legal Services, Assistant Counsel Linda Valenti and the DCJS Public Information Office, specifically Justin Mason for their recommendations.

Both Bench Cards (ICAOS and ICJ) have been placed on the national interstate websites and identified as best practices. Compact Administrator Maccarone stated DCJS will share the cards with OCFS Commissioner Poole and their compact office coordinator Paul Ottati.

## **Report on the ICAOS Rule Committee – Approved Rule Amendments**

Compact Administrator asked Probation DCA Matt Charton to briefly review the recent ICOAS rule changes that were passed at the Annual Business Meeting in Cleveland, OH on September 14, 2016. DCA Charton talked briefly about the difference and unfairness of the treatment of interstate offenders and offenders who were sentenced within their own state. He related that interstate offenders were given three opportunities to commit "significant violations" whereas those offenders sentenced in their own state were only provided one. He further spoke how the field officers recognize this and often times submit violations on interstate offenders that would not be deemed "significant" to expedite the retaking process. He commented on how this has become a nationally recognized problem and has created confusion and consternation for both states and offenders. He also stated that the issue of "three significant violations" has been a long standing issue that states have attempted unsuccessfully to deal with.

The ICAOS Executive Committee realized that this issue had to be addressed and requested that NYS Interstate Commissioner Robert Maccarone chair a newly chartered Ad Hoc Committee on Violations, Sanctions and Retaking. The committee consisted of interstate commissioners from six different states (Wisconsin, Ohio, Georgia, Washington, NY, and Indiana). The committee's work commenced with their first official meeting in November 2015 and concluded with their recommendations to the ICOAS Rule's Committee in March 2016.

The committee recommended extensive changes to rules and definitions that cover offender violation reports, "significant violations", and retaking. The ICAOS rules committee, of which Compact Administrator Maccarone is also a member, made further refinements and the recommendations were presented to the full commission at the Cleveland Annual Business Meeting. The full commission passed the proposal 34-14 and the new rule changes will take effect in the spring of 2017 (no exact date set).

DCA Charton read through all the new revisions and gave a short explanation of each. On October 5, Compact Administrator Maccarone sent a State Directors Memorandum #2016-12 to probation directors advising them of the upcoming rule changes. Compact Administrator then reviewed his 6 logic points that supported the need for fundamental change in the ICOAS rules. Compact Administrator Maccarone stated that this endeavor will promote both public/victim safety and offender accountability. It will promote offender accountability by holding interstate transfers to the same standard as probationers/parolees who were sentenced in the receiving state. It enhanced public/victim safety by eliminating the three "significant" violation rule and clarifies that any single act or a pattern of noncompliance can constitute behavior that requires retaking. It also forces receiving states to document what efforts they have taken to both address the offender's behavior through graduated responses/corrective actions and what they have done to incentivize positive behavior. Compact Administrator Maccarone did identify some of the concerns of dissenting states in changing the regulations from three significant violations to one requiring retaking.

Council member O'Geen asked who pays for the retaking of interstate offenders. DCA Charton explained that local counties pay for probation retakes and NYS DOCCS pays for the retaking of parolees. Council member O'Geen also expressed some concern that retakes may rise due to this issue. Council Chair Maccarone stated that we will monitor this issue and report back to the Council. Lastly, DCA Charton indicated that the ICAOS National Office would be conducting compact office trainings on the rule changes and once a target date is set for the implementation of the rule changes, OPCA will provide trainings to the local probation departments. DCA Rosa also stated his Bureau will be providing the necessary training to parole field officers.

## **Report on the NYS Probation Warrant Tracker Protocols and Charts**

Compact Administrator Maccarone asked that DCA Matt Charton provide the Council with information on a new policy and practice that has been implemented at OPCA to track those interstate cases that have been closed in ICOTS, but require sending states like NY to take action upon including the issuance of a warrant for retaking. DCA Charton reviewed that new policy that directs OPCA Interstate staff to track any of the three types of interstate cases that would be closed in the national data base (ICOTS) but NYS would still need to take further action. The policy was read and reviewed by DCA Charton. The three circumstances in which these procedures apply are:

- When a receiving state has reported the offender as an absconder
- When the offender has received a new felony or violent crime conviction where his sentence period is 180 days or more.
- When the offender is ordered to return to the sending state and the receiving state submits the Notice of Departure and Case Closure Notification

The policy and protocols became effective September 1, 2016.

DCA Rosa related that NYS DOCCS Interstate Bureau currently tracks these types of cases in their own case management system.

Compact Administrator Maccarone announced that DCJS is working on a new IT project that was kicked off on September 10, 2016 and will provide automatic notification to DOCCS (institution and Field-Parole Divisions) and probation authorities every time a warrant is issued in New York State on an offender that is under supervision. It will also provide a warrant cancellation notification when the warrant is cancelled or executed. Compact Administrator Maccarone expressed that NYS DOCCS Deputy Commissioner Steve Claudio related to him that this will be a very useful tool to keep parole field offices informed. NYS Board of Parole Counsel Kathleen Kiley-King stated that it would also be beneficial to the parole board to know if an inmate has outstanding warrants. The expected date of project implementation is July 2017.

## **Report on ICAOS VINEWatch – Link to ICOTS**

Compact Administrator Maccarone related that VINEWatch is a compliment to the current VINE Notification System that provides notification to victims of individuals incarcerated in local jails or state prisons VINEWatch provides victims of interstate offenders notifications when certain actions are completed in the ICOTS system. For example, when an offender requests to relocate to another state or when a state submits an Offender Violation report. Unfortunately, the VINEWatch System has been underutilized by compact states with only approximately 680 victims registered and

there are over 241,000 interstate offenders nationwide. The Interstate Commission is paying APRISS, the company that provides VINEWatch, approximately \$45,000 a year for the use. The NYS ICAOS Council identified two main reasons why they believe the system is underutilized.

1. There is no self-registration (anonymous) for victims – victims are forced to register through a governmental agency.
2. Victim notifications were only sent by email.

Compact Administrator Maccarone stated through New York State's work with the ICAOS Technology Committee and the National Office, APRISS made text messaging available for victims through VINEWatch, effective March 2016. However, there has not been a measurable increase in utilization. Establishing the capacity for victims to self-register in VINEWatch had been hampered by a few states, but a vote of the full Commission at its September 2016 meeting in Cleveland resulted in a new directive to proceed in amending the ICOTS System and VINEWatch systems to provide for self-registration in 2017. Compact Administrator Maccarone advised that APRISS is working on the next version of VINEWatch 3.0 that will change the way victims are able to register for notifications, including the use of social media.

New York State's Office of Victims Services (OVS) Counsel, John Watson relayed that OVS has funding programs in all but one county in New York State, serving approximately 250 service agencies and the upcoming changes to VINEWatch would be welcomed. The OVS will play an important role, along with Judges, Probation, Prosecutors, and Defense Counsel in advising victims of crimes of the new provisions of VINEWatch.

DCA Charton recognized the work of the NYS ICAOS Council in identifying and advocating for the changes that are currently being made in the VINEWatch system.

### **New Business**

Council Chair Maccarone states that we will be reaching out to council members who have not been present at recent meeting and inquire if they are still interested in participating. He expressed his belief that New York State needs a full and active council. He expressed his thanks to those present and related that their opinions and guidance do affect the way interstate transfers are done in New York and nationally.

DCA Matt Charton reminded members that video conferencing is available for members who cannot travel to Albany for meetings.

## **Meeting Adjourned**

Meeting adjourned at 12:45 PM.

Next meeting – Tuesday, April 11, 2017. Minutes and an announcement will be sent out shortly.