

GEORGIA DEPARTMENT OF CORRECTIONS		
Standard Operating Procedures		
Functional Area: Facilities Operations	Reference Number: IIC06-0001	Revises Previous Effective Date: 3/01/05
Subject: Interstate Detainers		
Authority: Donald/DePetro	Effective Date: 12/15/07	Page 1 of 9

I. POLICY:

The Georgia Department of Corrections will cooperate with the Interstate Agreement on Detainers, using the procedures defined in this SOP. Under the Interstate Agreement on Detainers (hereafter referred to as the Agreement), a jurisdiction outside Georgia which has lodged a detainer against a Georgia inmate may secure temporary custody of the inmate to dispose of pending actions. Either the affected inmate or the prosecutor may initiate proceedings to dispose of whatever indictments, information, or complaints remain pending. Once proceedings under the Agreement begin, failure to hold trial within the period specified in the Agreement will result in dismissal of the detainer unless an appropriate court grants a continuance.

II. APPLICABILITY:

All state and county institutions and transitional centers.

III. RELATED DIRECTIVES:

- A. O.C.G.A.: 42-6-1; 42-6-20 through 42-6-25.
- B. GDC Rule: 125-2-4-.09.

IV. DEFINITIONS:

- A. Department -- The Georgia Department of Corrections (GDC).
- B. Detainer -- O.C.G.A. 42-6-1 provides a full legal definition of a detainer. GDC Rule 125-2-4-.09(1) repeats the legal definition. For the purposes of this SOP, an interstate detainer is a request from a prosecutor in another state for GDC to retain custody of an inmate.

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- C. Interstate Detainer Coordinator -- The coordinator in Releases & Agreements Section, Inmate Administration, Corrections Division, who administers the Agreement as directed by the Agreement Administrator for the State of Georgia. Any correspondence for the Agreement Administrator of Georgia should be sent to the Interstate Detainer Coordinator.
- D. Agreement Administrator -- The Commissioner of the Georgia Department of Corrections, or the Commissioner's Administrator is the Offender Administration Director, Corrections Division.
- E. Indictments, Information, or Complaints -- pending actions related to previously untried events (**NOT** appeals or motions related to past criminal justice proceedings).
- F. Offender Tracking Information System (OTIS) -- GDC's agency-wide computerized system for processing, storing, and managing inmate information.
- G. State -- "A state of the United States; the United States of America; a territory or possession of the United States; the District of Columbia; the Commonwealth of Puerto Rico" (O.C.G.A. 42-6-20, Article II.(a)). For the purposes of this SOP, a state other than Georgia; the federal government; a U.S. territory or possession; the District of Columbia; Puerto Rico.
- H. Sending State -- "A state in which a prisoner is incarcerated at the time that he initiates a request for final disposition pursuant to Article III [of the Agreement] or at the time that a request for custody or availability is initiated pursuant to Article IV [of the Agreement]" (O.C.G.A. 42-6-20, Article II.(b)). For the purposes of this SOP, the state of Georgia. More specifically, the Georgia Department of Corrections.
- I. Receiving State -- "The state in which trial is to be had on an indictment, information or complaint pursuant to Article III or Article IV [of the Agreement]" (O.C.G.A. 42-6-20, Article II.(c)). For the purposes of this SOP, the state in which trial is to be had pursuant to the Agreement.

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V. ATTACHMENTS:

- Attachment 1 - Letter of Acknowledgment of Detainer
(Facsimile)
- Attachment 2 - Form I: Notice of Untried Indictment,
Information or Complaint and of Right to
Request Disposition
- Attachment 3 - States Participating in the Interstate
Agreement on Detainers
- Attachment 4 - Form II: Inmate's Notice of Place of
Imprisonment and Request for Disposition of
Indictments, Information or Complaints
(Facsimile)
- Attachment 5 - Form III: Certificate of Inmate Status
(Facsimile)
- Attachment 6 - Form IV: Offer to Deliver Temporary Custody
(Facsimile)
- Attachment 7 - Form VII: Prosecutor's Acceptance of Temporary
Custody Offered in Connection with a Prisoner's
Request for Disposition of a Detainer
(Facsimile)
- Attachment 8 - Form V: Request for Temporary Custody
(Facsimile)
- Attachment 9 - Memo of Information Regarding Habeas Corpus
Rights
- Attachment 10- Inmate Acknowledgment of Notification of
Request for Temporary Custody
- Attachment 11- Governor's Notification of Other State's
Request for Temporary Custody
- Attachment 12- Form VIII: Prosecutor's Acceptance of
Temporary custody Offered in Connection with
Another Prosecutor's Request for Disposition of
a Detainer (Facsimile)
- Attachment 13- Form VI: Evidence of Agent's Authority to Act
for Receiving State (Facsimile)

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Attachment 14- Form IX: Prosecutor's Report on Disposition of Charges (Facsimile)

VI. PROCEDURE:

A. Placement of Detainer: When the Interstate Detainer Coordinator receives proper notice from a prosecutor in another state, that a Georgia inmate has indictments, information, or complaints pending in that prosecutor's jurisdiction, the following actions shall occur:

1. The Coordinator will acknowledge the detainer by memorandum to the requesting jurisdiction. This memo is called a detainer memo. The Coordinator will send the Warden a copy of the detainer memo. Attachment 1, "Letter of Acknowledgment of Detainer," provides an example.
2. Upon receipt of a detainer memo from the Interstate Detainer Coordinator, the Warden or designee will give the inmate a copy of the memo, and produce and sign two copies of "FORM I: Notice of Untried Indictment, Information or Complaint and of Right to Request Disposition" (Attachment 2). **Do not show the inmate the indictment or any other information in the detainer.**
 - a. The Warden or designee shall give the inmate one copy of FORM I, and shall explain to the inmate the implications of FORM I. FORM I explicitly states these implications. Attachment 2 summarizes these implications on Page 3.
 - b. The Warden or designee shall obtain the inmate's signature on the other copy, to be maintained in the inmate's institutional file.

B. Requesting Final Disposition: The inmate may request final disposition of a detainer only after the Coordinator has sent the requesting state positive acknowledgment of the detainer via the "Letter of Acknowledgment of Detainer" (Attachment 1). Practically speaking, the inmate's warden must have received a copy of this "Letter of Acknowledgment." If the detainer is for a Probation Revocation or Parole Revocation, for

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deportation, for charges on which the inmate has already been sentenced, or if the requesting state does not participate in the Agreement, the inmate may not request final disposition of the pending action(s). **The memo will indicate next to the Releases & Agreements Supervisor's signature if the inmate may NOT request final disposition.**

1. Attachment 3 lists "States Participating in the Interstate Agreement on Detainers." States or other governing bodies not listed on Attachment 3 may not obtain prisoners for trial under the terms of the Agreement. Inmates cannot request disposition of detainers from non-participating states. Once the inmate has been informed of the detainer, take no further action on requests from non-participating jurisdictions.
2. If the inmate wishes to request final disposition, he/she must complete and sign FORM II.
3. The Warden or designee must complete FORM III and FORM IV. FORM III and FORM IV must be attached to FORM II. Attachments 4, 5, and 6 reproduce and summarize these three forms.
4. Signed copies of each form go to the following six (6) recipients:
 - a. The inmate.
 - b. The inmate's institution file.
 - c. The Interstate Detainer Coordinator.
 - d. The Agreement Administrator of the receiving state.
 - e. The prosecuting official of the jurisdiction which placed the detainer.
 - f. The clerk of the court which has jurisdiction over the pending action.
5. Additionally, if other jurisdictions in the receiving state have lodged a detainer on the

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inmate, the institution must send **one** signed copy of **each** form (II, III, IV) to the prosecutors **and** clerks of court in every such jurisdiction. Send an accompanying letter explaining that all pending actions must be disposed of in accordance with Article III of the Interstate Agreement on Detainers. This letter should request a prompt reply indicating the jurisdiction's intentions regarding the prisoner.

6. All copies sent to prosecuting officials and clerks of court must be sent by certified or registered mail, return receipt requested, at the institution's expense.
7. When the mail receipt comes back, place it in the inmate's institution file. The requesting prosecutor has 180 days from the receipt date to bring the prisoner to trial.
8. The prosecutor(s) will respond by sending a document similar to "FORM VII: Prosecutor's Acceptance of Temporary Custody Offered in Connection with a Prisoner's Request for Disposition of A Detainer," (Attachment 7).
9. If the requesting prosecutor does not pick up the inmate within 180 days, send the **original certified mail receipt** to the Interstate Detainer Coordinator, with a memorandum stating the inmate was "not picked up."
10. If the presiding court has not granted the prosecutor a continuance, the Interstate Detainer Coordinator will dismiss all detainers listed on FORM IV.

C. **If the Prosecutor Requests Temporary Custody:** A prosecutor who has lodged a detainer may request custody of the prisoner using a document similar to "FORM V: Request for Temporary Custody" (Attachment 8).

1. Upon receiving "FORM V: Request for Temporary Custody" directly from the prosecutor, the institution should check the inmate's file to see if

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the prosecutor has already lodged a detainer for the actions stated on FORM V.

- a. If not, **do not talk to the inmate.** Immediately call the Interstate Detainer Coordinator in Releases & Agreements Section, Inmate Administration.
 - b. If the appropriate detainer is in the inmate's file, the Warden or designee immediately should give the inmate a copy of FORM V **only** (not the accompanying documents), and determine whether the inmate wishes to challenge the detainer as described in Attachment 9, "Memo of Information Regarding Habeas Corpus Rights." This memo should be kept on file at the institution.
2. The institution should use Attachment 10, "Inmate Acknowledgment of Notification of Request for Temporary Custody," to notify Central Office whether or not the Inmate objects.
- a. The inmate's signature on Attachment 10 waives his right to file a writ of habeas corpus. **The institution must have the signature notarized.**
 - b. The inmate may indicate his intention to file a writ of habeas corpus by refusing to sign Attachment 10. The **notary should sign** the form at the bottom next to "INMATE REFUSED TO SIGN."
 - c. Immediately fax one copy of the notarized Attachment 10 to Central Office. Put one copy in the inmate's file. Send the original to Central Office via institution mail.
3. The Interstate Detainer Coordinator will notify the Governor of the request for temporary custody using Attachment 11, "Governor's Notification of Other State's Request for Temporary Custody."
- a. Attachment 11 provides the Governor a means to oppose the other state's request.
 - b. The Governor has thirty (30) days to indicate his or her wishes, from the date the Interstate

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Detainer Coordinator receives FORM V from the requesting state.

- c. The Governor will sign Attachment 11 and return it to the Interstate Detainer Coordinator.
4. If the Governor approves the request for temporary custody, the Interstate Detainer Coordinator will determine whether the inmate has pending challenges to the detainer.
 - a. Once any such challenges have been resolved, the Interstate Detainer Coordinator will forward two copies of the Governor's approval to the institution.
 - b. Give one copy to the inmate. Place one copy in the inmate's institution file.
 5. If the Governor approves, but the inmate is challenging, the Interstate Detainer Coordinator will hold the Governor's approval until the inmate's challenge is resolved.
 6. The institution may relinquish custody to the receiving state **only** after receipt of a teletype **from the Interstate Detainer Coordinator**. Receipt of the Governor's approval without the teletype **does not** authorize the institution to relinquish custody to anyone.
 7. If the Governor disapproves, the Interstate Detainer Coordinator will notify the prosecutor by letter.
 8. Upon receipt of the Governor's approval, the institution should complete FORM III and FORM IV (Attachments 5 & 6, respectively). Attach both forms together. Distribute copies as follows:
 - a. Give one copy of each form to the inmate.
 - b. Put one copy of each form in the inmate's file.
 - c. Send one copy of each form to the receiving prosecutor.

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- d. Send one copy of each form to the court of jurisdiction.
 - e. Send one copy of each form to the prosecutor and court of each additional jurisdiction in the receiving state which has lodged a detainer for unresolved actions regarding the inmate. A letter should accompany these forms. It should
 - 1) notify the recipients which jurisdiction has requested temporary custody;
 - 2) inform the recipients that they must bring the prisoner to trial under the terms of Article IV of the Agreement;
 - 3) request the prosecutor to complete and return "FORM VIII: Prosecutor's Acceptance of temporary Custody Offered in Connection with another Prosecutor's Request for Disposition of a Detainer" (Attachment 12).
 - f. All copies sent to prosecuting officials and clerks of court must be sent by certified or registered mail, return receipt requested, at the institution's expense.
9. Notify the inmate promptly upon receipt of any FORM VIII indicating a prosecutor's intention to bring the inmate to trial.
- D. **Exchange of Custody:** FORMS VII and VIII notify the Warden of the receiving state's intentions as to the date the inmate will be needed for trial. At some point after receipt of FORM VII or FORM VIII, the Warden should also receive a document similar to "FORM VI: Agent's Authority to Act for Receiving State" (Attachment 13).
1. FORM VI, by itself, **does NOT** authorize the institution to relinquish custody of the inmate.
 2. The Interstate Detainer Coordinator will also receive FORM VI from the receiving state. The Coordinator will review all related material. If all requirements have been met, the Coordinator will send an authorization teletype to the institution. This teletype, in conjunction with the Warden's copy of FORM VI, authorizes the institution to relinquish custody to the agent identified on FORM VI.

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3. When the agent arrives, ensure that the agent has the following items:
 - a. proper identification indicating he or she is the person described on FORM VI
 - b. a signed copy of FORM VI.
4. Do not release the inmate into the custody of anyone not explicitly authorized on FORM VI.
5. Notify Central Office by teletype or letter when the Inmate has been picked up by the Agent, and again when the inmate is returned.

- E. **Disposition of Pending Actions:** By signing FORM VII or FORM VIII, the prosecutor(s) has agreed to complete and return disposition information on a document similar to "FORM IX: Prosecutor's Report on Disposition of Charges" (Attachment 14), immediately after the inmate's trial.
- F. **Special Note:** The forms referred to in this document apply to Interstate Detainers **only**. No institution shall reproduce any of the forms in the Attachments to use to respond to detainers from jurisdictions of the state of Georgia.
- G. **Forms:** Each institution shall maintain supplies of FORMS I, II, III, and IV (Attachments 2, 4, 5, and 6), and Attachment 10, "Inmate Acknowledgment of Notification of Request for Temporary Custody." These forms will be published by Correctional Industries.

VII. RETENTION SCHEDULE:

- A. IIC06-0001 Attachments: 1,2,4,5,6,7,8,9,10,11,12,13 and 14 of this SOP, upon completion, will be kept in the inmate case history file and the inmate case history file will be kept according to the official retention schedule for these files.