



Interstate Commission for Adult Offender Supervision

ICAOS requires system wide collaboration
to succeed



History Lesson

- Interstate Compacts are rooted in the colonial past. Because each colony was independent, disputes between them were worked out by negotiation that was submitted to the king for approval.
- Thus interstate compacts are not new. What has changed in the last century is the use of interstate compacts to create on-going administrative agencies.



Interstate Compacts

- Agreements between states authorized under the U.S. Constitution – the “Compact Clause”
- Crime Control Act of 1934 permitted two or more states to enter into agreements for mutual assistance in the prevention of crime.
- A compact with Congressional consent becomes a “law of the United States” Texas vs. NM, 482 U.S. 124 (1987)

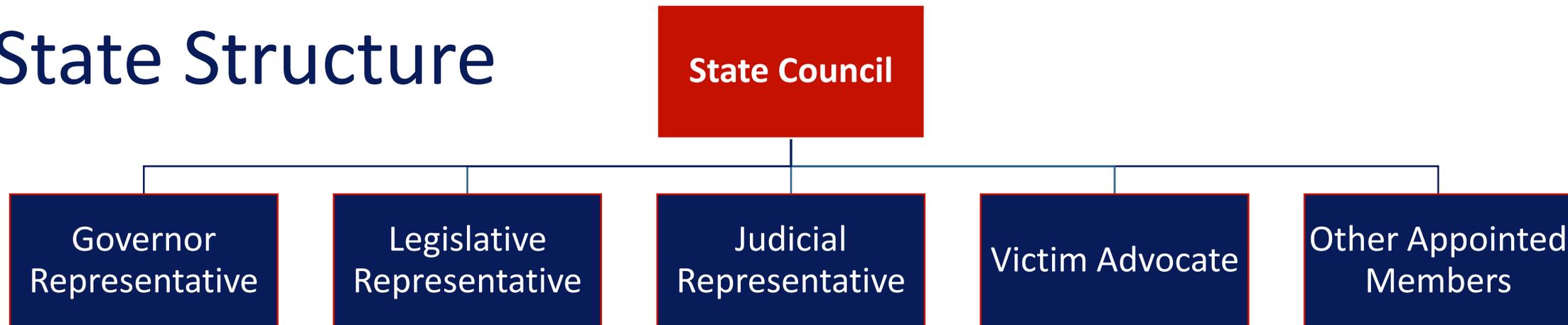


ICAOS [61 Pa.C.S.A. § 7111 et seq.]

- **Enacted June 19, 2002**
- Established a national governing body (Interstate Commission) with rule making authority = law;
- Established a requirement for a state advisory council
- Created statutory authority to enforce compliance;
- Established uniform system for reporting, collecting and exchanging data



State Structure



Provide mechanism for empowerment of Compact process at state level;

Oversight and advocacy concerning state's participation in Interstate Commission activities;

Assist in the administration of compact functions such as legislation, training and compliance.



Rulemaking Power

- Commission rules must be adopted in a manner that is substantially similar to the process of the Administrative Procedures Act
- Once adopted, the rules have the force and effect of statutory law and supercede any inconsistent state laws to the extent of the conflict. 61 Pa.C.S.A. §7112 Article XIV
- A majority of state Commissioners can reject a proposed rule



Judicial Sentencing Practices

- ICAOS is NOT about telling judges how to sentence nor about telling prosecutors how to charge offenses.
- It is about controlling the movement of certain categories of criminal offenders after sentencing.
- Although a compact has been in effect since 1937, the ICAOS was compelled by offenders moving interstate without anyone monitoring them.



Authority to Regulate

- **No constitutional right to Compact supervision**
- There is no “right” of convicted persons to travel across state lines. See, Bagley v. Harvey, 718 F.2d 921 (9th Cir. 1988)
- Convicted person has no right to control where they live; the right is extinguished for the balance of their sentence. Williams v. Wisconsin, 336 F.3d 576 (7th Cir. 2003)



ICAOS Purpose

- Promote public safety
- Protect rights of victims
- Control movement of offenders
- Provide for effective tracking
- Ensure effective supervision
- Provide rehabilitation opportunities

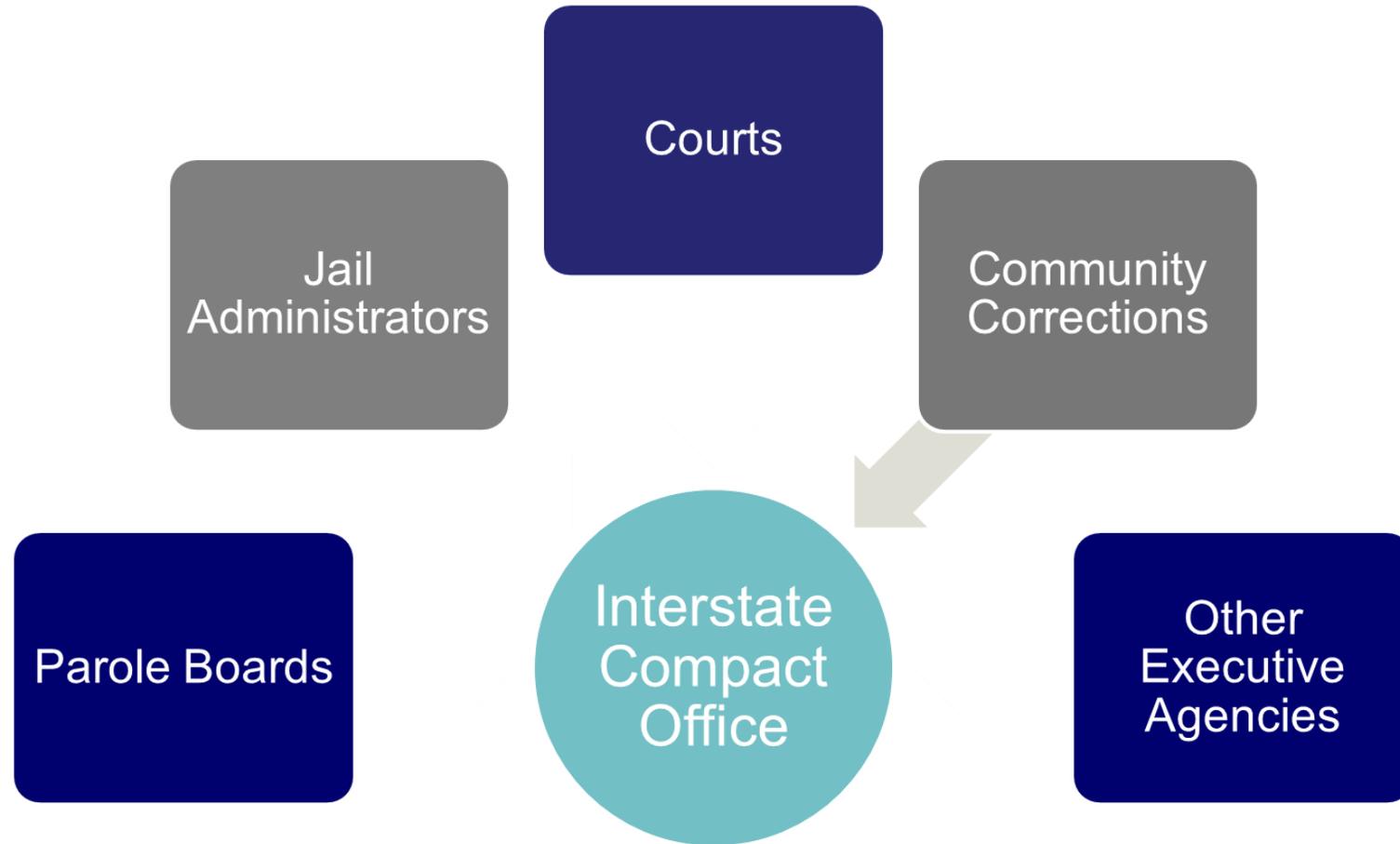
61 Pa.C.S.A. § 7112 Article I



Liability - Enforcement Power

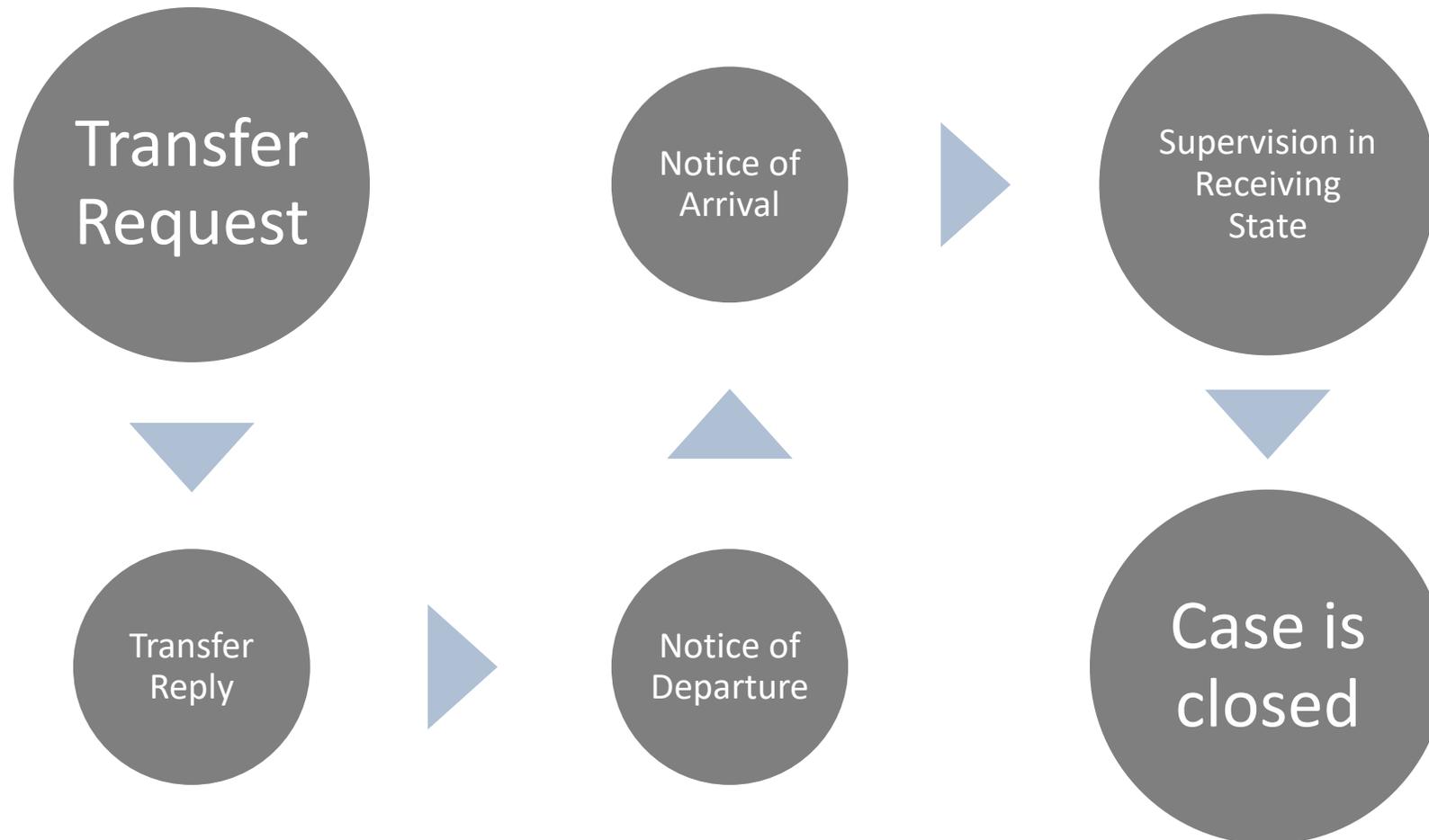
- All compact member states can be held liable for circumventing or violating the ICAOS rules. Commission has authority to enforce the compact and its rules upon the states by:
 - Requiring remedial training
 - Requiring mediation/arbitration of dispute
 - Imposing monetary fines on a state
 - Seeking relief in federal court, most likely by obtaining an injunction to curtail state action or compel compliance.

Compact Office Resource





Cycle of a Compact Case





What is ICOTS?

- ICOTS is a web-based application that allows member states to facilitate all compact business processes and other case based activities

Who Can Use ICOTS?

- Each state determines who the users are and administrates their users.
- Users are required to agree and adhere to the **ICOTS Privacy Policy**



Did you know...?



Did you know...

- Plea agreements and court orders should not give an offender permission to proceed to another state, regardless of the reason.
- All activity regarding interstate cases must be submitted through the Interstate Compact Offender Tracking System (ICOTS).
- Offenders who meet eligibility criteria cannot live in another state and report to a PA PO or be placed on mail-in or phone-in status.



Did you know...

- Offenders on 'non-reporting' or 'unsupervised' status who must abide by **any conditions of supervision**, even standard conditions, must still be transferred through the compact.
- Sex offenders requiring registration can **NEVER** proceed to a receiving state without permission from the receiving state.
- All PA offenders shall be assessed a \$125 application fee for interstate transfer unless reduced or waived by the sentencing court for inability to pay. (61 Pa.C.S §7115)



Waiver of Extradition (3.109)

- All offenders seeking transfer must sign an Offender Application for Interstate Compact Transfer form which contains a waiver of extradition.
- States party to this compact waive all legal requirements to extradition of offenders who are fugitives from justice.



Eligible Misdemeanors (2.105)

Sentence = 1+ years of supervision AND	
Instant Offense includes one or more:	
➤ Person incurred direct or threatened physical or psychological harm.	➤ 2 nd or subsequent conviction of driving while impaired by drugs or alcohol
➤ Use or possession of a firearm involved.	➤ Sex offense requiring registration in the sending state



Mandatory Supervision Transfer (3.101/3.101-1)

- Decision to transfer is solely at the discretion of the sending state. The offender must:
 - Have at least 90 calendar days remaining on supervision; and
 - Have a valid plan of supervision; and
 - Be in substantial compliance with the terms of PA supervision.
 - AND have a valid reason...next slides



Mandatory Transfer (continued)

- The offender:
 - Is a resident of receiving state; or
 - Has **resident family** in the receiving state who are willing and able to assist; or
 - Has military orders to relocate to another state or lives with a military family member who receives orders to relocate to another state; or...



Mandatory Transfer (continued)

- Is transferred to another state by their full time employer or live with a family member who is transferred by their full time employer and must relocate as a condition of maintaining that employment; or
- Has a medical or MH treatment referral from a Veterans Administration facility in PA to attend a VA facility in the receiving state.



Discretionary Requests (3.101-2)

- Transfers that do not meet the mandatory criteria for acceptance can be submitted as discretionary requests based on merit.
- Receiving states can, and often do, deny although we are all to work in a manner consistent with the purpose of the compact.
- Examples:
 - College/trade school
 - Treatment
 - New employment
 - Girlfriend/boyfriend/friend/cousin
 - 'Want a new start'



Time Allowed for Investigation by Receiving State (3.104)

- The receiving state has 45 calendar days to investigate all aspects of the proposed plan and provide a response to PA.



Victim Rules (3.108/3.108-1)

- When the offender applies for transfer, the PA victim notification authority shall inform victims of their right to be heard and comment. *These cases are designated as 'victim sensitive' in the automated ICOTS database.*
- Within one business day of issuing reporting instructions or acceptance of transfer, both states shall initiate notification procedures to known victims in their respective states in accordance with its own laws.
- The receiving state must notify PA of any changes in the offender's status and both states must notify victims in their respective states in accordance with the compact rules and their own laws.



Reporting Instructions (3.103)

- Instructions directing when, where and how an offender is to report for the first time in the receiving state or when returning to the sending state.
- A response is required within 2 business days. If granted, the offender may be given a 7-day travel permit once verified that the offender is not a registered sex offender in either state and:
 - 1) Was living in the receiving state at the time of sentencing AND
 - 2) The request is submitted within 7 business days of sentencing, release from a period of incarceration of 6 months or less or after disposition of a revocation after retaking.



Transfer of Sex Offenders (3.101-3)

- Sex offenders cannot leave PA until the transfer request has been approved or reporting instructions have been issued.
- When reporting instructions are requested for a sex offender living in the receiving state at time sentencing:
 - The receiving state has 5 business days to review the proposed residence to ensure the home is appropriate for a sex offender and for compliance with local policies or laws.
 - No travel permit shall be granted unless/until reporting instructions are issued.



Supervision by Receiving State (4.101/4.102)

- The level of supervision is determined by the receiving state.
- The receiving state cannot terminate an offender's supervision prior to the original expiration date unless ordered by the PA court.



Supervision by Receiving State (4.103/4.103-1)

- Conditions can be imposed by the receiving state at the time of acceptance or at any time during the term of supervision. The receiving state must notify PA of conditions imposed.
- Conditions imposed by the receiving state shall have the same force and effect as conditions imposed by the PA court at the time of revocation.



ICAOS Requirement *excerpt from Benchbook

'Participation in the ICAOS ensures not only the controlled movement of offenders under community supervision, but also that out-of-state offenders will be given the same resources and supervision provided to similar in-state offenders including the use of incentives, corrective actions, graduated responses and other supervision techniques'



Violation Reports Requiring Retaking (4.109)

- The receiving state shall report violations within 30 calendar days of discovery of the violation and PA would have 10 business days from the violation submission date to respond with the action that will be taken and estimated timeframes for when it will begin and be completed.



Warrant: Definition, Chapter 1

- “Warrant” means a written order of the court or authorities of a sending or receiving state or other body of competent jurisdiction which is made on behalf of the state, or United States, issued pursuant to statute and/or rule and which commands law enforcement to arrest an offender. The warrant shall be entered in NCIC with a **nationwide pick-up radius with no bond amount set.**



Mandatory Retaking Rules (5.103-1/5.102)

- A fully extraditable warrant must be issued and the offender retaken in custody when:
 - The receiving state requests retake for:
 - Absconding.
 - A new felony or violent crime conviction.
 - Failure to report to PA when return reporting instructions are provided.



Behavior Requiring Retaking: Definition, Chapter 1

- “Behavior Requiring Retaking” means an act or pattern of non-compliance with conditions of supervision that could not be successfully addressed through the use of documented corrective action or graduated responses and would result in a request for revocation of supervision in the receiving state.



Offender Behavior Requiring Retaking (5.103)

- When PA receives a violation report under this rule, PA shall either:
 - Issue a warrant and retake in custody; OR
 - Ask the receiving state to submit a request for return reporting instructions and PA shall provide a report date that is within 15 business days of receipt of the report.

***This is the **ONLY** retaking rule that allows PA to order an offender's return. If the offender fails to return as directed, a warrant must be issued within 10 business days of the failure to report.



Discretionary Process for Disposition of Violation in the sending state for a new crime conviction (5.101-2)

- Notwithstanding any other rule, a sentence imposing a period of incarceration on an offender convicted of a new crime which occurred outside the sending state during the compact period may satisfy or partially satisfy the sentence imposed by the sending state for the violation committed.
- This requires the approval of the sentencing or releasing authority in the sending state and consent of the offender.



Discretionary Process (continued)

- Unless waived by the offender, the sending state shall conduct, at its own expense, an electronic or in-person violation hearing.
- The sending state shall send the violation hearing results to the receiving state within 10 business days.
- If the offender's sentence to incarceration for the new crime fully satisfies the sentence for the violation imposed by the sending state for the new crime, the sending state is no longer required to retake if Rules 5.102 and 5.103 apply.
- If the offender's sentence to incarceration for the new crime only partially satisfies the sentence for the violation imposed by the sending state for the new crime, the sending state is required to retake if Rules 5.102 and 5.103 apply.
- The receiving state may close the case under rule 4.112(a)(3).



Probable Cause Hearing in the Receiving State (5.108)

- The offender shall be afforded the opportunity for a probable cause hearing in the receiving state consistent with due process requirements.
- No waiver of a probable cause hearing shall be accepted unless accompanied by the offender's admission to one or more violations of the terms or conditions of supervision.
- Any evidence or record generated during the hearing shall be forwarded to the sending state.



Denial of Bail or Other Release Conditions to Certain Offenders (5.111)

- An offender against whom retaking procedures have been instituted by a sending or receiving state shall not be admitted bail or other release conditions in any state.



PA Statute: Offenders Who Circumvent the Compact

- Any person who is on parole or probation in another state and who resides in this Commonwealth in violation of Section 7122 (61 Pa.C.S.A. §7123) commits a misdemeanor of the first degree and shall be sentenced to pay a fine of not more than ten thousand dollars (\$10,000) or to imprisonment for not more than five years, or both.

61 Pa.C.S.A. §7123



Questions?



PA Deputy Compact Administrators

- Margaret Thompson, DCA/Director Interstate Parole Services
 - 717.787.5699, ext. 1142; mthompson@pa.gov
- Matthew Reed, DCA/Director Interstate Probation Services
 - 717.787.5699, ext. 1138; matreed@pa.gov



ICAOS Resources

- Website: www.interstatecompact.org
- Judicial Bench Book for Judges and Court Personnel
- ICAOS Rules (Step-by-Step ICAOS Rules)