Purpose

The purpose of this policy is to provide guidelines to members of the City of Kent Correctional Facility relating to immigration laws and interacting with individuals claiming diplomatic immunity. RCW 43.10.315. This policy also addresses the legal requirements related to immigration and consular notifications that should occur when a foreign national is in custody.

Policy

It is the policy of the City of Kent Corrections Facility to treat all foreign diplomatic and consular personnel with due regard for the privileges and immunities to which they are entitled under international law. The City of Kent Corrections Facility will investigate all claims of immunity and accept custody of the person when appropriate.

The City of Kent Corrections Facility will also honor the laws related to foreign nationals in custody by making proper consular notifications and by assisting those who wish to contact their consular representative.

Definitions

Diplomat - Diplomats are entitled to diplomatic immunity, broadly defined as the freedom from local jurisdiction accorded to duly accredited diplomatic officers, their families, staffs, and servants. Although a diplomat may be entitled to immunity, that immunity may be waived by the sending state upon request of the U.S. Department of State, who advises it requests waivers of immunity in every case where the prosecutor advises that, but for the immunity, charges would be pursued.

Foreign National - Any citizen of another country, excluding diplomats and consuls, who are in the United States on a temporary basis, either legally or illegally. This includes tourists, students, and aliens. It also includes those holding an Alien Registration Card (green card). They are subject to arrest and detention.

Honorary Consular - A person, often a foreign national, who has limited duties to assist diplomatic officials. They have no claim of diplomatic immunity. If the incident is noteworthy, notification procedures shall be followed as the incident is investigated. Copies of these reports shall be forwarded to the Administrative Corrections Sergeant and the Jail Commander.
Diplomatic and Consular Immunity - Resources

The Administrative Corrections Sergeant or designee will ensure that current contact information for the U.S. Department of State and the U.S. Mission to the United Nations is readily available for the City of Kent Corrections Facility Corrections Staff who needs to verify a claim of diplomatic or consular immunity. Relevant material for law enforcement published by the U.S. Department of State Bureau of Diplomatic Security should be readily available as well.

Claims of Diplomatic or Consular Immunity

When an arrestee who claims diplomatic or consular immunity is brought to the City of Kent Corrections Facility, the receiving Corrections Staff shall first inform the on-duty Corrections Sergeant and/or Shift Supervisor and then generally proceed as follows:

- Do not accept custody of the person from the transporting officer. The person should not be brought inside the City of Kent Corrections Facility unless doing so would facilitate the investigation of his/her claim of immunity.

- Do not handcuff the person, or, if cuffs have been applied, remove them unless there is an articulable threat that would justify their use.

- If the person has already been accepted into custody, inform the person that they will be detained until their identity and immunity can be confirmed. Attempt to obtain a U.S. Department of State-issued identification card or other identification or documents that may relate to the claimed immunity.

- In all cases, verify the status and level of immunity by contacting the U.S. Department of State or the U.S. Mission to the United Nations, as appropriate.

- Follow any instructions provided by the Department of State or United Nations representative regarding further detention, arrest, prosecution and/or release.

It will be the responsibility of the on-duty Corrections Sergeant and/or Shift Supervisor to communicate the claim of immunity to the on-duty supervisor of the arresting agency (if not the City of Kent Corrections Facility).

The on-duty Corrections Sergeant and/or Shift Supervisor may assist another agency in determining the person's immunity status. The on-duty Corrections
Sergeant and/or Shift Supervisor is responsible for ensuring appropriate action is taken based upon information received regarding the person's immunity status.

If the person's immunity status has been verified, the on-duty Corrections Sergeant and/or Shift Supervisor should ensure a report is prepared describing the details and circumstances of any detention or custody.

A copy of the report should be faxed or mailed as soon as possible to the U.S. Department of State in Washington, D.C. or to the U.S. Mission to the United Nations in New York in cases involving a member of the United Nations community.


The federal government has primary jurisdiction over the enforcement of federal immigration law. As required by state law, City of Kent Corrections Officers shall not:

- Inquire into or collect information about any person's immigration or citizenship status, or place of birth, unless the information is directly connected to an investigation into a violation of state or local criminal law.

- Provide or disclose information in response to any notification request from federal immigration authorities for the purpose of civil immigration enforcement, except as required by law.

- Provide or disclose non-publicly available personal information about any person to federal immigration authorities in a noncriminal matter, except as required by state or federal law.

- Permit federal immigration authorities access to interview any person held, detained, or in custody at the City of Kent Correctional Facility, about a noncriminal matter, except as required by state or federal law, the in-custody person’s prior consent in writing, or a court order or judicial warrant requiring such access. These requests shall be directed to the Jail Commander or their designee to determine the appropriate course of action.

- Allow a federal immigration authority to conduct an interview regarding federal immigration violations with a person who is in custody if the person has not consented in writing to be interviewed. In order to obtain consent, the person shall be provided with an oral explanation and a written consent form that explains the purpose of the interview, that the
The interview is voluntary, and that the person may decline to be interviewed or may choose to be interviewed only with the person’s attorney present.

- The consent form must state that the person will not be punished or suffer retaliation for declining to be interviewed.
- The consent form must be available at least in English and Spanish.
- The consent form must be explained orally to a person who is unable to read, using, when necessary, an interpreter from the language line.

- Take a person into custody or hold a person in custody, without a warrant or applicable court order signed by a judge:
  - Solely for the purposes of determining immigration status;
  - Based solely on a civil immigration warrant issued by a federal immigration authority; or
  - On an immigration hold request.

All requests for assistance by any person engaged, or intending to engage, in immigration enforcement, including federal immigration authority, whether oral or written, shall be directed to the City of Kent Correctional Facility Commander or their authorized designee to determine an appropriate course of action.

Nothing in this section prohibits the collection, use, or disclosure of information that is required to comply with state or federal law, or in response to a lawfully issued court order.

**Consular Notifications Requirements**

Corrections staff shall, within 72 hours of booking, inform, verbally and in writing, all persons taken into custody or otherwise detained, regardless of their known or perceived nationality, citizenship, or immigration status, that:

- If the person is a foreign national, they have a right, without delay, to have their consular notified when they are arrested or detained in a country other than their country of nationality;
- The person has the right to refuse to disclose information about their nationality, citizenship, or immigration status; and
Disclosure of their nationality, citizenship, or immigration status may result in civil or criminal immigration enforcement against them, including removal from the United States.

If Corrections staff otherwise becomes aware that an inmate is a Foreign National, they will ensure that consular notification is pursued as requested by the inmate, or as required by the foreign national’s country if that country is on the list requiring mandatory notification.

Any notifications that are requested or required are accomplished by notifying the nearest embassy or consulate of the foreign national’s country of their arrest or detention and documenting that notification in an incident report.

Staff shall forward any communication received from the foreign national to their consular officers without delay.

Some data-entry systems used by the City of Kent Correctional Facility have mandatory fields requesting the above information. Those data elements will be disabled. If those data elements cannot be disabled, these mandatory fields will be processed by entering “XX” or “Unknown”.

Data Collection Prohibited

The City of Kent Correctional Facility corrections staff shall not inquire about or request any documents or information from a person for the purpose of determining the person’s immigration or citizenship status, or place of birth, unless the information is directly connected to an investigation into a violation of state or local law.

The City of Kent Correctional Facility corrections staff processing fingerprint card or Automated Fingerprint Identification System (AFIS) submissions shall enter “XX” or “Unknown” for the fields addressing immigration or citizenship status.

Equal Treatment for Persons Held, Detained, or in Custody

Persons held, detained, or otherwise in the custody of the City of Kent Correctional Facility are entitled to, and shall be provided, the same services, benefits, privileges, rights, opportunities, and resources regardless of their nationality, or immigration or citizenship status.

The City of Kent Correctional Facility personnel shall not deny or otherwise limit any person held, detained, or otherwise in the City of Kent Correctional Facility custody such services, benefits, privileges, rights, opportunities, or
resources based on any civil immigration warrant, hold request, immigration detainer request, notification request, administrative subpoena or similar request by a person engaged, or intending to engage, in immigration enforcement, including a federal immigration authority, or indication of the person’s nationality, immigration or citizenship status.

The City of Kent Correctional Facility shall not transfer custody of any person held, detained, or otherwise in the custody of The City of Kent Correctional Facility to any person engaged, or intending to engage, in immigration enforcement, including a federal immigration authority, without court order or judicial warrant. If presented with such an order by a person engaged, or intending to engage, in immigration enforcement, including by a federal immigration authority, to take custody of a person in the City of Kent Correctional Facility custody, Corrections Staff shall immediately contact the Jail Commander or designee to determine an appropriate course of action.

Before authorizing any transfer of custody, the Jail Commander or designee shall confirm that the court order is issued and signed by a U.S. District Court Judge or Magistrate Judge and authorizes the holding or detention of the individual by:

- Obtaining a copy of the court order;
- Confirming that a U.S. District Court Judge or Magistrate signed the court order;
- Confirming that the court order identifies the individual for whom the transfer of custody is sought by name; and
- Verifying that the court order has a valid date or is not otherwise expired or previously executed.

The Jail Commander or designee shall not disclose the location of the individual to any person engaged in, or intending to engage in, immigration enforcement, including federal immigration authorities, before or during the process of confirming the court order.

The City of Kent Corrections Facility shall not deny or otherwise limit any person’s social visitation solely on the basis of the person’s inability to effectively communicate through video-visitaiton technology.

The City of Kent Corrections Facility shall not collect immigration or citizenship status information of persons visiting an individual in the City of Kent Corrections Facility custody and shall minimize collection of visitors’ personal information to the extent necessary to perform duties of the City of Kent Corrections Facility.

**Contracts Involving Immigration Enforcement**
The City of Kent Correctional Facility shall not enter into any contract, agreement, or other arrangement, whether written or oral, that would grant federal immigration enforcement authority or powers to Corrections Staff, including but not limited to agreements created under 8 U.S.C. Sec. 1357(g), also known as 287(g) agreements under the Immigration and Naturalization Act.

The City of Kent Correctional Facility shall not be a party to any immigration detention agreement, IGSA, or other arrangement with any person engaged, or intending to engage, in immigration enforcement, including federal immigration authorities, providing for detention of any person by Law Enforcement or using the City of Kent Correctional Facility resources for immigration enforcement purposes.

The City of Kent Correctional Facility shall not be a party to any agreement or contract for language services, including translation, interpretation, training or classes, from any person engaged, or intending to engage, in immigration enforcement, including federal immigration authorities, nor shall any language services be accepted by the City of Kent Correctional Facility Staff from any person engaged, or intending to engage, in immigration enforcement, including a federal immigration authority, for free or otherwise.

U & T Visa Certifications

The City of Kent Correctional Facility Corrections Staff shall forward U and T Visa certification requests under the Washington Safety and Access for Immigrant Victims Act, RCW 7.98.020, without delay to the Jail Commander or designee.

Training

The City of Kent Correctional Facility should ensure corrections officers receive immigration training. Training should include:

- Identifying civil versus criminal immigration violations.
- Factors that may be considered in determining whether a criminal immigration offense has been committed.
- Statutory limitations on immigration enforcement.
<table>
<thead>
<tr>
<th>CKCF</th>
<th>WASPC</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>#15.11</td>
<td>#15.11</td>
<td>Foreign Nationals</td>
</tr>
</tbody>
</table>

| Effective: | 09/01/2011 |
| Revised:   | 12/06/2023 |
| CKCF       | 15.11      |
| WASPC      | 15.11      |
| PREA       | 115.51     |
| Previous CKCF Policy | CKCF 15.12 |