

 Good Life. Great Mission. DEPT OF CORRECTIONAL SERVICES	POLICY SPECIAL SERVICES UNIT - NDCS CENTRAL OFFICE - DISPOSITION and UNTIRED CHARGES, INTERSTATE DETAINERS		
	REVIEW DATE December 31, 2019	NUMBER 010.05	PAGE 1 of 4
	STATEMENT OF AVAILABILITY *This Policy is to be made available in law libraries and other inmate resource centers.		

EFFECTIVE: March 30, 1984
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SUMMARY of REVISION/REVIEW

Changed from Administrative Regulation to Policy. Incorporated Policy Directive 019-011. Reformatting throughout. Procedure I. INMATE'S REQUEST – Changed first line.

APPROVED:



 Scott R. Frakes, Director
 Nebraska Department of Correctional Services

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PURPOSE

The Disposition of Untried Charges procedures are designed to provide inmates and prosecutors a method of clearing untried indictments, information and complaints.

DEFINITIONS

- I. **INMATE’S REQUEST** - Allows an inmate the opportunity to clear and resolve charges pending against him/her in the 93 Nebraska counties. This, in turn, lets the inmate prepare for minimum custody, community programming and work release prior to parole or discharge.
- II. **PROSECUTOR’S REQUEST** - Alleviates prosecutors having to secure court orders in order to clear charges prior to an inmate’s parole or discharge. Cases which would normally become old and not prosecutable because of long prison sentences can now be expedited.

GENERAL

The Disposition of Untried Charges procedures are covered in Nebraska Statutes 29-3801 through 29-3809. The Director of the Nebraska Department of Correctional Services (NDCS) designates the Agreement Administrator. The Agreement Administrator has the authority to promulgate and enforce detainer procedures.

PROCEDURE

The Special Services Supervisor will identify a Warrant and Extradition Officer to be the Detainer Administrator. The Detainer Administrator is responsible to ensure all documents received from the court are appropriately entered and/or provided to NDCS records staff.

Upon receipt of a detainer involving an untried indictment, information or complaint, The Detainer Administrator or designee will have two business days to enter a detainer into the Corrections Tracking System.

The Detainer Administrator or designee will inform the inmate of the detainer and serve Disposition of Untried Charges Forms I - Notice of Untried Indictment, Information or Complaint and of Right to Request Disposition (Attachment A), and Form II - Inmate’s Notice of Place of Imprisonment and Request for Disposition of Indictments, Information and Complaints (Attachment B). The Special Services staff member or designee will have five business days to serve the detainer to the inmate from the date of detainer entry onto the Corrections Tracking System and will make certain that the inmate fully understands that both he/she and the prosecutor may request disposition of charges under the Statutes.

I. **INMATE’S REQUEST**

A request by an inmate for disposition of charges must be mailed by certified mail, return receipt to the prosecutor and court having jurisdiction over the charges. Upon receipt of the registered request, a prosecutor has 180 days to bring said inmate to trial on the charges specified, dismiss them, or request a continuance from the court. The inmate is on temporary loan to the county having charges against him/her and that he/she will be returned upon completion of court proceedings. The inmate may decline to request final disposition at the time detainer Form II is presented by refusing to sign Form II. A second staff member will witness the refusal by signing Form II along with the Extradition and Warrant Officer serving the detainer. The inmate should be

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instructed that if he/she decides at a later date to make a request for disposition of the charges, he/she should notify the Agreement Administrator, Special Services Unit, using an Inmate Interview Request form.

Once the inmate signs Form II, the Special Services Unit will prepare Form III - Certificate of Inmate Status (Attachment C), Form IV - Offer to Deliver Temporary Custody (Attachment D), or Form V - Request for Temporary Custody (Attachment E). The forms and cover letter which are distributed to the prosecutor and the court must be sent by certified mail, return receipt requested.

Once the prosecutor has received the request, a decision will be made whether to return said inmate for trial, dismiss the complaint, or request a continuance from the court. If the prosecutor proceeds with charges, he/she will forward to the Agreement Administrator Disposition of Untried Charges Form VII - Prosecutor's Acceptance of Temporary Custody Offered in Connection with a Prisoner's Request for Disposition of a Detainer (Attachment F) showing the intention to return said inmate for trial.

With a minimum of five business day's advance notice of the pick-up date, the Prosecutor or Sheriff's Office shall send to the Detainer Administrator via U.S. Mail or facsimile a court approved transport order. The transport order will identify the inmate by name and registration number, the transport agent, purpose of the proceeding, date of hearing and an order to hold the inmate in custody without bond and to return the inmate to the facility after the proceeding or upon disposition of the case. The Agreement Administrator will then review the file and determine if there are any conflicts with other detainees. The transport order shall be forwarded by Special Services to the facility Records Manager advising him/her that the inmate is cleared to be released to the designated agent. If a conflict is identified at the facility level, i.e. the inmate is scheduled to transfer to another facility, is medically restricted from travel, or an institution travel order is scheduled at the same time, etc., the facility Records Manager will notify the Detainer Administrator immediately. The Detainer Administrator will then coordinate an alternate pick up date with the Prosecutor. Proper identification of agents shall be required.

Prior to the inmate's return from the receiving county, the prosecutor involved should complete and forward to the Detainer Administrator Disposition of Untried Charges Form IX - Prosecutor's Report on Disposition of Charges (Attachment G).

II. PROSECUTOR'S REQUEST

The Prosecutor in a city or county in which an untried Indictment, Information, or Complaint is pending shall be entitled to have temporary custody of a prisoner, against whom the Prosecutor/Sheriff has lodged a detainer, upon presentation of a court approved Order of Transport to the Special Services Unit.

Upon the return of the prisoner from court, the Prosecutor should complete the Disposition of Untried Charges Form IX - Prosecutor's Report on Disposition of Charges (Attachment G) to the Agreement Administrator of the Nebraska Department of Correctional Services.

III. TRANSPORTATION AGENTS

Only certified law enforcement officers or correctional officers acting in their official capacity will be accepted as agents. The use of private transportation companies is prohibited.

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REFERENCE

I. STATUTORY REFERENCES:

A. Nebraska Revised Statutes: 29-3801 to 29-3809

II. NDCS POLICIES – None noted

III. ATTACHMENTS

A. Disposition of Untried Charges, Nebraska Intrastate Detainers - Form I- Notice of Untried Indictment, Information or Complaint and of Right to Request Disposition

B. Disposition of Untried Charges, Nebraska Intrastate Detainers - Form II - Inmate's Notice of Place of Imprisonment and Request for Disposition of Indictments, Information or Complaints

C. Disposition of Untried Charges, Nebraska Intrastate Detainers - Form III - Certificate of Inmate Status

D. Disposition of Untried Charges, Nebraska Intrastate Detainers - Form IV - Offer to Deliver Temporary Custody

E. Disposition of Untried Charges, Nebraska Intrastate Detainers - Form V - Request for Temporary Custody

F. Nebraska Instate Detainer Act – Form VII - Prosecutor's Acceptance of Temporary Custody Offered in Connection With A Prisoner's Request for Disposition of A Detainer.

G. Disposition of Untried Charges Form IX - Prosecutor's Report on Disposition of Charges_

IV. AMERICAN CORRECTIONAL ASSOCIATION (ACI) STANDARDS – None noted