

 <p style="text-align: center;">KENTUCKY CORRECTIONS Policies and Procedures</p>	Policy Number	Total Pages
	27-18-01	5
	Date Filed	Effective Date
	July 11, 2012	November 2, 2012
<p>Authority/References</p> <p>KRS 196.035, 196.037, 439.342, 439.430, 439.470, 439.570, 440.450, et seq., 533.050; Gregg v. US, 394 U.S. 489, 895 CT. 1134; AGO 3/17/76, OAG 75/213 P&P ACA 2B-04</p>	<p>Subject</p> <p style="text-align: center;">PROBATION AND PAROLE ISSUANCE OF DETAINER OR WARRANT</p>	

I. DEFINITIONS

“Detainer” means a written instrument issued by the Probation and Parole officer to detain a supervised offender.

“Local detention facility” means a detention center located in a city or county where an offender may be held in custody pending resolution of his case.

“Preliminary revocation hearing” means a hearing conducted by an Administrative Law Judge that hears sworn testimony and considers documentary evidence for the purpose of determining whether there is probable cause that an offender violated the terms of his parole. This hearing provides factual data to be reviewed by the Parole Board when determining what further action, if any, shall be taken in the case.

“Warrant” means a written instrument issued by the releasing authority which authorizes the detention of an offender.

II. POLICY and PROCEDURE

A. Use of Detainers

The use of a detainer shall be based on a violation of the conditions of supervision established either by probable cause or a violation personally witnessed by the officer. This instrument shall be used to confine the supervised offender in a local jail facility pending further action by the releasing authority.

B. Parole, Mandatory Re-Entry Supervision, and Postincarceration Supervision

An officer may arrest a parolee and lodge him in a local detention facility on a detainer, if there is probable cause to believe the parolee is in violation of the conditions of supervision.

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C. Probation

The officer may use a detainer on a probationer when the officer sees the offender violate the terms of release. Otherwise, the officer shall report any suspected violations to the court for possible issuance of a warrant. The officer shall secure a warrant, unless expressly authorized by the releasing authority.

D. Pretrial Diversion

The officer shall secure a warrant, unless expressly authorized by the releasing authority.

E. Interstate Compact Offenders

Interstate Compact Offenders shall not be held on a detainer except for emergency or extenuating circumstances, or when the offender is a danger to himself or another. The officer shall review the case with the supervisor and the Interstate Compact Office to obtain authorization to lodge the detainer.

F. Use of Detainers in Parole Cases

1. Except in case of emergency or extenuating circumstances, when the offender is a danger to himself or another, the officer shall discuss the case with the supervisor and decide if a detainer shall be placed against the parolee. The detainer shall be completed by the officer and shall contain the following information:

- a. Number of detainer,
- b. Date the detainer is issued,
- c. Offender's name,
- d. Original conviction,
- e. Expiration date,
- f. Signature of the officer, and
- g. Date of execution and signature of the person executing the detainer

2. After the offender is detained, the officer shall immediately notify the supervisor or the releasing authority and report this action. The supervision reporting document, which details the events and the actions

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of the arrest, shall be supplied to the supervisor and the releasing authority within three (3) working days.

3. The officer may execute the detainer on the parolee or give the detainer to local law enforcement authorities for execution. It shall be the responsibility of the officer to keep himself informed regarding the execution of the detainer. After the detainer is executed, it shall be left with the local detention facility until further disposition of the case or a warrant is issued.
4. Upon execution of the detainer, the officer shall complete a uniform citation report and distribute it according to directions.
5. When a detainer is executed, the parolee shall be entitled to a preliminary revocation hearing. This hearing shall be scheduled per CPP 27-19-01 (Preliminary Revocation Hearing).

G. Use of Detainers in Probation Cases and Pretrial Diversion:

1. A detainer may be used on a probationer, without a warrant from the court, if the officer observes the probationer violating a condition of supervision. Upon the issuance of a detainer, the officer shall immediately advise the probating court and request a warrant. The warrant shall be requested from the releasing authority no later than three (3) working days after the detainer is lodged. When a warrant is issued, it shall replace the detainer, and the detainer shall be removed as the authority for the arrest. As with all arrests, the officer shall immediately notify the supervisor or designee to discuss the detention of the offender.
2. In requesting a warrant from the releasing authority, it is recommended that the officer submit an affidavit supporting the request and an approved supervision report which explains the violation. The officer shall abide by each court's procedure to obtain a warrant.
3. If a violation occurs which is not witnessed by the officer, the officer shall either:
 - a. Investigate the alleged violation and submit an approved supervision report to the court of jurisdiction, documenting the results of the investigation. If appropriate, a recommendation may be made by the officer. The report shall be submitted to the court and a copy retained in the offender's record; or

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- b. Request a warrant by submitting an affidavit to the court of jurisdiction or following the local procedure for requesting a warrant.

H. Use of Detainers in Interstate Compact Cases

1. When a decision has been made to lodge an Interstate Compact offender on a detainer, the holding facility shall be provided with a detainer, citation, and the Offender Application for Compact Services.
2. The Interstate Compact violation report shall be submitted at once to the sending state. Refer to CPP 27-14-01 (Interstate Compact).
3. When a detainer is executed, the offender shall be entitled to a preliminary revocation hearing. The hearing shall be scheduled per CPP 27-19-01 (Preliminary Revocation Hearing).
4. The detainer shall remain in place until a warrant is issued, at which time the warrant shall replace the detainer. If the state elects not to issue a warrant, the detainer shall be removed, the offender released from custody and continued on supervision.

I. Withdrawal of Detainer

The detainer shall remain in effect until such time that a warrant is issued by the releasing authority or a ruling is received from the releasing authority that the offender be returned to active supervision.

J. Warrants

1. Warrants for arrest and detention of offenders shall only be issued upon adequate evidence which indicates a serious or repeated pattern of violation of conditions and a compelling need for detention pending the revoking authority's initial revocation decision. Detention may be required to prevent injury to an individual or the public, to interrupt a serious continuing violation of conditions, or to assure the presence of the offender at a preliminary hearing when it is determined that the offender would not voluntarily attend.
2. Warrants shall only be issued by the releasing authority.
3. When violation charges are based on the alleged commission of a new crime, a detention warrant is issued only when the offender's presence in the community would present an unreasonable risk to the public or individual safety. (2B-04)

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K. Warrants for Parolees

1. The officer shall investigate the alleged parole violation and submit an approved supervision report to the releasing authority, documenting the results of the investigation.
2. Warrants shall be issued pending a determination by the Parole Board based only on adequate evidence that indicates a serious or repeated pattern of violation of parole conditions.
3. If the warrant request is based solely on pending criminal charges, a warrant shall not be issued unless the offender's presence in the community would present an unreasonable risk to public or individual safety.