



# DISTRICT OF COLUMBIA DEPARTMENT OF CORRECTIONS

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## Program Statement

**OPI:** Director  
**Number:** 4356.2  
**Date:** October 24, 2011  
**Subject:** Immigration  
Status/Immigration  
Detainer Process  
New Issuance

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1. **PURPOSE AND SCOPE.** The purpose of this program statement is to establish procedures for handling and processing immigrants and noncitizens of the United States through the D.C. Department of Corrections (DOC).
2. **APPLICABILITY.** This program statement applies to all DOC employees.
3. **PROGRAM OBJECTIVES.** The expected results of this program are:
  - a. Ensure that District resources are not used for federal immigration enforcement activities.
  - b. To comply with the Mayors Order 2011-174 .
  - c. Ensure all DOC employees understand and adhere to this directive concerning the handling and processing of immigrant inmates.
4. **NOTICE OF NON-DISCRIMINATION.** In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Code section 2.1401.01 et seq., (hereinafter, "the Act"), the District of Columbia does not discriminate on the basis of race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, status as a victim of an intrafamily offense, or place of residence or business. Sexual harassment is a form of sex discrimination which is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.
5. **AUTHORITY**
  - a. D.C. Official Code § 1-204.22(11)
  - b. Mayor's Order 2011-74

- c. ICE Detainers, 8 C.F.R. §287.7(d)(3)
- d. Improper Entry by Alien 8 U.S.C. §1325
- e. The General Counsel, DOC, is delegated the authority in all matters concerning court orders required for immigrant inmates.

6. **STANDARDS REFERENCED.** None

7. **PROCEDURES.** D.C. Department of Corrections personnel shall adhere to the following guidelines when processing and handling immigrant inmates.

- a. DOC employees shall not inquire about a person's immigration status or contact the United States Immigration and Customs Enforcement (ICE) for the purpose of initiating civil enforcement of immigration proceedings that have no nexus to a criminal investigation.
- b. The DOC shall not inquire about the immigration status of inmates who are crime victims, witnesses or other inmates who approach the DOC seeking assistance.
- c. Incarcerated youth and adults shall not be made available for immigration interviews related to immigrations status without a criminal nexus, in person, over the phone, or by video without a court order. If a request is made to conduct an interview of an inmate of the DOC regarding immigration status, the following process will be followed.
  - 1) All requests for immigration interviews related to immigration status will be forwarded to the Office of the General Counsel for review and approval for interview with ICE (Attachment 1).
  - 2) The General Counsel's (OGC) office will review the request prior to the interview to determine if the interview relates to immigration status with or without a criminal nexus. If the immigration interview request relates to an inmate's immigration status WITH a criminal nexus, a court order shall NOT be required.
  - 3) If an immigration interview request relates to an inmate's immigration status WITHOUT a criminal nexus, then a court order shall be required to be submitted to and approved by the OGC prior to the interview.
  - 4) Upon review and determination of whether an immigration interview is approved and the proper court order provided when required, the General Counsel's Office will forward the Immigration Interview Request Form (Attachment 1) to the Chief of the Office of Internal Affairs for the appropriate handling of the request.
- d. Prior to the interview, inmates shall be advised in writing, signed by the inmate, compliant with the Language Access Act of 2004, D.C. Code

Sections 2-1931, *et seq.*, that all information provided to federal agents, including ICE agents, may be used in a criminal, immigration, deportation or other collateral cases. An OIA Investigator will meet with the inmate to inform him/her of their rights and to sign and acknowledge the Immigration Interview Notice form (Attachment 2). All documents relating to the request of an interview with an inmate with ICE shall be filed in the inmate institutional record.

- e. The DOC shall not send lists of foreign-born inmates to the Department of Homeland Security.

8. **ICE DETAINERS.** The following procedures shall be followed by the Records Office Staff when processing an ICE detainer.

- a. Upon determination by ICE to issue a detainer for an alien not otherwise detained by a criminal justice agency, such agency shall maintain custody of the alien for a period not to exceed 48 hours, excluding Saturdays, Sundays and holidays.
- b. Where a DOC inmate has had an ICE detainer lodged against him/her and the inmate's sentence is close to or has expired or the inmate has been court ordered released, with no other holds, the Legal Instrument Examiner shall contact ICE for the purpose of notifying it of the inmate's completion of incarceration and eligibility for release.
- c. DOC shall comply with active ICE detainers only to the extent that an individual can be held in custody for a maximum of 48 hours, excluding Saturdays, Sundays, and holidays.
- d. When the ICE detainer has expired, the Legal Instruments Examiner shall process the inmate for release immediately and document on the Release Authorization Form that ICE was contacted.
- e. All documentation pertaining to the contact of ICE and release of inmates shall be filed in the inmate's institutional record.

9. **ICE DETAINER REPORTS.** The Record Office Administrator shall submit monthly reports to the Deputy Director's office indicating the number of inmates held on ICE detainers.

10. **TRAINING.** The Training Administrator shall ensure all DOC employees are educated on all provisions contained in the Mayor's Order and this directive.

A handwritten signature in black ink, appearing to read "Thomas Faust". The signature is stylized with a large initial "T" and a long horizontal stroke.

Thomas Faust  
Acting Director

Attachments

- Attachment 1- Immigration Interview Request Form
- Attachment 2 – Immigration Interview Notice