


|   |   |                    |  |
|---|---|--------------------|--|
| <br><b>King County</b>   | <b>Department of Adult and Juvenile Detention</b><br><b>All Divisions</b><br><b>General Policy Manual</b> |                    |  |
|   | <b>Chapter 5</b><br><b>Intake, Transfer and Release</b>   |                    |  |
| <b>5.02.017</b><br><br><b>ICE Detainers and Administrative Warrants, Gathering Immigration Related Information and Consular Notification/Access, and Access to Inmates and Records by Federal Immigration Authorities</b> | Approved By:  | Director John Diaz |  |
|   | Effective Date:   | December 19, 2019  |  |
|   | Reviewed By:  | PRC Committee      |  |
|   | Review Date:  | June 27, 2019      |  |
| Distribution:   |   | Document Code No.  |  |

### Statement of Purpose

The purpose of this policy is to describe actions necessary to comply with county code and state law related to inmate immigration status and access by federal immigration authorities to inmates and information absent an appropriate criminal warrant. The county and state have taken actions to limit the collection of data regarding citizenship and place of birth, and to limit involvement in civil immigration matters. Additionally, the policy is intended to clarify issues of consular notification.

### Policy

**Detainers and Administrative Warrants:** DAJD will only honor Immigration Detainers (including notification requests) or Administrative Warrants that are accompanied by a criminal warrant issued by a U.S. District Court Judge or magistrate.

**Gathering Immigration Related Information and Consular Notification:** DAJD will not inquire about, or request from any person information about the citizenship or immigration status or place of birth of any person booked into DAJD facilities. However, if DAJD becomes aware that an inmate is a Foreign National it will ensure that consular notification is pursued in accordance with applicable law.

**Access to Inmates by Federal Immigration Authorities:** DAJD will not permit ICE, CBP or USCIS officers, agents or representatives access to inmates without a judicial criminal warrant.

### **Limited Access to Records and Information by Federal Immigration**

**Authorities:** DAJD will not release inmate records to ICE, CBP, or USCIS officers, agents or employees beyond what is available to the public under state law without an accompanying criminal warrant issued by a U.S. District Court Judge or magistrate. DAJD will not provide ICE, CBP, or USCIS officers, agents or employees access to non-public databases or interfaces under the control of DAJD, such as JILS LE.

DAJD employees may not provide any information, including information in response to a notification request, to ICE, CBP, or USCIS, except as noted below, without an accompanying criminal warrant issued by a U.S. District Court Judge or magistrate. The fact that some inmate records may be available to the public does not mean that DAJD staff may discuss the information contained in those records with ICE, CBP, or USCIS officers, agents or employees. Staff may refer federal immigration authorities to DAJD public-facing websites but will not expend DAJD resources providing federal immigration authorities with information available on these websites.

### **Exception to Limited Access to Information by Federal Immigration**

**Authorities:** Under federal law, 8 U.S.C. Section 1373, local governments may not prohibit their employees from discussing a person's "immigration and citizenship status" with federal officials. While it would be unusual for a DAJD employee to have definitive information about the actual immigration status of inmates, discussions about an inmate's "immigration status and citizenship" are not prohibited by this policy.

### **References**

|                   |   |
|-------------------|---|
| K.C.C.            | Chapter 2.15  |
| Federal           | 8 U.S.C. 1373<br>Vienna Convention on Consular Relations, Article 36  |
| RCW               | 70.48.100<br>43.43.705<br>ESSSB 5497  |
| Department Forms  | Consular Notification Form (F-620)<br>Notice of Request for Hold (F-808)  |
| Department Policy | 1.01.012 Release of Information<br>5.02.004 Booking Procedures<br>5.01.001 Intake Procedures<br>5.02.006 Booking Federal Hold Prisoners |

## Definitions

**Administrative Warrant:** A noncriminal immigration warrant of arrest, order to detain or release alien, notice of custody determination, notice to appear, removal order, warrant of removal or any other document, issued by the USDHS sub-agencies ICE, CBP, or USCIS that can form the basis for a person's arrest or detention for civil immigration enforcement purposes. An administrative warrant includes, but is not limited to, civil immigration warrants issued on forms I-200 or I203, or their successors, and civil immigration warrants entered in the National Crime Information Center (NCIC) database.

**CBP:** The United States Customs and Border Protection agency of the United States Department of Homeland Security.

**Criminal Justice Agency:** Agencies whose principle function is to apprehend, prosecute, adjudicate, or rehabilitate "criminal offenders."

**DHS:** The United States Department of Homeland Security.

**Immigration Detainer:** A request from ICE, CBP, or USCIS for DAJD to provide notice of release or maintain custody of a person based upon an alleged violation of civil immigration law. An immigration detainer includes a detainer issued under sections 236 or 287 of the Immigration and Nationality Act, 287.7 or 236.1 of Title 8 of the Code of Federal Regulations. An immigration detainer also includes a detainer issued under DHS form I-247 entitled Immigration Detainer – Notice of Action, as well as predecessor or successor versions.

**ICE:** The United States Immigration and Customs Enforcement agency of the United States Department of Homeland Security.

**USCIS:** The United States Citizenship and Immigration Services agency of the United States Department of Homeland Security.

## General Guidelines

### A. Immigration Detainers and Administrative Warrants

1. DAJD will only honor Immigration Detainers and Administrative Warrants that are accompanied by a criminal warrant issued by a U.S. District Court Judge or magistrate.
2. Upon receiving an Immigration Detainer or Administrative Warrant DAJD staff shall provide a copy of the Immigration Detainer or Administrative Warrant to the subject inmate and inform the inmate whether DAJD intends to comply with the Immigration Detainer or Administrative Warrant (Form F-808).

## **B. Gathering Immigration Related Information and Consular Notification**

1. DAJD will not inquire about, or request from any person information about the citizenship or immigration status or place of birth of any person booked into DAJD facilities.
2. However, if DAJD becomes aware that an inmate is a Foreign National it will ensure that consular notification pursuant to the Vienna Convention and/or U.S. bilateral treaties is pursued in accordance with the consular notification procedure detailed below. An example of when this could occur are when the inmate volunteers that he or she is a foreign national and requests consular notification or when DAJD arrests someone who presents a foreign passport for identification.

## **C. Access to Inmates by Federal Immigration Authorities:**

DAJD will not permit ICE, CBP or USCIS officers, agents or representatives' access to an inmate without a criminal warrant issued by a U.S. District Court Judge or magistrate.

## **D. Access to Records and Information by Federal Immigration Authorities:**

1. The Department will not release inmate records, beyond what is available to the public under RCW 70.48.100(1) to ICE, CBP, or USCIS officers, agents or employees. The fact that some inmate records may be available to the public does not mean that DAJD staff may discuss the information contained in those records with ICE, CBP, or USCIS officers, agents or employees.
2. DAJD employees may not provide any information, including a person's next court date or release date, to ICE, CBP, or USCIS officers, agents or representatives, except that nothing in this policy prohibits DAJD employees from sending to, receiving from, requesting from, or exchanging with any federal, state or local governmental agency information regarding the immigration status of a person or from maintaining such information. Staff may direct federal immigration authorities to DAJD public-facing websites.
3. The Department will not provide ICE, CBP, or USCIS officers, agents or employees access to non-public databases or interfaces under the control of DAJD, such as JILS LE.

## **Procedure**

### **A. Consular Notification**

If an inmate seeks consular notification or DAJD becomes aware, without making an inquiry, that an inmate is a Foreign National, Officers shall follow DAJD Policy, 5.02.006 Booking Federal Hold Prisoners.

**B. Access to Records and Information by Federal Immigration Authorities:**

The Department will monitor databases and interfaces under DAJD control such as JILS LE, to ensure ICE, CBP, or USCIS officers, agents or employees have not been provided access.