

 <p style="text-align: center;">KENTUCKY CORRECTIONS Policies and Procedures</p>	Policy Number	Total Pages
	18.17	5
	Date Filed	Effective Date
	May 14, 2007	August 31, 2007
References/Authority KRS 440.450, 197.020 and 196.035	Subject INTERSTATE AGREEMENT ON DETAINERS	

I. DEFINITIONS

"Detainer" means a written notification filed by a criminal justice or law enforcement agency with the institution that an inmate is serving a sentence, advising that the inmate is wanted in connection with a criminal offense, and requesting the institution to hold the inmate or to notify the agency if the inmate is about to be released. The detainer may have documents attached in support, such as an indictment or other charging instruments, a court bench warrant, a parole violation warrant, or an escape warrant.

"IAD" means the Interstate Agreement on Detainers, KRS 440.450.

"IAD Forms" means the standard IAD forms completed to carry out a temporary transfer under the IAD.

"State" means a state of the United States, except for Louisiana and Mississippi; the Federal Government; Washington, D.C.; the Commonwealth of Puerto Rico; and any territory or possession of the United States which has enacted the IAD.

II. POLICY and PROCEDURES

A. The IAD shall be involved only if a detainer has been lodged by law enforcement officials of another state. Detainers lodged by private individuals or organizations, such as a bail bond company, shall not invoke the IAD. Information contained in an inmate's presentence investigation report (PSI) shall not be treated as a detainer. If the PSI indicates that an inmate has charges pending in another state, the institution may send an informational letter to the other state so that the state may determine whether to lodge a detainer.

B. The IAD shall be invoked only if the detainer contains outstanding, untried, pending criminal charges. The IAD shall not be invoked if the detainer is based on probation, parole, or conditional discharge - type violations, or if the detainer seeks custody of an inmate to serve out a sentence. The IAD shall not be invoked based on Immigration and Naturalization Service detainers for deportation.

C. If an inmate attempts to dispose of a detainer that is not based on an outstanding charge by submitting IAD Forms I and II, these forms shall be returned to the inmate with an explanatory letter stating that the IAD does not apply.

Policy Number	Effective Date	Page
18.17	August 31, 2007	2

- D. An IAD Form IV to Deliver Temporary Custody shall only offer to deliver temporary custody with respect to open, untried charges listed in the detainer.
- E. A copy of KRS 440.450 and KRS 440.250 shall be retained in the records office of every institution.
- F. A detainer shall not be officially lodged by the institution until the records clerk is satisfied that sufficient documentation has been received that the detainer is a valid detainer and identification of the inmate has been established. If a detainer is officially lodged, the institution shall send to the agency lodging the detainer an acknowledgement that the detainer has been lodged. A copy of the acknowledgement shall be sent by the institution to the appropriate prosecuting official where the criminal charges are pending.
- G. The institution shall promptly inform the inmate of the source and contents of the detainer. The institution shall also promptly inform the inmate of his right to request disposition of the outstanding charges by providing to the inmate a completed IAD Form I and I-A.
- H. An inmate shall not be delivered over to another state in order to dispose of outstanding charges until the institution is in possession of a completed Form VI. The institution shall release an inmate only into the custody of the agent whose signature appears on the Form VI. For a female inmate, one transporting agent shall be a female agent, whose signature shall appear on the Form VI.
- I. The institution shall immediately notify Kentucky's Extradition Secretary if a detainer based on a death penalty offense is received.
- J. Transfer upon request of the inmate.
 - 1. IAD Forms I, I-A, II, III, IV, VI, VII and IX shall be used to facilitate the temporary transfer of an inmate upon the request of the inmate.
 - 2. If the inmate desires to activate the IAD, the inmate shall sign a completed IAD Form II and send it to the records clerk of the institution where the inmate is housed. The inmate may seek assistance in completing the form from the Department of Public Advocacy, inmate services or the institutional records office. The records clerk shall review the Form II for completeness.
 - 3. If the inmate completes a Form II requesting disposition of an outstanding, untried charge to the records clerk, the records clerk shall prepare the IAD forms III and IV along with a cover letter. The signature of the Warden shall be affixed to the IAD Form IV. For private prisons, the signatures of

Policy Number	Effective Date	Page
18.17	August 31, 2007	3

the director of the facility and the private prison monitor shall appear on the Form IV.

4. The completed and signed IAD Forms I, I-A, II, III and IV, and IAD Forms VI, VII and IX shall be sent by the institution, by certified mail, return receipt requested, to the appropriate prosecuting official and court in the receiving state.
5. The institution shall also promptly notify all other appropriate prosecuting officials and courts located in jurisdictions within the same state who lodged detainers. The written notification of the fact of the inmate's request for disposition and the offer to deliver temporary custody shall be accompanied by copies of the completed IAD Forms I, I-A, II, III and IV and Forms VI, VII and IX. The notification shall request the officials to arrange transfer between jurisdictions within the state and to indicate the arrangements in the "Special Arrangements" section of IAD Form VII. The notification shall also request the prosecuting officials to keep the institution informed of the inmate's location. A copy of the written notification shall be sent to the prosecutor and court indicated in the IAD forms.
6. The institution shall require a completed IAD Form VI and Form VII from the prosecuting official before the inmate shall be released. If detainers are pending from more than one jurisdiction within a state, a completed IAD Form VIII shall also be received from each other prosecuting official desiring temporary custody.
7. If detainers are pending from more than one jurisdiction within a state, only the jurisdiction actually transporting the inmate from the institution shall be requested to submit a Form VI.
8. If the inmate has activated the IAD by submitting an IAD Form II, the IAD procedure shall be initiated and followed even if the inmate is scheduled to serve out his Kentucky sentence within 180 days or has been recommended for Kentucky parole.

K. Transfer upon request of the prosecutor:

1. IAD Forms I, II, III, IV, V, V-A, V-B, VI and IX shall be used to facilitate the temporary transfer of an inmate upon the request of a prosecuting official. IAD Forms II and VIII may also be used depending on the circumstances.
2. If a prosecuting official desires to request temporary custody of an inmate to dispose of outstanding charges for which a valid detainer has been

Policy Number	Effective Date	Page
18.17	August 31, 2007	4

lodged, the records clerk shall require the prosecuting official to submit a completed Form V. The Form V request for temporary custody shall be accompanied by certified copies of the indictment or other charging instruments, the warrant and identifying information as a fingerprint card, photograph, or physical description, unless this information was already submitted with the detainer. The prosecutor's Form V request for temporary custody shall not be acknowledged by the institution until the supporting documentation has been submitted by the prosecutor.

3. Once the IAD Form V has been acknowledged by the institution, the records clerk shall promptly send a completed Form III to the prosecuting official. If detainees are pending from more than one jurisdiction within a state, the records clerk shall simultaneously send to the prosecuting officials of those jurisdictions copies of the Form III and the submitted Form V.
4. Once the IAD Form V has been acknowledged by the institution, the records clerk shall provide the inmate a copy of the Form V and supporting documents, and shall provide the inmate with a completed Form V-A. The records clerk shall also forward a copy of the Form V and supporting documents to the office of the Governor, Attn. Extradition Secretary.
5. If the inmate, after reviewing Form V-A, elects to request disposition of the outstanding charge, the inmate shall be provided with an IAD Form II, and the transfer shall be processed in accordance with this policy.
6. If the inmate, after reviewing the Form V-A, elects to waive further extradition proceedings before the district court, the records clerk shall make an appointment in the district court and prior to the hearing, send the court copies of the detainer with supporting documents, IAD Form V-A and a completed IAD Form V-B.
7. If the inmate, after reviewing the Form V-A, declines to waive further extradition proceedings, the records clerk shall make an appointment in the district court for the inmate to appear for a pre-transfer hearing in which the court advises the inmate in accordance with Section 10 of the Uniform Criminal Extradition Act, KRS 440.250.
8. If the inmate elects not to waive further extradition proceedings, the inmate shall NOT be transferred until 30 days after the submission of the IAD Form V to the Governor. If, after the expiration of the 30 days, there has been no objection from the Governor, the records clerk shall send a Form IV offer to deliver temporary custody to the prosecuting official UNLESS a habeas corpus petition has been filed and is pending.

Policy Number	Effective Date	Page
18.17	August 31, 2007	5

9. If the inmate does not waive further extradition proceedings, and the inmate is about to be released from further service of his Kentucky sentence, the prosecuting official shall be notified of the need to seek a Governor's Warrant. If prior to the actual transfer of custody the inmate is released by expiration of sentence, or by parole, then the matter shall be dealt with without the application of this procedure.
10. The records clerk shall send a completed Form IV to the prosecuting official filing the Form V. The records clerk shall simultaneously send a Form IV, along with a Form VIII, to the prosecuting officials in the other jurisdictions within the same state who have lodged detainers. The records clerk shall request the prosecuting officials make arrangements for the transfer between the jurisdictions and record the arrangements in the "Special Agreements" section of Form VIII.
11. If detainers are pending from more than one jurisdiction within a state, only the jurisdiction actually transporting the inmate from the institution shall be required to submit a Form VI.
12. If an inmate transfers to another state at their request (Form II) and is convicted in the that state of the offense on which he was transferred to be tried then returned to a Kentucky institution, he may be returned to the other state to serve the sentence imposed there at the completion of his Kentucky sentence without being taken to court and without facing or waiving formal extradition proceedings.