



STATE OF WASHINGTON
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
REHABILITATION ADMINISTRATION
14TH & Jefferson ~ PO Box 45720 • Olympia WA • 98504-5720
(360) 902-8499 • (360) 902-8108 FAX

April 25, 2016

TO: JR Policy Holders

FROM:

A handwritten signature in blue ink that reads "John Clayton".

John Clayton, Assistant Secretary
Rehabilitation Administration

SUBJECT For Distribution: JR Policy 2.60, *Managing Youth who are Foreign Nationals*

The JR Policy Committee has completed the revision of Policy 2.60, *Managing Youth who are Foreign Nationals*. Policy 2.60 has been heavily revised and addresses interactions with ICE as well as with foreign Consulates. Please add it to your on-site policy manual.

The attached policy summary provides an overview of the policy and the new requirements.

This policy has a scheduled effective date of May 10, 2016. If you have questions regarding the policy, please contact JR's policy staff at jrapolicy@dshs.wa.gov.

Attachment: Policy Summary Policy 2.60, Procedure 2.60.1, Att. A: Mandatory Notification Countries, Att. B: Response to ICE letter, Att C: ICE Warrant Received letter

Policy 2.60– Managing Youth Who Are Foreign Nationals *Summary*

- Provides guidelines for communication with ICE and with consular authorities

Background:

The existing policy only addressed interactions with consular authorities, and there was a need to develop policy regarding interactions with the Immigrations and Customs Enforcement (ICE) agency.

Policy Summary

The new policy has been revised to address JR's responsibility in reporting foreign national youth to ICE, align JR's response to immigration detainers and administrative warrants from ICE with agencies across the nation, and require confirmed warrants issued by a judicial officer in order to detain youth for ICE. The policy also sets guidelines for foreign national youth to access treatment and services, community placement and reentry planning in the same manner as JR youth who are US citizens.

Specific references have been added in the policy statements to RCW, required DSHS forms and additional JR policies.

Changes from Current Practice

- The policy reorganizes and clarifies the existing legal requirements for notification to ICE.
- The policy establishes that ITM Intake Specialists are the sole authority to forward notification of foreign national youth to ICE.
- A procedure has been created to assist ITM Intake Specialists with notification of consular authorities.
- The DSHS form used to notify ICE of a foreign national youth has been revised.
- Form letters have been created, one to send to ICE in the event that a detainer request is received, and one to send to families in the event that a criminal warrant is received

Training Required: No

Policy Effective Date: May 10, 2016

*Staff are responsible for reading and understanding the information contained in the full policy.
Review of this summary is not sufficient for full understanding.*

WASHINGTON STATE DEPARTMENT OF SOCIAL & HEALTH SERVICES
REHABILITATION ADMINISTRATION
JUVENILE REHABILITATION

POLICY 2.60 MANAGING YOUTH WHO ARE FOREIGN NATIONALS

Policy Committee Chair

Don Mead, Ed. D.
Superintendent, Echo Glen
Juvenile Rehabilitation

Approved



John Clayton, Assistant Secretary
Rehabilitation Administration
4/26/2016

Authorizing Sources

RCW 10.70.140
Code of Federal Regulations 8 CFR 287.7
28 CFR Part 115 PREA, Juvenile Facility
Standards, effective August 20, 2012

Information Contact

Jennifer Zipoy, Policy & Planning Administrator
Juvenile Rehabilitation
jrapolicy@dshs.wa.gov, Ph: 360-902-8092

Effective Date

5/10/2016

Sunset Review Date

5/10/2016

I. PURPOSE AND SCOPE

This document establishes policy regarding notification and communication with the United States Immigration and Customs Enforcement (ICE) agency and with consular authorities regarding foreign national youth committed to Juvenile Rehabilitation (JR).

All staff, contractors, volunteers, and interns working in the Division of Institution Programs, Division of Community Programs and Parole, and the Division of Operations and Support Services are responsible for reviewing and complying with JR policies.

II. POLICY

- 1. JR must inquire about and document the nationality of youth during the diagnostic process in accordance with RCW 10.70.140.**
 - 1.1. ITM Intake Specialists will document the nationality of the youth in the Initial Client Assessment (ICI).
- 2. A foreign national youth must be afforded the same treatment resources and services available to other JR youth.**
- 3. A foreign national youth will be considered for early release consistent with other JR youth.**

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- 4. When allegations of sexual abuse or sexual harassment involve a foreign national youth, that youth must be provided information on how to contact relevant consular officials and relevant officials at the Department of Homeland Security for external reporting purposes. (PREA Standard 115.351(b))**
- 5. A foreign national youth who has been deported will be discharged from parole.**

IMMIGRATION AND CUSTOMS ENFORCEMENT

- 6. JR must ensure that Immigration and Customs Enforcement (ICE) has been notified of youth meeting the definition of foreign national in accordance with RCW 10.70.140.**
 - 6.1. ITM Intake Specialists must complete the Notice of Foreign National Incarceration form (DSHS Form 20-246) during the process of intake to the institution.
 - 6.2. The ITM Intake Specialists will forward the completed form to ICE. The Intake Specialists have sole authority to forward youth information to ICE.
 - 6.3. A copy of the form will be placed in the youth's Case File per Policy 2.40, *Managing Youth Case Files*.
 - 6.4. Youth will not be kept in the institution while awaiting a possible response from ICE.
- 7. Youth who are foreign nationals will be referred to the JR Legal Advocate for legal assistance with immigration-related issues within one day of forwarding the Notice of Foreign National Incarceration form (DSHS Form 20-246) to ICE.**
 - 7.1. Referrals must include the youth's Current Established Release Date (CERD), a copy of the Form 20-246 and location (facility and living unit).
- 8. Youth who are foreign nationals are eligible for community placement, access to the community and authorized leaves consistent with the JR continuum of care.**
 - 8.1. If a youth becomes eligible for a community placement and ICE subsequently provides JR with a warrant issued by a judicial officer requiring that ICE take custody upon release from JR:
 - 8.1.1. Youth may return to an institution if there is an identified risk of escape.
 - 8.1.2. Youth will not be automatically returned to the institution.
 - 8.1.3. Youth will be evaluated on a case-by-case basis for return, through an administrative review process which includes youth input.
 - 8.2. Youth who are in an institution placement when a warrant is received must have access to an administrative review hearing to evaluate the future possibility of community placement.
- 9. Youth who are foreign nationals will be prepared with a reentry plan that includes additional information about naturalization, if they are interested, and community engagement.**

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10. JR will not hold youth in custody past the Current Established Release Date (CERD) when the only authority for such custody is a request contained in an ICE immigration detainer or an administrative immigration warrant.

- 10.1. Detainers issued on ICE Form I-247, *Immigration Detainer – Notice of Action* are not mandatory as a matter of law and will not be honored by JR.
- 10.2. Administrative immigration warrants issued on ICE forms I-200, *Warrant for Arrest of Alien* and I-205, *ICE Administrative Warrant*, are not issued by judicial officers and therefore are not mandatory as a matter of law and will not be honored by JR.
- 10.3. JR staff will not act in accordance with the provisions in detainers or administrative warrants, which includes reminder contacts to ICE or notice of release dates.
- 10.4. If ICE is conducting an active criminal investigation, JR staff must cooperate in the same manner as with any other law enforcement agency. Prior to releasing information (in accordance with Policy 1.40 (29), *Managing JR Juvenile and Operations Records*), staff may ask if ICE is conducting an active criminal investigation.
- 10.5. JR staff will send the Response to ICE Request (form letter) to ICE if a detainer or administrative warrant is received.

11. ICE must provide a confirmed warrant issued by a judicial officer or a judicial court order in order for JR to detain the youth in accordance with established policy and practice.

- 11.1. JR staff will send the ICE Letter to Families (form letter) to youth and their families if a judicial warrant is received from ICE.

CONSULAR RELATIONS**12. JR must ensure consular officials of a youth's home country are notified of his or her detention when required.**

- 12.1. If there is no evidence in the case file of prior consular notification, follow Procedure 1, Consular Notification.
- 12.2. Countries requiring notification are listed in the Mandatory Notifications Countries and Jurisdictions file as prepared by the U.S. Bureau of Consular Relations and attached to this policy.
- 12.3. Consular notifications should include only the information contained in the Notification of Detention of a National of Your Country form (DSHS Form 20-243).
- 12.4. The reason for detention must not be disclosed.
- 12.5. A youth's request for asylum in the United States or elsewhere should not be disclosed to that youth's government.

13. Foreign national youth are entitled to communicate with their consular officials.

- 13.1. Written communications by a foreign national youth to his or her consular official must be forwarded to the consular post without delay.

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13.2. Foreign consular officials must be given access to their nationals and permitted to communicate with them.

13.3. A foreign national youth is not required to accept assistance from consular officials representing his or her country.

14. JR must notify the nearest consulate of the country of a foreign national who dies while under JR commitment.

14.1. Reporting procedures are outlined in Policy 1.31, *Responding to the Death of a Residential Youth*.

14.2. JR staff must use the Notification of the Death of a Foreign National form (DSHS Form 20-242) for consular notification.

14.3. A copy must be placed in the youth's Case File per Policy 2.40, *Managing Youth Case Files*.

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III. DEFINITIONS

Foreign National: A person committed to JR who is not a citizen of the United States.

Administrative Immigration Warrant: an immigration warrant of arrest, order to detain or release aliens, notice of custody determination, notice to appear, removal order, warrant of removal, or any other document issued by federal immigration officials that can form the basis for an individual's arrest or detention for a civil immigration purpose. Administrative warrants are often issued on forms I-200, *Warrant for Arrest of Alien* and I-205, *ICE Administrative Warrant*.

Current Established Release Date (CERD) An established release date set between a youth's minimum and maximum disposition.

Immigration and Customs Enforcement (ICE): U.S. Immigration and Customs Enforcement is the principal investigative arm of the U.S. Department of Homeland Security (DHS). It was created in 2003 through a merger of the investigative and interior enforcement elements of the U.S. Customs Service and the Immigration and Naturalization Service.

Immigration Detainer: A request from ICE issued on federal form I-247, *Immigration Detainer – Notice of Action* asking for a person to be held up to 48 hours past the determined release date for transfer to ICE custody.

Warrant: A court order issued by a criminal court judicial officer. The order directs law enforcement to arrest and bring a person charged or convicted of a crime before a judge. The term may include bench warrants for failure to appear. Search warrants are issued by a judge permitting a law enforcement officer to search a person or place and are not included in the scope for purposes of this policy.

IV. REFERENCES

Vienna Convention on Consular Relations

JR Parole Standards

US Department of State – Bureau of Consular Relations –
Contact Information for Foreign Consular Offices:
http://travel.state.gov/law/consular/consular_745.html

V. PROCEDURES

PRO 2.60.1 – Consular Notification

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VI. RELATED JR POLICIES

Policy 1.31 – Responding to the Death of a JR Youth

Policy 2.40 – Managing Youth Case Files

Policy 1.40 - Managing JR Juvenile and Operations Records

VII. FORMS AND DOCUMENTS

Document Title	Available In ACT	Link to Paper form
Notice of Foreign National Incarceration		DSHS form 20-246
Notification of Detention of a National of Your Country		DSHS Form 20-243
Notification of the Death of a Foreign National		DSHS Form 20-242
Mandatory Notification Countries and Jurisdictions (Update 10-2013)		

Notice of Foreign National Incarceration

TO: **Name of ICE Officer**
Seattle Field Office

FROM: **Name of Superintendent**
Juvenile Rehabilitation

In alignment with state law (RCW 10.70.140), Juvenile Rehabilitation (JR) must notify Immigrations and Customs Enforcement (ICE) of foreign national youth who are committed to a JR institution, using this form. Below is the information JR is legally required to provide.

Client Information	
NAME OF YOUTH	JR NUMBER
COUNTRY OF CITIZENSHIP (IF KNOWN)	COMMITTING OFFENSE
PORT OF LAST ENTRY TO US (IF KNOWN)	COMMITMENT DATE
DATE OF LAST ENTRY TO US (IF KNOWN)	COMMITMENT LENGTH
Placement Information	
FACILITY OF PLACEMENT	TELEPHONE NUMBER
FACILITY MAILING ADDRESS	FAX NUMBER
NAME OF COURT LIAISON	
Effective June 2014, Juvenile Rehabilitation requires a criminal warrant issued by a judicial officer in order to transfer custody of JR youth to the Immigrations and Customs Enforcement agency. Youth will no longer be held past their established release date based on a detainer request or administrative warrant.	
SIGNATURE OF NOTIFYING PERSON	DATE OF NOTIFICATION
PRINTED NAME	TELEPHONE NUMBER
Immigrations and Customs Enforcement Response	
Please respond by completing this section and returning the form to the Court Liaison at the facility of placement.	
<input type="checkbox"/> ICE is NOT interested in this individual. <input type="checkbox"/> ICE IS interested in this individual, and will seek a criminal warrant issued by a judicial officer.	
NAME OF AGENT COMPLETING THE RESPONSE	DATE OF RESPONSE

If a response is not received within 90 days, Juvenile Rehabilitation will assume that ICE is not interested in the individual named above.

**WASHINGTON STATE DEPARTMENT OF SOCIAL & HEALTH SERVICES
REHABILITATION ADMINISTRATION
JUVENILE REHABILITATION**

Policy 2.60 – Managing Youth Who Are Foreign Nationals

Procedure 1 – Consular Notification

Authorizing Sources	Information Contact
JR Policy 2.60	Jennifer Zipoy, Policy & Planning Administrator Juvenile Rehabilitation jrapolicy@dshs.wa.gov , Ph: 360-902-8092
Effective Date 4/25/2016	Sunset Review Date 4/25/2020

If a youth is from a country that requires mandatory notification:

<i>Action by:</i>	<i>Action</i>
ITM Intake Specialist	Notify the nearest consular officials without delay using the “Notification of Detention of a National of Your Country” (DSHS Form 20-243); Inform the youth that the notification is occurring using the “Mandatory Notification Statement and Documentation” (DSHS Form 20-245); and Place both completed notifications (DSHS Form 20-243 and Form 20-245) in the youth’s Case File.

If a youth is from a country that does not require mandatory notification:

<i>Action by:</i>	<i>Action</i>
ITM Intake Specialist	Discuss notification immediately with the youth using the “Statement and Documentation for Optional Notification” (DSHS Form 20-244), and offer to notify the nearest consular officials from the youth’s country. If the youth requests notification, notify the nearest consular officials without delay using the “Notification of Detention of a National of Your Country” (DSHS Form 20-243). Place documentation of the notification offer and the youth’s decision (DSHS Form 20-244) and the consular notification (DSHS Form 20-243) if requested, in the youth’s Case File.

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Mandatory Notification Countries and Jurisdictions

Retrieved 3-29-2016 from the Bureau of Consular Affairs, US Department of State¹

Albania	Malaysia
Algeria	Malta
Antigua and Barbuda	Mauritius
Armenia	Moldova
Azerbaijan	Mongolia
Bahamas	Nigeria
Barbados	Philippines
Belarus	Poland ²
Belize	Romania
Brunei	Russia
Bulgaria	Saint Kitts and Nevis
China(including Macao and Hong Kong) ¹	Saint Lucia
Costa Rica	Saint Vincent and the Grenadines
Cyprus	Seychelles
Czech Republic	Sierra Leone
Dominica	Singapore
Ecuador	Slovakia
Fiji	Tajikistan
Gambia	Tanzania
Georgia	Tonga
Ghana	Trinidad and Tobago
Grenada	Tunisia
Guyana	Turkmenistan
Hungary	Tuvalu
Jamaica	Ukraine
Kazakhstan	United Kingdom ³
Kiribati	Uzbekistan
Kuwait	Zambia
Kyrgyzstan	Zimbabwe

1. Notification is not mandatory in the case of persons who carry “Republic of China” passports issued by Taiwan. Such persons should be informed without delay that the nearest office of the Taipei Economic and Cultural Representative Office (“TECRO”), the unofficial entity representing Taiwan’s interests in the United States, can be notified at their request.
2. Mandatory only for foreign nationals who are not lawful permanent residents in the United States (i.e., “green card” holders). Otherwise, upon the national’s request.
3. The bilateral consular convention between the United States and the United Kingdom applies to British nationals from Great Britain (England, Wales, and Scotland); Northern Ireland; the Crown Dependencies of Jersey, Guernsey, and the Isle of Man; and the British Overseas Territories, including Anguilla, Bermuda, the British Virgin Islands, the Cayman Islands, Gibraltar, Montserrat, and the Turks and Caicos Islands, along with other island territories. Residents of the Overseas Territories may be traveling on a passport issued by the territory with no indication that the territory is British. Nevertheless, for them and all others from a British possession listed above, consular notification and access should be provided to the nearest U.K. consulate.

¹<http://travel.state.gov/content/travel/en/consularnotification/countries-and-jurisdictions-with-mandatory-notifications.html>