

POLICY AND ADMINISTRATIVE PROCEDURE			
Indiana Department of Correction			
Manual of Policies and Procedures			
Number	Effective Date	Page	Total Pages
01-04-105	6/1/2019	X-1	X-5
Title			
ADULT OFFENDER RELEASES			

X. INTERSTATE AGREEMENT/DETAINERS:

A. Purpose:

Establish an administrative process for the processing of out-of-state untried indictments, information, or complaints as defined by the Interstate Agreement on Detainers (IAD).

B. Receipt of Detainer:

Upon receipt of information concerning an untried indictment, information, or complaint as defined by the Interstate Agreement on Detainers, the Supervisor of Classification or designated staff person shall:

1. Review the information to ensure that it meets the definition of untried indictments, information or complaints as defined by the Interstate Agreement on Detainers (The Interstate Agreement does not cover Detainers based on charges that have already resulted in conviction and sentence [parole and probation violations]);
2. Contact the wanting authority to clarify the information if it appears incomplete or questionable; and,
3. Follow procedure for receipt of Warrant/Detainer as outlined in Section VI, "Warrants-Detainers In-State," of this policy and administrative procedure.
4. Appropriate forms may be obtained by contacting the IAD Administrator.
5. Contact the Sentence Computation and Release Section or the IAD Administrator with questions.

C. Offender Requested Disposition under the Interstate Agreement:

If an offender requests final disposition under the Interstate Agreement, this request operates as an automatic waiver of extradition rights for the offender's transfer to and from the requesting state. In this situation, no judicial hearing is necessary before the offender is transferred from the custody of one jurisdiction to another under the Interstate Agreement.

POLICY AND ADMINISTRATIVE PROCEDURE			
Indiana Department of Correction			
Manual of Policies and Procedures			
Number	Effective Date	Page	Total Pages
01-04-105	6/1/2019	X-2	X-5
Title			
ADULT OFFENDER RELEASES			

Upon request of an offender for final disposition under the Interstate Agreement, the Supervisor of Classification or designated staff person shall:

1. Cause the completion of the following forms in accordance with the Interstate Agreement:
 - a. Form I, "Notice of Untried Indictment, Information, or Complaint and of Right to Request Disposition;
 - b. State Form 12109, "Supplement to Form 1, Agreement on Detainers;"
 - c. Form II, "Inmate's Notice of Place of Imprisonment and Request for Disposition of Indictments, Information or Complaints;"
 - d. Form III, "Certificate of Inmate Status;" and,
 - e. Form IV, "Offer to Deliver Temporary Custody."
2. Cause copies of all forms to be distributed in accordance with the Interstate Agreement;
3. Cause copies to be distributed in accordance with the Interstate Agreement upon receipt of the following forms:
 - a. Form VI, "Evidence of Agent's Authority to Act for Receiving State;" and,
 - b. Form VII, "Prosecutor's Acceptance of Temporary Custody Offered with an Inmate's Request for Disposition of a Detainer."
4. Cause copies to be distributed in accordance with the Interstate Agreement upon receipt of Form IX, "Prosecutor's Report of Disposition of Charges."

D. Transfer of Temporary Custody upon Request of Prosecutor:

When a prosecutor in a receiving state places a valid detainer/untried charges against an offender incarcerated in the sending state, the prosecutor

POLICY AND ADMINISTRATIVE PROCEDURE			
Indiana Department of Correction			
Manual of Policies and Procedures			
Number	Effective Date	Page	Total Pages
01-04-105	6/1/2019	X-3	X-5
Title			
ADULT OFFENDER RELEASES			

may obtain temporary custody of the offender under article IV of the Interstate Agreement on Detainers. Transfer pursuant to Article IV is viewed by the Federal Courts as equivalent to extradition.

Judicial pre-transfer hearing is required unless the offender executed a formal waiver of extradition. If the offender chooses not to waive extradition he/she should not be transferred to the temporary custody of the requesting state until a judicial pre-transfer hearing and opportunity for Habeas Corpus challenge has been satisfied.

Upon receipt of Form V, "Request for Temporary Custody," the Supervisor of Classification or designated staff person shall:

1. Cause the following forms to be completed in accordance with the terms of the Interstate Agreement on Detainers:
 - a. Form I, "Notice of Untried Indictment, Information, or Complaint and of Right to Request Disposition;
 - b. State Form 12109, "Supplement to Form 1, Agreement on Detainers;"
 - c. Form III, "Certificate of Inmate Status; and,"
 - d. Form IV, "Offer to Deliver Temporary Custody," if all terms noted in the Interstate Agreement on Detainers have been satisfied;
2. Cause the offender to be notified;
3. Cause copies of all forms to be distributed in accordance with the Interstate Agreement on Detainers;
4. Arrange a pre-transfer hearing in accordance with the Interstate Agreement on Detainers if the offender chooses not to waive extradition; and,
5. Cause the appropriate forms to be distributed in accordance with the Interstate Agreement on Detainers, upon receipt of the following forms:

POLICY AND ADMINISTRATIVE PROCEDURE			
Indiana Department of Correction			
Manual of Policies and Procedures			
Number	Effective Date	Page	Total Pages
01-04-105	6/1/2019	X-4	X-5
Title			
ADULT OFFENDER RELEASES			

- a. Form VI, “Evidence of Agent’s Authority to Act for Receiving State;”
- b. Form VIII, “Prosecutor’s Acceptance of Temporary Custody Offered in Connection with a Prosecutor’s Request for Disposition of a Detainer,” if applicable; and,
- c. Form IX, “Prosecutor’s Report of Disposition of Charges.”

E. Detainers Not Covered by the Interstate Agreement:

The following detainers are not covered under the Interstate Agreement on Detainers:

- 1. Parole Violations;
- 2. Probation Violations;
- 3. Detainers from a department of correction of another state that deal with the completion of the remaining portion of a pre-existing commitment rather than an untried indictment;
- 4. A detainer from the States of Louisiana or Mississippi, both of which are non-signatories of the agreement; and,
- 5. Immigration and Customs Enforcement (ICE).

F. Resolving Detainers with Non-Signatory States:

When a detainer for untried charges is lodged by or with officials in the States of Louisiana or Mississippi, the offender who is the subject of the detainer may be transferred only via the formal extradition process. In conjunction with the formal extradition, an executive agreement between the Governors of the asylum state and demanding state must be prepared. Staff shall contact the Sentence Computation and Release Section, Attorney General or Compact Administrators with questions concerning this subject.

G. Resolving Detainers for Temporary Custody of Offenders on Death Row:

If a detainer is received for an offender with a death penalty, the facility staff shall notify the assigned Executive Director of Adult Facilities and the

POLICY AND ADMINISTRATIVE PROCEDURE			
Indiana Department of Correction			
Manual of Policies and Procedures			
Number	Effective Date	Page	Total Pages
01-04-105	6/1/2019	X-5	X-5
Title			
ADULT OFFENDER RELEASES			

Legal Services Division. The Legal Services Division shall review the detainer to determine its correctness. The Legal Services Division shall contact the Commissioner and the Office of the Attorney General for instructions. If so directed by the Commissioner, the Legal Services Division shall notify the Office of the Governor of the receipt of the detainer.

After consultation with the Offices of the Governor and the Attorney General, the Legal Services Division shall advise the facility what action, if any, is to be taken with regards to the detainer. The Legal Services Division shall maintain contact with the facility to ensure that all appropriate actions are completed and that the state filing the detainer is kept informed.