

Juvenile Rehabilitation Division Policy

2.60 Foreign National Individuals

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Approved by: Jody Becker, Deputy Secretary

Purpose

The purpose of this policy is to provide guidance on how Juvenile Rehabilitation Division (JRD) recognizes the federal government has the primary jurisdiction over the enforcement of federal immigration law. All aspects of civil immigrations enforcement, including investigation, arrests, and removal, is a civil matter and not a violation of state or local law. The immigration or citizenship status of an individual is not subject to enforcement by JRD employees.

Scope

This policy applies to JRD employees.

Laws

RCW 10.93.160	Immigration and citizenship status – Law enforcement agency restrictions
RCW 43.10.315	Immigration enforcement model policies – Adoption by law enforcement agencies
RCW 43.17.420	Immigration and citizenship status – Definitions
RCW 43.17.425	Immigration and citizenship status – State agency restrictions
8 U.S.C. Sec. 1357(g)	Powers of immigration officers and employees
8 CFR 287.7	Detainer provisions under section 287(d)(3) of the Act

Policy

1. Employees will provide all individuals in the custody of JR the same access to the continuum of treatment, services, benefits, rights, privileges, opportunities, least restrictive placement, reentry planning, and resources regardless of nationality, or immigration or citizenship status, including communication and visitations.
2. Employees will not engage in or assist with civil immigration enforcement, including:
 - a. Using or sharing JR resources
 - b. Sharing information to assist in civil immigration enforcement.
3. Employees must:
 - a. Follow this policy and procedures regarding immigration enforcement.
 - b. Notify incoming individuals of their rights using Notification and Legal Requirements DCYF 20-236 form.
 - c. Forward any court order or judicial warrant to the institution or community & parole program administrators for verification.
 - d. Cooperate with ICE when they are conducting an active criminal investigation.
 - e. Contact a foreign consulate official immediately if requested by the individual.

- f. Follow DCFY Administrative 6.02 Access to Services for Clients who are Limited English Proficient policy to provide language and translation services.
 - g. Enter "Unknown" for fields related to immigration or citizenship when processing fingerprint cards or biometric identifiers.
4. Employees must not per RCW 43.17.425:
- a. Ask about any person's immigration or citizenship status, or place of birth, unless the information is directly connected to a law enforcement investigation into a violation of state or local law.
 - b. Initiate or participate in any law enforcement action based solely on an individual's immigration or citizenship status or place of birth.
 - c. Enforce or assist in enforcement of federal civil immigration laws or policies.
 - d. Hold individuals past their release date unless a confirmed judicial warrant or court order is issued.
 - e. Permit access to any person held in JR without either:
 - i. Obtaining the person's consent in writing.
 - ii. Verifying there is a court order or warrant.
5. Employees must send the Notification of the Death of a Foreign National DCYF 20-242 form to the appropriate consulate and place a copy in the individual's case file according to Managing Youth Case Files if a known foreign national individual dies while under a JR commitment.

Procedures

1. During the intake process, the designated intake specialist must:
- a. Follow the Assessing and Placing Youth in JR policy.
 - b. Provide information regarding the rights and options of non-citizens while in JR, including:
 - i. JR is required to safeguard all immigration, nationality, citizenship, and place of birth information while in JR.
 - ii. Individuals cannot be held past their release date or turned over to ICE unless a judicial warrant or court order is received.
 - iii. All individuals will be offered the same access and opportunities.
 - iv. Some programs and services offered require a social security number, work visa, or green card to qualify.
 - v. Individuals are allowed to:
 - A. Provide documents such as a social security card, visa, or green card.
 - B. Provide permission to help getting the legal documents they qualify for.
 - C. Decline providing documents or permission to obtain documents.
 - D. Request JR notifies or contacts their consulate.
2. If a request is received regarding an individual's immigration:
- a. Employees will direct all written or oral requests regarding immigration enforcement to the institution or community and parole program administrator, including any court orders or judicial warrants.
 - b. The institution or community and parole program administrator must:
 - i. Obtain a copy of any court order or warrant and confirms the following:
 - A. The order or warrant is issued by a judge;
 - B. It indicates the criminal charge and cites the federal law violation for which the warrant was issued;
 - C. It indicates which U.S. District Court issued the warrant;
 - D. It includes the correct date and location for detention; and
 - E. It is signed by a U.S. District Court Judge or Magistrate's.

- ii. Send the Response to ICE Request letter to ICE.
 - iii. Send the ICE Letter to Families to individual and their family (if applicable).
 - iv. Document all requests of who sent the request, for which individual in JR, and what, if any information was provided in the log.
 - c. For requests to access a person in JR custody for immigration enforcement, employees must:
 - i. Provide the individual a verbal explanation and a written consent form explaining:
 - A. The purpose of the interview.
 - B. Their participation in the interview is voluntary.
 - C. They may decline the interview and will not be punished or suffer retaliation for doing so.
 - D. They may choose to have their attorney present.
 - ii. Provide language or translation assistance according to DCFY Administrative 6.02 Access to Services for Clients who are Limited English Proficient policy.
 - iii. Contact the attorney if an individual chooses to be interviewed with their attorney present.
 - iv. Not permit any interview to take place prior to the individual's first court appearance until either occurs:
 - A. Counsel has been retained and appointed.
 - B. They have chosen to represent themselves and proceed 'pro se'.
- 3. If a warrant check comes back regarding an individual's immigration:
 - a. Employees will forward the court order or judicial warrant to the Institution or community and parole program administrator.
 - b. The Institution or community and parole program administrator must:
 - i. Confirm the following on the court order or warrant:
 - A. The order or warrant is issued by a judge.
 - B. It indicates the criminal charge and cites the federal law violation for which the warrant was issued.
 - C. It indicates which U.S. District Court issued the warrant.
 - D. It includes the correct date and location for detention.
 - E. It is signed by a U.S. District Court Judge or Magistrate's.
 - ii. Document all requests of who sent the request, for which individual in JR, and what, if any information was provided in the log.
- 4. If an individual request's an employee to notify their consulate, the employee must:
 - a. Notify the appropriate consulate without delay and:
 - i. Only provide the information contained in the Notification of Detention of a National of Your Country DCYF 20-243 form.
 - ii. Not disclose the reason for the individual's detention.
 - b. Permit a person access to their consulate, and forward communication received by the consulate without delay.
- 5. If JRD is notified an individual is no longer in the country while on parole:
 - a. Employees will contact the designated employee.
 - b. The designated employee must verify deportation with ICE.
 - c. If confirmed, the designated employee will notify the parole counselor.
 - d. The parole counselor will follow Discharging Youth from Parole Aftercare using the Parole Discharge Matrix to update or discharge the individual from parole.

Forms

ICE Letter to Families
Notification and Legal Requirements DCYF 20-236
Notification of Detention of a National of Your Country DCYF 20-243
Notification of the Death of a Foreign National DCYF 20-242
Response to ICE Request

Resources

28 CFR Part 115 PREA, Juvenile Facility Standards
DCFY Administrative 6.02 Access to Services for Clients who are Limited English Proficient
policy
Executive Order 16-01
Executive Order 17-01
JR Policy 2.40 Managing Youth Case Files
JR Policy 3.10 Assessing and Placing Youth in JR
Mandatory Notification Countries and Jurisdictions
Model Policies, and Training Recommendations for State and Local Law Enforcement
Agencies
Parole Discharge Matrix
Parole Standard 08: Discharging Youth from Parole Aftercare
UN Treaty Chapter III.6. Vienna Convention on Consular Relations
US Department of State, Bureau of Consular Affairs – Contact Information for Foreign
Consulates