

**STATE OF VERMONT
AGENCY OF HUMAN SERVICES
DEPARTMENT OF CORRECTIONS**

Policy: 315

Subject: Intake And Bail
Effective Date: August 24, 1987 **Review and Re-Issue Date:**
Supersedes: 9/20/85 **APA Rule Number:**

Recommended for approval by:		Authorized By:	
_____	_____	_____	_____
Signature	Date	Signature	Date

1. Authority:

INTRODUCTION

The Department of Corrections, as part of its daily operations, receives persons into its custody as part of the pre-trial process that have yet to be formally arraigned or have bail set.

2. Purpose:

To clearly spell out the areas of responsibility in regards to what paperwork is required to lodge a person; how bail is set; and how a person is released from a Correctional Center on bail.

3. Applicability/Accessibility

3.1.

4. Policy

1. Lodgings - Persons may be lodged under one of the following:

A. Mittimus - the Mittimus will be signed and bail will be noted on it. A Mittimus must be used on sentenced persons and must reflect crime and sentence imposed on it.

B. Warrant - if a person is lodged on an outstanding warrant that the arresting officer has in hand, then the warrant will be given to the Correctional Facility.

C. Affidavits - a person can be lodged if the arresting officer shall complete and supply the Correctional Facility with an affidavit of probable cause, stating that an arrest warrant exists and that a holding station or some other identified person has it in hand.

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D. Alcohol Services Act - a person can be lodged under the Alcohol Services Act (18 V.S.A. I 9144), providing the appropriate paperwork is supplied at the time of lodging.

E. A request to hold a prisoner filed by an outside agency at the time of lodging - these requests generally take the simple form of a paper indicating the person's name and the person's name and agency lodging the prisoner. This request should also include sufficient documentation to show that the prisoner is lawfully detained.

For the purpose of this policy, an outside agency shall mean any agency other than a Vermont Police Department, Vermont State Police, or a Vermont Law Officer.

Each Superintendent will develop and review at least yearly a local intake procedure to insure that all necessary information is collected and recorded. Compliance with Policy 481 - Health Care Services, in terms of insuring a medical history questionnaire is completed, is also required.

No person shall be accepted for commitment on an affidavit of probable cause if there is indication that immediate medical attention is required, unless the arresting agency indicates that they are unable, or unwilling, to provide the medical treatment. The local procedure will provide for the complete searching of all persons lodged for any items of contraband and for purposes of inventorying of the subject's belongings.

For the purposes of this policy, the following shall apply on all pre-arraignment detentioners only. Once a person has been formally arraigned, then all persons are subject to complete searches as established by facility rules.

1. Felonies - Those persons having been arrested on a felony charge shall be subjected to a complete strip search which allows for an unobstructed viewing of all parts of the body.
2. Misdemeanors and Incapacitated Persons - A complete strip search shall not be performed on persons detained for misdemeanors prior to arraignment, or incapacitated persons unless "reasonable suspicion" exists that the person is concealing weapons or other contraband.

If the admitting officer believes that "reasonable suspicion" exists, the Shift Supervisor shall be consulted. The Shift Supervisor shall decide if reasonable suspicion exists and give permission for the strip search. The Shift Supervisor shall file an unusual incident report describing the facts which support the decision to conduct a strip search.

The arresting or detaining law enforcement officer shall be requested to provide information concerning the person's prior record of convictions and the circumstances of the arrest or detention. Correctional records shall be reviewed to determine if the person has committed prison disciplinary violations for assault, illegal possession or use of drugs, or illegal possession of weapons.

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If "reasonable suspicion" does not exist and a complete strip search is not performed, the person shall be searched by means of a thorough pat search and metal detection screening.

No Shift Supervisor or Acting Shift Supervisor shall make a decision to strip search a person not charged with a felony on intake unless they have received training on intake policies and procedures.

Persons detained pursuant to federal civil deportation proceedings shall be treated in the same manner as misdemeanants or incapacitated persons until an appearance has been made before a federal magistrate or judge.

Disposition of personal property shall be dealt with in accordance with Policy 1012 - Contraband, and Policy 413 - Disposition of Personal Property. All searches shall be conducted consistent with Policy 1013 - Searches.

3. Bail

Often times an arrested person is subject to incarceration when it is not possible to appear in court for the purposes of formally having bail set. It shall be the responsibility of the arresting officer (or his/her department) to insure bail is set on those individuals entitled to it who are arrested after court hours.

When bail has not been set, the Facility should inform the arresting agency of such and that it is their responsibility to arrange for it.

4. Release on Bail

- A. The Department of Corrections will only accept bail money for those persons in its custody.
- B. The Department of Corrections will only accept U.S. currency for bail. Foreign currency and bank drafts or checks of any type are not acceptable.
- C. When a person is released on bail, he/she ~ sign a condition of release form that will reflect the fact that the released person must appear in court on the next business day of the court. Release on bail can not be completed unless the person signs the condition of release.
- D. Bail shall only be accepted at the Correctional Facility when the court is not open.

Each Superintendent, with the exception of the Windsor Correctional Facility, shall develop and then review at least yearly a local procedure for the accepting of and forwarding of bail money to the appropriate court. This procedure will reflect, at a minimum, the standards as set forth in this policy.

IV. RELEASE OF PRISONER

Those persons committed to the care and custody of the Commissioner of Corrections shall only be released upon the issuance of a court order, with the following exceptions.

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1. The prisoner was lodged by federal authorities and is under federal jurisdiction; e.g., U.S. Marshals, FBI, Immigration and Naturalization Service, Border Patrol.
2. The prisoner is in a pre-arraignment status and had been at the Correctional Facility for lack of bail.
3. Unusual and Special Circumstances - these cases should be dealt with on an individual basis. Examples are:
 - A. A transportation order is not readily available, and the transportation is required.
 - B. An inmate/prisoner is released by the court for some reason; e.g., bail posted, sentence vacated or overturned.

In these cases, upon receiving notification of the person's release without a court order, the Correctional Facility will verify the order by means of a return call. In any case, a follow-up court order shall be requested by the Correctional Facility.

5. Training Method

5.1.

6. Quality Assurance Processes

6.1.

7. Financial Impact:

8. References

8.1.

9. Responsible Director and Draft Participants