

**Robert Maccarone**

**Keynote Address to the ICAOS Annual Business Meeting, New York City,  
September 28, 2022**

**“Interstate Transfer ---Why our Practice is Essential to Victim and Public Safety”**

Good morning Commissioners/Compact Administrators, Deputy Compact Administrators, Ex-Officio Members, Executive Director of the ICAOS National Office and the Wonderful Professional Staff.

Welcome to New York City, and Welcome to New York State!

On behalf of New York State Governor Kathy Hochul, and DCJS Commissioner Rosanna Rosado, I welcome you to New York ---“The Empire State”. Our State Motto is “Excelsior”—which means “Ever Upward”. E.B. White, the great writer and essayist once said in describing New York City....

**The city is like poetry: it compresses all life, all races and breeds, into a small island and adds music and the accompaniment of internal engines." ....E. B. White believed that New York Is one of the cultural centers of the world.**

I hope your visit to New York is enjoyable. You are surrounded by history, the arts, music, opera, drama-Broadway, and what I believe are among the finest museums in the world. I hope you have the opportunity to visit the Museum of Natural History, the Metropolitan Museum of Art, where you can sit with the Pharaoh of Egypt, and experience the great Temple of Dendur, ....OR visit my favorite structure in lower Manhattan ---“**The Oculus**”, designed by Spanish Architect Santiago Calatrava.

This is the first time the ICAOS Annual Business Meeting has been held in New York, and having the Commission choose New York to celebrate its 20<sup>th</sup> Anniversary makes this occasion all the more special!

I have been a part of the Commission for more than 20 years, and I have served as New York’s Commissioner/Compact Administrator for 8 years, and I have always believed that interstate transfer provides individuals important new opportunities to restart their lives with the support of family and community. Over 100,000 people transfer between the 50 states and three federal territories each year.

The overall acceptance rates of mandatory transfer applications continues to increase—to nearly 80%—as does the acceptance of discretionary transfers—nearly 70%. So clearly, the Compact Administrators and Deputy Compact Administrators, here today, understand the importance of the transfer process and what it means to the future of so many individuals working to make a new start.

### **A LOOK BACK ...Lets briefly revisit some of our accomplishments,,,**

This is important because the past provides a strong foundation for the future. In recent years, the Commission has made major strides in regulation reform.

1. My favorite—we worked to establish a **single standard of supervision** by eliminating the “3 significant violations” requirement and creating a new definition of “behavior requiring retaking”. Rule 1.101. Effective June 1, 2017. What was the result? Nationally, violations decreased from 1,800 per month to 450, and these violations resulted in revocations—Judges and Parole Boards agreed that supervising states did all they could, including the use of graduated responses before filing violations and retaking. **This change in regulation was transformative.**
2. **Other rules were changed to accomplish this -**
  1. **Rule 4.101 MANNER AND DEGREE OF SUPERVISION IN RECEIVING STATE** - A receiving state shall supervise offenders consistent with the supervision of other similar offenders sentenced in the receiving state, including the use of incentives, corrective actions, graduated responses, and other supervision techniques. Effective June 1, 2017. *I think of this as “The Fairness Rule”—individuals are treated similarly as others on supervision in the state—one standard of supervision for ALL!*
  2. **Rule 5.103 OFFENDER BEHAVIOR REQUIRING RETAKING**
    - (a) Upon a request by the receiving state and

documentation that the offender's "behavior requires retaking", a sending state shall issue a warrant to retake or order the return of an offender from the receiving state or a subsequent receiving state within 15 business days of the receipt of the violation report. Effective June 1, 2017. *I think about this as the "The Swift, Certain, and Fair Rule". Recall the tragic consequences associated with the delay in recognizing the non-compliance demonstrated by an individual (Maurice Clemons) who transferred between two states.*

3. **And Rule 5.101-2 DISCRETIONARY PROCESS FOR DISPOSITION OF VIOLATION IN THE SENDING STATE FOR A NEW CRIME CONVICTION**—We worked to promote swift and certain violation sanctions by allowing the incarceration sentence imposed on an individual convicted of a new crime outside of the sending state--to satisfy or partially satisfy the sentence that would be imposed by the sending state for the violation.

*This rule makes so much sense in terms of fairness and due process, --by NOT subjecting individuals to multiple penalties for the same crime. It saved states thousands and thousands of dollars and staff resources in NOT having to send officers to distant states to retake individuals. (Note: RM tried for complete jurisdictional transfer) Effective March 1, 2016*

- 4 **More recently**, we amended **RULE 1.101-- DEFINITIONS** – Effective April 1, 2022. We redefined "Resident" – AS: 1) a person who has resided in a state for at least 1 year continuously immediately prior to either the supervision start date or sentence date for the original offense for which transfer is being requested; and 2. The person intends that such

state shall be the principal place of residence; Here, we worked to recognize the industry of individuals who work to re-establish themselves.

*Importantly, we must continue to support this Rule and NOT recognize or reward individuals who abscond, violate their conditions of supervision, and unilaterally relocate to another state. And then request transfer. If we do not enforce this rule, we will diminish the foundations of the COMPACT—the orderly transfer of individuals on supervision.*

This is codified in **Rule 2.110 TRANSFER OF OFFENDERS UNDER THIS COMPACT – Effective April 1, 2022--** (a) No state shall permit an offender who is eligible for transfer under this compact to relocate to another state except as provided by the Compact and these rules.

**Lastly, we standardized the handling and management of warrants ..an important victim and public safety concern....**

#### **Rule 5.103 OFFENDER BEHAVIOR REQUIRING RETAKING**

- (a) Upon a request by the receiving state and documentation that the offender's behavior requires retaking, a sending state shall issue a warrant to retake or order the return of an offender to the receiving state or a subsequent receiving state within 15 business days of the receipt of the violation report.

**And....Rule 5.103-1 MANDATORY RETAKING FOR OFFENDERS WHO ABSCOND - (a) Within 15 business days** of receipt of an absconder violation report and case closure, the sending state shall issue a warrant and, upon apprehension of the offender, file a detainer with the holding facility where the offender is in custody.

**The heart of the COMPACT** are the Rules which govern the interstate transfer of individuals....These are Rule of Law! ... **AND** the thoughtful interpretation and application of our Rules by professionals ...our Compact Administrators and Deputy Compact Administrators. As you know, Our Rules have the force and effect of federal law through the Supremacy Clause of the Constitution, so they impact how Judges, Sheriffs, and District Attorneys carry out their legal responsibilities.

Through the years, I have been very proud to be part of the Commission's RULES COMMITTEE... first with Committee Chair Jane Seigel, and more recently with Mary Kay Hudson—both of whom are very impressive leaders. It's difficult and tedious work, amending and constructing rules, envisioning their application and their effect on practice. But the final product has always been top-notch because of the knowledge and thoughtful consideration of the Members of the Rules Committee and the input and constructive critique of Commission Members.

I want to put a plug in for returning to “in-person” meetings because it's really through the open exchange of ideas (face to face) that we have produced our best products.

## **A LOOK FORWARD**

With a strong foundation over the past 20 years, we now look to the future. What is the vision for the Commission, the application of the COMPACT, and what role do they play in victim and community safety?

First, let us recognize that **victim safety** has been and must continue to be the basic tenet of the Interstate Compact. The tragic loss and circumstances surrounding the death of Peyton Tuthill, and the subsequent and inspired work of her mother Pat Tuthill, served as the essential catalyst for Reform and drafting of Uniform Rules. The safety of Victims **MUST** continue to serve as the foundation and purpose of the Compact and the moral compass that guides our day-to-day

work. Accordingly, we should do all we can to ensure Victim/Community Safety and **revisit our commitment to supporting a national Victim Notification System.**

Second, we must acknowledge that with the implementation of ICOTS—the Interstate Compact Offender Tracking System, we now have a source of rich data to manage our local operations more effectively, AND inform future decision-making.

Having said that, the purpose of the Commission, carried out through the COMPACT is more than the application of Rules and the interpretation of Data. Its through **your work** that the purpose of the Commission is truly realized.

The COMMISSION is comprised of criminal justice professionals charged with the important responsibility of assisting individuals transfer to states where essential supports such as family, employment, treatment—can assist them in charting a new course for their lives.

Member states comprise the Commission. You/We are the Commission! We learned earlier that we have nearly 25 New Deputy Compact Administrators are attending this Annual Business Meeting. This is exciting. I encourage each of you to participate on the various Committees, Rules, Training, Technology, Finance, and Compliance, as well as various Workgroups. The Commission needs your fresh ideas, and your energy!

I said earlier that the COMMISSION is more than understanding and applying the Rules because the Rules can only guide us. The use of professional judgment and open and communication among COMMISSION members is required to carry out the important business of the COMPACT. The **knowledge, judgment, and compassion** of Compact Administrators and Deputy Compact Administrators are what make the COMPACT work. (Incidentally, we do NOT need a rule to address every case or fact pattern encountered by the states. Here, understanding--acting in concert with what we commonly refer to and recognize as the “Spirit of the Compact” **is far more effective!**).

**AND LASTLY, HOW CAN THE COMMISSION AND THE COMPACT AFFECT VICTIM and COMMUNITY SAFETY**

On May 14th of this year, a mass shooting occurred in western New York at a ***Tops Friendly Supermarket*** located on the East Side of Buffalo. Ten Black people were killed/executed and three people were seriously injured. The assailant was a resident of another county in New York State, located some three hours away, and he had absolutely no relationship to the Buffalo community or its residents. The assault was an act of hate. Sadly, New York is no exception here. There have been many such acts of violence in other communities throughout the United States.

In June, I asked our 58 Probation Directors attending the Annual Summer Training Institute, if there was any role that Probation Officers could play in preventing violence. I think there is!

Our job in Probation/Parole is much more than enforcing the court “Order and Conditions” of supervision. Our job is more than enforcement and monitoring, but rather, engaging individuals where they are--establishing relationships of mutual trust, respect, and understanding where change can occur. Don’t misunderstand me.....we need to hold individuals accountable for their actions, and protect victims. Some individuals will continue to recidivate. But for most, change is possible. Supervision and enforcement alone, WILL NOT PROMPT OR FOSTER CHANGE.

There must be a change in thinking for a change in behavior to occur. Probation and Parole Officers are agents of change. Every time a police officer, probation or parole officers interacts with an individual on supervision, there is an opportunity to build credibility with the individual—and the greater community. The same is true of how we manage the interstate transfer process, and the deliberations we bring to our review and acceptance of cases, and thereafter, how we engage individuals and deliver services.

Equally important is the language we use in how we refer to individuals or “persons on supervision”. The terms “probationer”, “parolee”, “inmate”, “offender” can become negative self-fulfilling prophecies. Labeling and stigma must be considered, as well as trauma. **Perhaps it’s time we change our own terminology.....to the “Interstate Compact for Adult (Offender) Supervision”.** ...and extinguish the use of the term “Offender”. Accordingly, I suggest we

establish a Workgroup to examine the language and terminology we use as professionals in support of the COMPACT.

The future of the Interstate Commission and its important work will continue. I believe our best work is ahead of us. The Commission---you—are dedicated professionals and leaders in your respective states and territories. We have a strong record of accomplishment which will provide a strong foundation for a bright future.

This past Spring, I began my 46<sup>th</sup> year in public service. I have served as a Director of Criminal Justice Services, a Drug Czar, a Prosecutor, a Commissioner of Correction, a Compact Administrator, and for these past 20 years—I have been fortunate in serving as New York’s State Director of Probation.

Public Service is a privilege --an opportunity to contribute, to be a part of the dialogue that supports new ideas and reform. Public service is a public trust--that we will lead, AND that we will do all we can to improves the lives of others.

Thank you and God Bless You! Enjoy New York!



## **New York State ICAOS State Council Members**

1. **Robert Maccarone, Chair, Compact Administrator, DCJS Deputy Commissioner OPCA Director**
2. **Rossana Rosado, Commissioner, NYS DCJS**
3. **Anthony Annucci, Acting Commissioner, NYS Department of Corrections and Community Supervision**
4. **Tina Stanford, Chairwoman, NYS Board of Parole**
5. **Honorable David Weprin, Assemblyman**
6. **Honorable Phillip Ramos, Assemblyman**
7. **Victim's Rights Representative, Vacant**
8. **Elizabeth Cronin, Director- New York State Office of Victim Services**
9. **Honorable Robert Mandelbaum, Judicial Appointment**
10. **Honorable Julia Salazar, Senator**

***Fall 2022***

Filters

Due Date Range 4/1/22 to 9/30/22

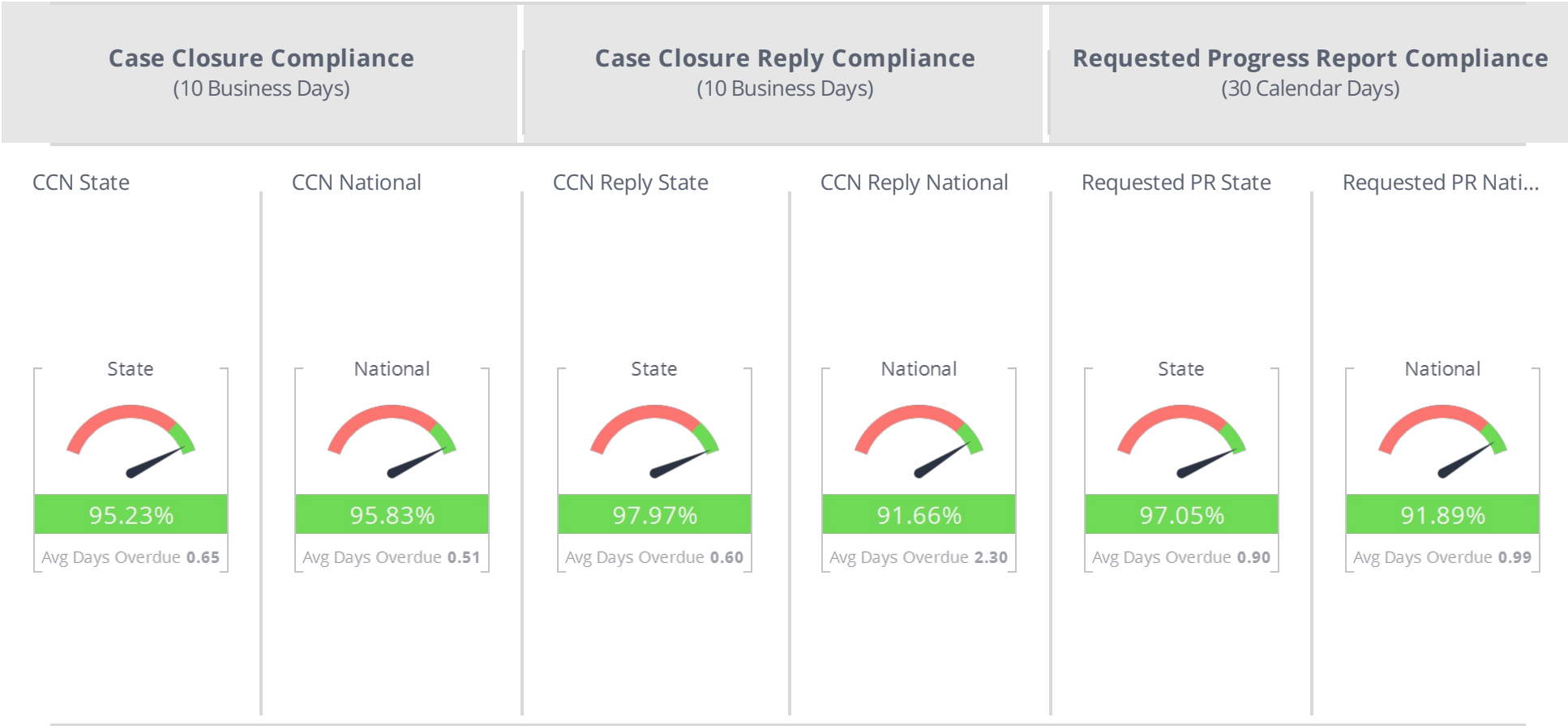
State

NY

# Overview of Compliance Standard Performance

Both the state and national compliance averages are displayed for the selected date range. Dashboard may be filtered on date range and supervision type.

Training Module: [Compliance Summary](#)



Filters Due Date Range 4/1/22 to 9/30/22					
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**Division of Criminal  
Justice Services**

**KATHY HOCHUL**  
Governor

**ROSSANA ROSADO**  
Commissioner

**ROBERT M. MACCARONE**  
Deputy Commissioner & Director

# **New York State Council for the Interstate Compact for Adult Offender Supervision**

## **Mission Statement**

The mission of the New York State Council for the Interstate Compact for Adult Offender Supervision is to serve as an advisory body to the State Compact Administrator, and to make recommendations for the implementation of state policies and procedures that facilitate the effective tracking, supervision and rehabilitation of individuals under community supervision, advance their orderly transfer across state lines, and promote public and victim safety.

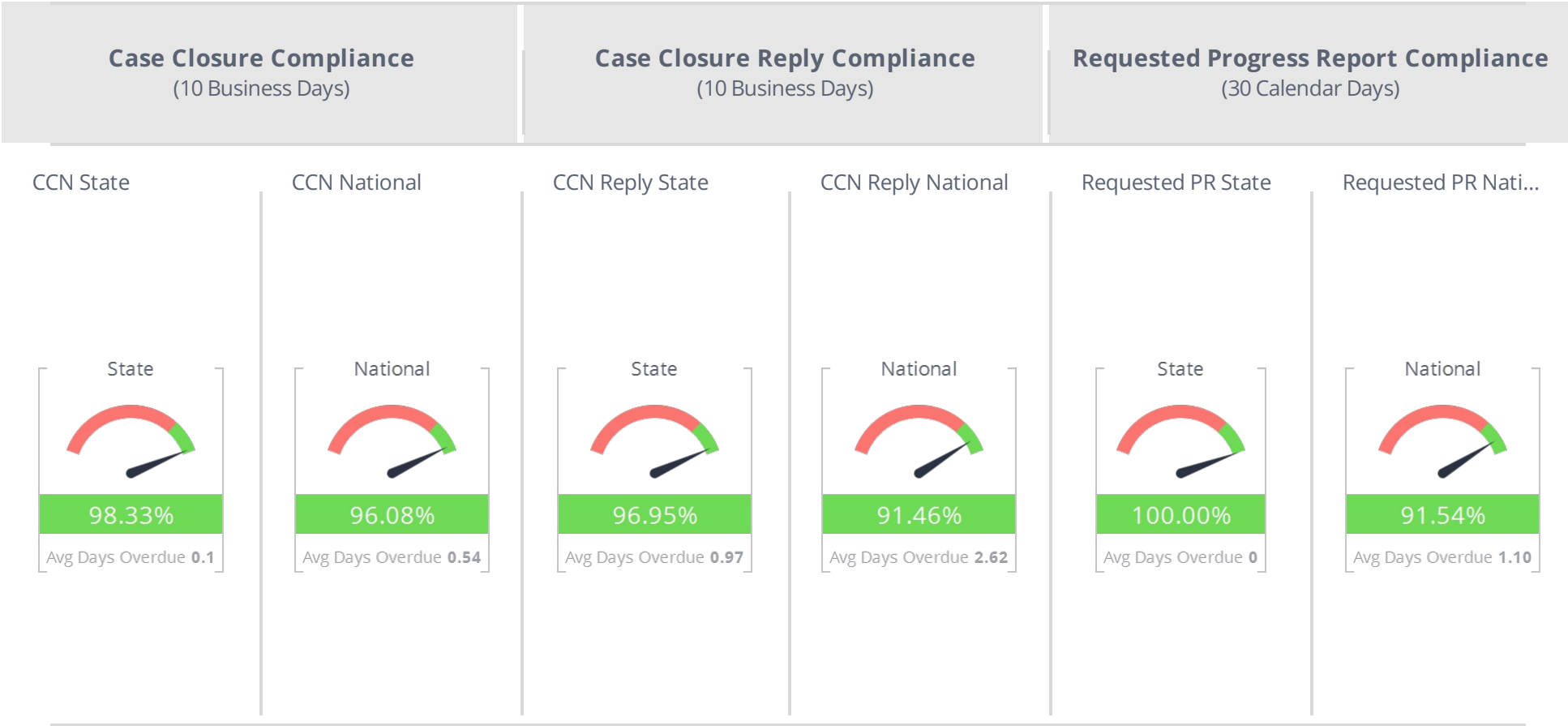
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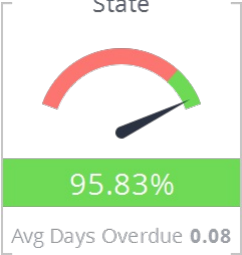
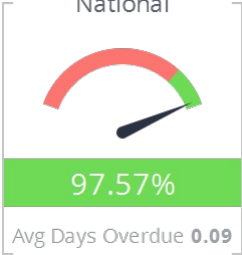
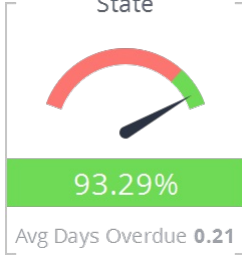
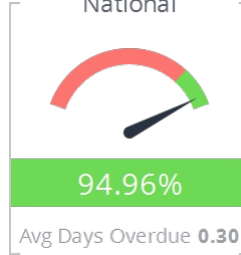
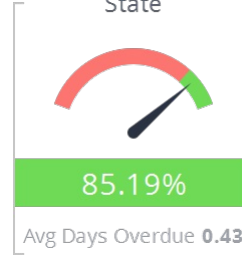
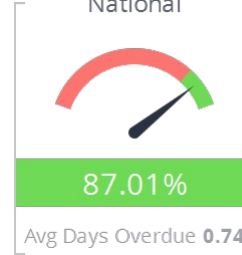
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Overview of Compliance Standard Performance

Both the state and national compliance averages are displayed for the selected date range. Dashboard may be filtered on date range and supervision type.

Training Module: [Compliance Summary](#)



Filters <b>Due Date Range</b> 4/1/22 to 9/30/22     <b>Supervision Type</b> Parole					
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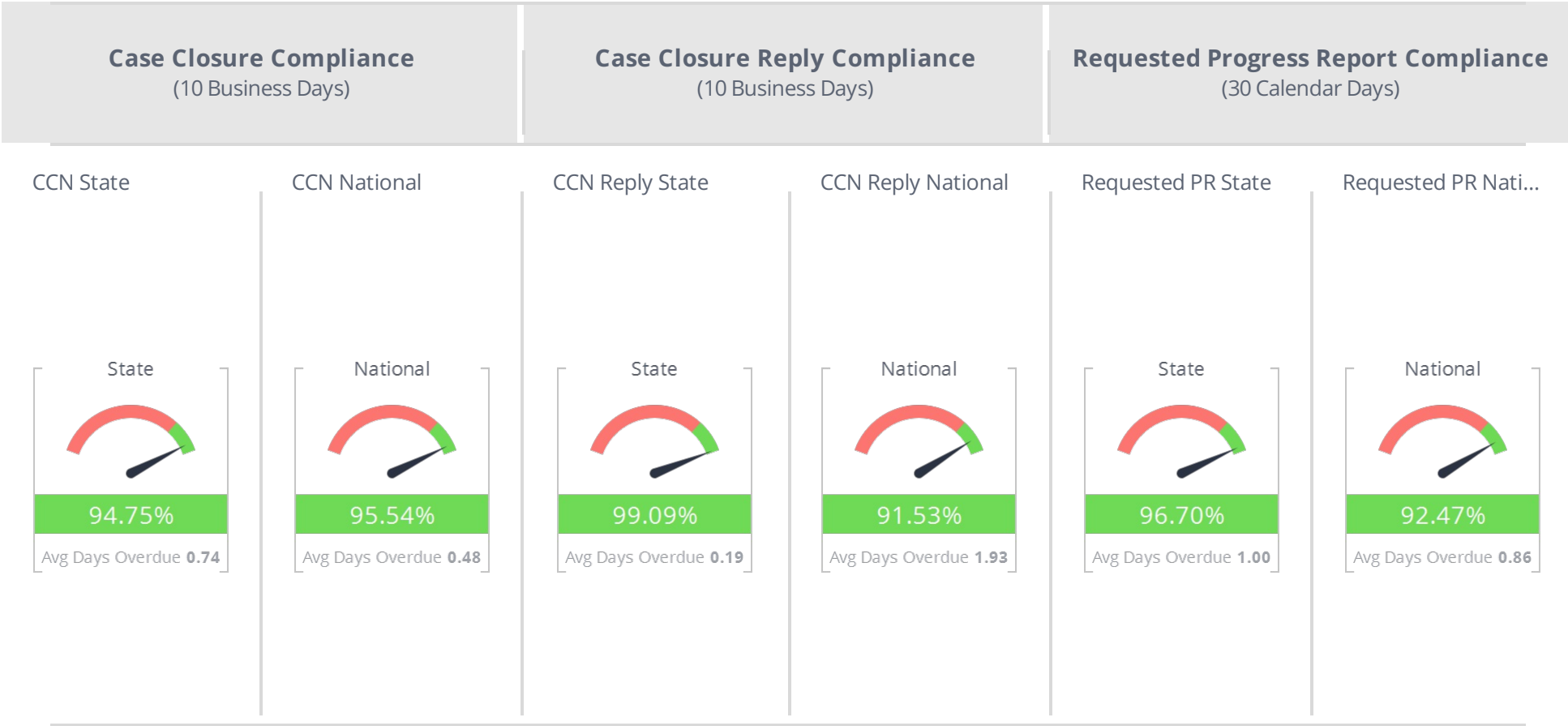
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Overview of Compliance Standard Performance

Both the state and national compliance averages are displayed for the selected date range. Dashboard may be filtered on date range and supervision type.

Training Module: [Compliance Summary](#)

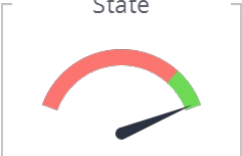
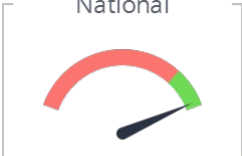
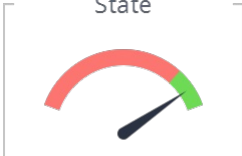
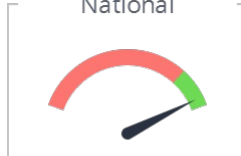
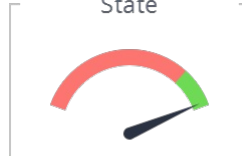
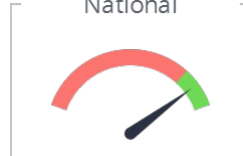


Filters

Due Date Range4/1/22 to 9/30/22

Supervision TypeExclude: Parole, Probation & Parole

<div>RI Reply Compliance</div> <div>(2 Business Days [5 for sex offenders])</div>	<div>Transfer Reply Compliance</div> <div>(45 Calendar Days)</div>	<div>Violation Response Compliance</div> <div>(10 Business Days)</div>
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RI-Reply State	RI-Reply National	Transfer Reply State	Transfer Reply National	Violation Response State	Violation Response National
<div>State</div> <div></div> <div>98.54%</div> <div>Avg Days Overdue 0.04</div>	<div>National</div> <div></div> <div>97.43%</div> <div>Avg Days Overdue 0.07</div>	<div>State</div> <div></div> <div>89.94%</div> <div>Avg Days Overdue 0.58</div>	<div>National</div> <div></div> <div>95.37%</div> <div>Avg Days Overdue 0.28</div>	<div>State</div> <div></div> <div>97.83%</div> <div>Avg Days Overdue 0.07</div>	<div>National</div> <div></div> <div>88.24%</div> <div>Avg Days Overdue 0.75</div>



New York State Council Virtual Meeting  
Interstate Compact for Adult Offender Supervision  
NYS Division of Criminal Justice Services  
Alfred E. Smith Office Building  
80 S. Swan Street  
Albany, New York State  
Tuesday, May 24, 2022

**Welcome and Opening Remarks**

Robert Maccarone, New York State (NYS) Deputy Commissioner and Compact Administrator (CA) welcomed members and guests to the May 24, 2022, NYS Council Meeting of the Interstate Compact for Adult Offender Supervision (ICAOS). CA Maccarone acknowledged that once again due to Covid-19, the NY Council Meeting was being convened virtually.

**Introduction of State Council members:**

Rossana Rosado, Commissioner, NYS Division of Criminal Justice Services (DCJS)  
Robert Maccarone, NYS Deputy Commissioner & Director, NYS DCJS – Office of Probation and Correctional Alternatives (OPCA) and Compact Administrator  
Kathy Kiley Legal Counsel, NYS Board of Parole, designee for Tina Stanford, Chairwoman, NYS Board of Parole  
James Carswell, NYS Department of Corrections and Community Supervision (DOCCS)-designee for Acting Commissioner Anthony Annucci  
John Watson, General Counsel, NYS Office of Victim Services-designee for Elizabeth Cronin, Director NYS Office of Victim Services  
Dennis Houdek, Esq.  
Honorable David Weprin, NYS Assembly  
Honorable Robert Mandelbaum, Acting Supreme Court Justice, NY County

NYS DCJS Commissioner Rossana Rosado welcomed the members of the State Council and thanked them for their efforts and looks forward to working with everyone in the future.

CA Maccarone thanked Commissioner Rosado for her welcome and comments.

**State Council members not present:**

Elizabeth Cronin, Director, NYS Office of Victim Services  
Honorable Phillip Ramos, NYS Assemblyman  
Honorable Luis Sepulveda, NYS Senator

**Introduction of Guests:**

Joseph Popcun, Executive Deputy Commissioner, NYS DCJS  
Matthew Charton, Deputy Compact Administrator (DCA) - Probation, NYS DCJS-OPCA  
Kelly Palmateer, Juvenile DCA – Probation NYS DCJS-OPCA  
Jeffrey Kirker, Regional Director, NYS DOCCS

**Review and Approval of the Agenda:**

CA Maccarone asked the members to review today's meeting agenda and the minutes from the November 10, 2021 meeting of the NYS Council. CA Maccarone asked for a motion to approve both. Motion to approve was made by Dennis Houdek and seconded by Judge Robert Mendelbaum. Motion to approve was passed unanimously.

**Mission Statement:**

CA Maccarone asked Probation DCA Matthew Charton to read the Mission Statement, noting the statement keeps the council focused. DCA Charton read the statement

**Update of the NYS DCJS/OPCA Interstate Unit and NYS DOCCS in response to the COVID-19 ICAOS Rule 2.111-- Emergency Suspension of Enforcement:**

CA Maccarone asked DCA Matthew Charton to provide a brief history and update on the Interstate Commission's promulgation and subsequent rescission of ICAOS Rule 2.111-Emergency Suspension of Enforcement. DCA Charton advised that the Executive Commission had voted to grant relief to state/territories in relaxing the required timeframes for compliance with ICAOS Rules. On March 17, 2021 the ICAOS Executive Committee voted to rescind the emergency procedures and reinstitute required compliance, effective April 1, 2021. DCA Charton informed the Council that throughout the emergency suspension, NYS, both probation and parole-maintained compliance with the timeframes that are associated with certain rules. return. DCA Charton mentioned that although some counties have seen a recent increase in Covid transmission, the number of incoming and outgoing interstate transfers are steadily increasing.

**Presentation of ICAOS Compliance Data:**

Probation DCA Charton presented the compliance data for probation and parole for the last 12 months to the Council. It was noted that NYS is 90% compliant in all categories over the last 12 months. DCA Charton and DCA Carswell thanked the Compact Office staff for continuing to meet high standards.

### **Update on the April 1, 2022 implementation of the approved Rule Amendments**

DCA Charton provided an overview on probation's implementation of the new ICAOS rules that were passed in September 2021 and took effect April 1, 2022.

DCA Charton discussed how the change in the definition of "resident" provides opportunities for those who have established a residence in another state, to remain in that state where they may have housing, employment, stable social networks and family. He related this change will have a positive impact on those individuals who were seeking a new start in another state where they are most likely to succeed.

DCA Charton briefly discussed the changes to the Probable Cause Hearing rule with the focus on the violation that would result in the retaking and not violations that can be addressed by the receiving state through graduated responses.

DCA Charton then discussed the changes in the warrant timeframes. He related that this rule change has the biggest impact for states. It now requires for violations requiring retaking where a warrant is required, a standard 15 business day timeframe for that warrant to be issued and uploaded in NCIC. DCA Charton outlined DCJS – OPCA previous work in this area with local probation departments, courts, and police agencies, as well as the "warrant tracker" which allows the probation compact office to track warrant issuance and upload, as well as follow up with courts and police agencies when a warrant is not available in the required timeframe. Lastly, DCA Charton gave a brief overview of the Commission's plan to automate the warrant tracking system within the Interstate Compact offender Tracking System (ICOTS).

### **NYS DOCCS Update- "Less is More" Law – impact on the interstate transfer of individuals under parole supervision**

CA Maccarone asked DCA Carswell to provide a brief description of NYS DOCCS "less is more" initiative and its impact on interstate transfers

DCA Carswell provided a brief overview of the initiative/law, which allows individuals under parole supervision, when compliant with conditions of supervision, the opportunity to "trade in" their supervision time for early release from parole. He related that the impact this has had on interstate transfers is that outgoing interstate transfers have

declined dramatically. DCA Carswell provided a statistical analysis showing this decline.

### **Changing our approach- reviewing the Compact name, language and forms**

CA Maccarone introduced his plan to spearhead change in language used by the ICAOS in its name, rules, and forms. CA Maccarone noted that NYS changed the law to eliminate the term “inmate” in its laws. In this same spirit, CA Maccarone feels that the term “offender” used by the ICAOS, burdens individuals by negatively labeling them throughout their term of supervision. In changing the term “offender” to “individual”, it may provide that person with a sense of dignity and recognition that they are not being labeled for mistakes they have made in life. CA Maccarone also believes that by treating each person as an individual, it can promote positive change in their lives. He will be addressing the ICAOS full commission on this subject in September 2022.

### **2022 ICAOS Annual Business Meeting 20th Anniversary – New York City September 26th-28th**

CA Maccarone reminded council members that the 2022 ICAOS Annual Business Meeting will be held in NYC in September. The NYS DOCCS Color Guard will serve as Color Guard and open the Business Meeting on Wednesday, September 28, 2022. CA Maccarone thanked DCA Carswell, DOCCS Regional Director Jeff Kirker and Acting NYS DOCCS Commissioner Anthony Annucci for their assistance in having their Color Guard appear.

DCA Carswell announced that effective June 2022, he will be retiring from NYS DOCCS. He thanked the NYS Council, as well as NYS Parole Chair Tina Stafford, DOCCS Acting Commissioner Anthony Annucci, Compact Administrator Robert Maccarone and DCA Matt Charton. DCA Carswell states that the NYS DOCCS is actively recruiting for his position and Senior Parole Officer’s Ronald Hotaling and Randy Blais will be available if needed.

CA Maccarone thanked DCA Carswell for his work at the NYS and National levels. On behalf of the State Council and DCJS Commissioner Rosado, well wishes on his retirement.

### **Closing Remarks**

CA Maccarone thanked the State Council members for their continued participation and support and asked if any member had further comments or questions. Hearing none, CA Maccarone closed the Spring 2022 NYS ICAOS State Council meeting.

The Fall 2022 State Council meeting is scheduled for **Tuesday, October 25, 2022**