



Oregon

Kate Brown, Governor

Oregon Department of Corrections

Correctional Services Division

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August 8, 2018

Heidi Moawad
Public Safety Policy Advisor
Office of Governor Kate Brown
900 Court Street Suite 254
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SUBJECT: Review of Communication Practices with ICE

Dear Ms. Moawad,

The Correctional Services Division within the Oregon Department of Corrections has conducted an internal review of its practices as it pertains to communications with U.S. Immigration and Customs Enforcement (ICE). While it was a comprehensive review, the focus was on two main areas:

- Proactive contact with ICE to confirm detainer status
- Providing next-of-kin information to assist ICE in verifying status of an incarcerated individual

SUMMARY OF INTERNAL REVIEW

When a person enters the custody of the Oregon Department of Corrections (ODOC) due to an Oregon felony conviction, a comprehensive records review is conducted. As part of this review, the Offender Information and Sentence Computation Unit (OISC) records all ICE detainers, courtesy detainers noted in records received from the county or previous jurisdiction, and foreign-born status. If records indicate or the individual claims they are foreign born, this information is reported to ICE, and ODOC requests ICE respond to either confirm or decline the need for an ICE detainer. All information sent to and received from ICE is entered into the ODOC's data tracking system.

ICE agents typically conduct interviews with individuals in our custody during the intake process at the Coffee Creek Intake Center. Generally, ICE officers enter the ODOC's Intake Center once per week for a full day to interview their list of incarcerated men and women. If necessary, ICE officers enter other ODOC facilities to conduct interviews upon request or complete interviews via telephone.

If, during the course of a person's incarceration, new information is learned either from records/file reviews or the person self-disclosing they are foreign born, OISC sends a copy of the individual's summary sheet ("face sheet") to ICE seeking their response on the person's status – to place or exclude an ICE detainer at release from prison. Later, ODOC may do an internal records review to check an individual's status again when the person becomes eligible for unfenced minimum custody housing or early release programs such as Alternative

Incarceration Programming and Short-Term Transitional Leave. Most of these processes are outlined in the enclosed OISC procedures.

In addition to initial inquiries during the intake process, the ODOC provides three automated weekly reports to ICE:

- 1) Those *with* ICE holds who are releasing within 180 days (includes name, SID, location, release date, county of release, and detainer information);
- 2) Foreign-born *with no* ICE detainer releasing within 180 days (includes name, SID, release date, birthplace, citizenship, and prospective transitional release dates); and
- 3) A snapshot of the total number of foreign-born at each ODOC institution.

A sample of each of these reports is enclosed. These automated weekly reports aid ODOC to carry out statutorily required responsibilities, including those of release planning. ODOC requests that ICE communicate any change in status of those within the 180-day release window to ensure effective release planning with the individual, county community corrections agencies, family, service providers, and stakeholders.

Official release planning is conducted by ODOC staff beginning four to six months prior to a person's release date. ODOC staff specializing in release planning also conduct comprehensive reviews of our records and data systems in drafting each individual's release plan. If an ICE detainer/hold exists, the staff must complete the release plan accordingly, and the person releasing from custody is provided information regarding their rights and responsibilities when their custody is transferred to ICE upon completion of their sentence with ODOC. OISC staff work with ICE to coordinate the individual's custody transfer at release.

When documentation indicates ICE has been contacted but ODOC has not received a response to the inquiry, staff contact ICE to request final detainer status so they can complete the individual's release plan and notify the county community corrections agency that the individual will or will not be released to supervision in Oregon. This was the case with the partially redacted emails ICE provided the *Willamette Week*.

The *Willamette Week*'s June 6, 2018, article, "[An Oregon Prison Told ICE Agents Where to Find an Inmate's Family Members](#)" does not fully explain why ODOC provided next of kin information to ICE. Enclosed is a complete copy of the email exchange between the ICE agent and our ODOC staff person. The ODOC provided next-of-kin information to ICE at their request in the course of verifying the status of an incarcerated individual; this information exchange occurred prior to House Bill 3464 becoming law on August 15, 2017.

In this case, ICE placed a detainer approximately two months after receiving emailed information from the Release Counselor and after conducting an interview with the inmate via phone. This example of staff-initiated contact with ICE is necessary for appropriate release planning and case management.

It's important to note, during the department's release planning stage, ICE sometimes removes the detainer/hold they originally placed. One reason is ICE having confirmed during the incarceration phase that the individual has legal status for being and remaining in the U.S. Most often, however, an ICE detainer/hold is dropped when ODOC confirms for ICE that an individual

will require continuing physical and/or mental health care upon release from prison. In these instances, it is critical my team knows ICE is dropping the detainer so appropriate release planning is conducted in coordination with the Parole and Probation office along with other needed support services.

CONCLUSION AND CHANGES TO CURRENT PROCESS

In reviewing our procedures and practices as they pertain to proactive communications to and from ICE, I believe ODOC has and continues to operate in compliance with all state and federal laws and policies. Proactive contact with ICE is limited and performed to meet requirements for release planning and our public safety responsibilities around facility placement and determining eligibility for early release programs.

In reviewing the incident of providing next-of-kin information to assist ICE in verifying status of an incarcerated individual, we will immediately cease this type information exchange. This decision was made in order to avoid any potentially negative impact to family members of convicted felons and to ensure compliance with HB3464. We do not believe this will have a significant impact on verifying status for those in our custody since this type of information request is infrequent and ICE can gather information for verifying status through other methods.

Regards,



Heidi Steward, Assistant Director
Correctional Services Division

C: Katy Coba

Enclosures:

- Automated reports provided by ODOC to ICE (3)
- Forms OISC staff use when communicating with ICE
- Complete (non-redacted) version of the email correspondence cited by the Willamette Week

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