POLICY STATEMENT:

The Department shall document and confirm detainers, pending felony charges, as set forth in this policy.

RELATED POLICIES:

03.01.135 Discharge/Termination of Sentence
06.05.104 Parole Process

POLICY:

DEFINITIONS

A. Detainer - A document issued by a law enforcement agency, another State's Department of Corrections, The Bureau of Prisons, Immigration and Naturalization Service (INS)/Immigration and Customs Enforcement (ICE) authorizing the Department to detain a prisoner for release to that agency due to untried charges for which a warrant has been issued, a sentence remaining to be served, or deportation proceedings.

B. Pending Felony Charge - A document issued by a law enforcement agency giving notice that an untried warrant, indictment, information or complaint is pending against a prisoner.

GENERAL INFORMATION

C. For purposes of this policy, "Warden" includes the Administrator of the Office of Parole and Probation Services, Field Operations Administration (FOA).

D. This policy does not apply to probationers or parolees, except as noted below. If information is received by an employee that there is a pending felony charge issued for a probationer or parolee, that information shall be forwarded to the supervising agent or, if in the Special Alternative Incarceration Program (SAI), the SAI Parole/Probation Manager. The supervising agent or the SAI Parole/Probation Manager, as appropriate, shall ensure the issuing agency is contacted to determine the status of the felony charge and, based on the information received, determine whether to return the probationer to the jurisdiction of the sentencing court, to the jurisdiction with the outstanding warrant or to prison as SAI ineligible a parolee, may have his or her supervision increased or issue parole violation charges in accordance with PD 06.06.100 "Parole Violation Process".

E. Each prisoner's record shall be reviewed during intake processing at reception to identify any detainers, or pending felony charges, for that prisoner as set forth in PD 04.01.105 "Reception Facility Services". This shall include reviewing Pre-Sentence Investigation Reports and any parole violation reports.

F. If a prisoner is identified as a foreign national (not a United States Citizen), the appropriate Central Records Section shall ensure ICE is contacted within one business day to determine if ICE has an interest, will file a detainer, or will take custody of the prisoner. Such cases shall be handled consistent with the requirements set forth in this policy for pending felony charges, including all required documentation, verifications, and notifications.

G. An employee who receives information from a law enforcement agency regarding a pending detainer, or felony charge, issued for a prisoner shall forward that information promptly to the appropriate Record Office Supervisor or, if the prisoner is in SAI, the SAI Parole/Probation Manager, as appropriate. The appropriate Record Office, or the SAI Parole/Probation Manager, also shall be promptly notified

whenever an inspector or other employee forwards information on behalf of the Department to local law enforcement for investigation of activity by a prisoner which may constitute a felony.

H. Whenever the SAI Parole/Probation Manager receives new information regarding a pending detainer or felony charge, for a prisoner in SAI s/he shall ensure that the appropriate law enforcement agency is promptly contacted to confirm the current status of the detainer or felony charge or confirm the information. If confirmed, the prisoner shall be terminated from SAI in accordance with PD 05.01.142 "Special Alternative Incarceration Program". The requirements set forth in this policy for detainers, and pending felony charges, shall be followed.

I. Pending felony information which has not resulted in a pending charge detainer shall not be disclosed to any prisoner except if used in determining security classification or as a basis for denying parole. However, under no circumstances shall specific details be provided.

DETAINERS

J. Whenever a detainer or other written notification is received from another agency that a prisoner has a sentence to serve in that agency's jurisdiction or that there is a court order authorizing that agency to take custody of a prisoner upon release, the Record Office Supervisor shall ensure that this information is promptly recorded on the Department's computerized database (e.g., CMIS, OMNI) and documented on a Notification/Revocation of Detainer (CAJ-293). If notification from a law enforcement agency does not include a copy of the appropriate court order, the law enforcement agency shall be contacted to ensure the order is provided. The Record Office Supervisor shall ensure that the Department's computerized database is checked to determine whether a Parole Board Order for Parole has been issued for the prisoner. In such cases, the Parole Board shall be immediately notified of the new information received.

K. A detainer based on an untried criminal charge that is received from the federal government or a jurisdiction in the District of Columbia, the Virgin Islands, or any state except Louisiana, Mississippi, or Michigan, and requests for temporary custody of the prisoner for trial of the charge, shall be processed as set forth in OP 03.01.120 "Inter-State Agreement on Detainers".

L. The appropriate Record Office Supervisor shall ensure an agency which has a documented detainer is notified sufficiently prior to the scheduled release of the prisoner to allow that agency to take custody of the prisoner upon release. The Record Office Supervisor or designee shall coordinate the prisoner's release with the agency that lodged the detainer. A prisoner shall not be held in Department custody on a non-ICE detainer past his/her discharge date. Therefore, if the agency cannot take custody of the prisoner upon release, the agency shall be advised to make arrangements with a jail to house the prisoner upon discharge or s/he will be released. If there is an ICE detainer, the prisoner shall be held for up to an additional 48 hours after the discharge date if requested by ICE in accordance with PD 03.01.135 “Discharge/Termination of Sentence”. The Parole Release Unit (Office of Parole and Probation Services), FOA, shall be contacted if arrangements cannot be made for a prisoner to be taken into custody upon release on parole.

PENDING FELONY CHARGES

M. Within one business day after receipt of new information that a prisoner has a pending felony charge for which a detainer has not been lodged, the appropriate Record Office Supervisor shall ensure that the pending felony charge is documented on the Department's computerized database as being active and on a Request for Hold/Notification (CRX-169). Any written information provided shall be attached to the request form. The Record Office Supervisor also shall ensure that the Department's computerized database is checked to determine whether a Parole Board Order for Parole has been issued for the prisoner. In such cases, the Parole Board shall be notified immediately of the new information received.

N. OP 03.01.120 "Inter-State Agreement on Detainers" shall be followed for felony charges from the federal government or a jurisdiction in the District of Columbia, the Virgin Islands, or any state except Louisiana, Mississippi, or Michigan. For all other pending felony charges, the Record Office Supervisor shall ensure that the appropriate law enforcement agency is contacted to confirm the status of the

pending felony charge or to confirm whether a felony charge has been issued if confirmation is received that the pending felony charge has been dismissed, the Record Office Supervisor shall ensure that the Department's computerized database is updated to reflect that it has been revoked/dismissed. Any written information received shall be placed in the prisoner's Record Office file with a copy in the appropriate Counselor file.

O. Whenever a response to a request pursuant to Paragraph N regarding an in-state charge is not received within 30 calendar days or confirmation is received that there is a pending in-state charge for which a detainer has not been lodged, the Record Office Supervisor shall ensure that formal notification that the prisoner is in the custody of the Department is sent by certified mail to the prosecuting attorney of the county in which the charges were issued. A copy also shall be sent to the prisoner. The notification shall include the following:

1. The sentence under which the prisoner is being held;

2. The time already served;

3. The time remaining to be served on the sentence;

4. The amount of good time or disciplinary credits earned;

5. The date of parole eligibility;

6. The most recent decision by the Parole Board, if applicable.

P. The Record Office Supervisor shall ensure a follow up is made with the appropriate law enforcement agency 180 days after the original request was made pursuant to Paragraph N for confirmation of the status/disposition of the pending felony charge. The Department's computerized database shall be updated to indicate the date follow-up was made. If confirmation is not received within the six month follow-up, the Record Office Supervisor shall ensure that the Department's computerized database is updated to reflect that the pending felony charge is revoked. This does not mean that the charges have been dropped; it only means that the pending felony charge will not be used in determining security classification or parole release decisions for that prisoner and that no further follow-ups will be made, except as set forth in Paragraph T.

Q. A monthly report shall be generated and provided to each Warden or designee identifying the prisoners under his/her supervision who have pending felony charges for which a detainer has not been filed. It also will identify those prisoners for whom a six month follow-up is required during that month. This report shall be used by Record Offices to assist in complying with the notification requirements set forth in Paragraphs O and P.

R. Whenever information is received that a felony charge has been issued (e.g., warrant, writ, detainer), the Record Office Supervisor shall ensure that the Department's computerized database is updated to reflect the pending felony charge or detainer, as appropriate, and that any notifications required pursuant to Paragraph O or OP 03.01.120 "Inter-State Agreement on Detainers" are made. Any written information received shall be placed in the prisoner's Record Office file with a copy in the appropriate Counselor file, if applicable.

S. Whenever information is received that a prisoner has been sentenced on a pending felony charge, or that the charge has been dismissed, the appropriate Record Office Supervisor shall ensure that the Department's computerized database is updated. Any written information received shall be placed in the Prisoner's Record Office file with a copy in the appropriate Counselor file. No further follow-up shall be done on dismissed charges.

T. Record Office Supervisors shall ensure the appropriate law enforcement agencies are contacted to confirm the current status of all active pending felony charges under the following circumstances:

1. When the prisoner is otherwise eligible for a custody reduction to security Level I. If confirmation is not received within 30 calendar days that there is a pending felony charge, the

Warden or designee shall determine if the prisoner should be reclassified.

2. During the parole release process, as set forth in PD 06.05.104 "Parole Process".

3. During the discharge release process, as set forth in PD 03.01.135, "Discharge/Termination of Sentence".

U. Record Office Supervisors also shall ensure the appropriate law enforcement agency is contacted in writing one month prior to the discharge, or parole, of a prisoner with a pending felony charge to advise the agency of the prisoner's impending change in status. If the Record Office does not receive at least one month notice of a prisoner's parole or discharge, the law enforcement agency shall be contacted as soon as possible.

PROCEDURES

V. Wardens and the FOA Deputy Director shall ensure that operating procedures are developed as necessary to implement requirements set forth in this policy directive. Operating procedures shall be completed within 60 calendar days after the effective date of this policy directive. This includes ensuring that their existing operating procedures are revised or rescinded, as appropriate, if inconsistent with policy requirements or no longer needed. Facility procedures shall not conflict with procedures issued by the Director.

AUDIT ELEMENTS

W. A Primary Audit Elements List has been developed and is available on the Department's Document Access System to assist with self audit of this policy pursuant to PD 01.05.100 "Self Audit of Policies and Procedures".

APPROVED: DHH 07/17/13