

3.28 FEDERAL IMMIGRATION AUTHORITY

3.28.1 PURPOSE AND SCOPE

The purpose of this policy is to provide all Benton County Corrections Department staff with guidance on the proper collection and dissemination of information related to the immigration status and citizenship of inmates, as well establish guidelines for the conduct of interviews of inmates by federal immigration authorities, including Immigration and Customs Enforcement (ICE), Customs and Border Patrol (CBP), and U.S. Citizenship and Immigration Services (USCIS)

3.28.3 POLICY

It is the policy of the Benton County Corrections Department to comply with all relevant laws governing the collection and dissemination of information relating the immigration status, citizenship, and place of birth or national origin. This includes but is not limited to the Keep Washington Working Act of 2019.

No staff member is permitted to inquire about any inmate's place of birth, national origin or citizenship status. Such information, if known, may not be released to immigration officials unless legally permitted to do so.

An individual may not be detained solely for the purpose of determining immigration status.

An individual must not be taken into custody, or held in custody, solely for the purposes of determining immigration status or based solely on a civil immigration warrant, or an immigration hold request.

Consular notification will be done based only on voluntary disclosures of citizenship for mandatory notification countries, or upon the request of the individual inmate.

3.28.4 PROCEDURE

Booking:

1. Inmates will not be asked for their place of birth, or immigration or citizenship status at the time of booking. Instead, unknown or "XX" (the NCIC code for unknow) will be entered into the Jail Management System.
2. This information will be sent electronically to the LiveScan machine and will be what is reflected on the individuals fingerprint card and sent to WSP for fingerprint identification
3. Consular notification will be done only if the inmate voluntarily discloses their citizenship information and then only for mandatory notification countries, unless the inmate specifically requests that their consulate be notified for non-mandatory countries.

Dissemination of Information:

1. An inmate's immigration or citizenship status, or place of birth may not be collected unless there is a connection between such information and an investigation into a violation of state or local criminal law.
2. Staff may not provide information regarding a person's date of release from custody or any other information pursuant to notification requests from federal immigration authorities for the purposes of civil immigration enforcement.

3. Staff may not provide non-publicly available information on inmates to federal immigration authorities in a noncriminal matter.
4. Staff may refer any inquiries or information requests to the department's Public Disclosure Clerk, who will respond as required by state and federal law.

Interview of Inmates by ICE Agents:

1. If an ICE Agent requests to interview an inmate in custody the first step is to determine if this is for a criminal investigation or another immigration related matter.
2. For Criminal Investigations:
 - a. The agent will be required to sign the "ICE Criminal Investigation Declaration" form (found on the CO Info Page).
 - b. If the agent signs the form acknowledging under penalty of perjury that they are conducting a criminal investigation, then they are to be permitted the same access to the inmate as would be afforded to any other law enforcement officer.
3. Non-criminal investigations:
 - a. The inmate must be contacted by a Corrections Supervisor. The supervisor must explain that an ICE Agent wishes to interview them.
 - i. The supervisor will verbally explain the "Consent to be Interviewed" form and obtain the inmate's signature.
 - ii. The inmate has the right to refuse the interview, be interviewed only with an attorney present, or consent be interviewed alone.
 - iii. At no time shall the supervisor attempt to encourage the inmate towards any particular decision or provide any legal advice.
 - b. If the inmate refuses the interview, the ICE Agent will be notified, and the interview will not be conducted
 - c. If the inmate consents to the interview, the ICE Agent will be required to sign the "Agent Access Acknowledgement" form (found on the CO Info Page)
4. Any forms completed as a result of the request for interview will be scanned and attached to the inmates record in the Jail Management System.