

# Arizona Department of Corrections

## Director's Office

### MEMORANDUM

**TO:** Distribution

**FROM:** Charles L. Ryan, Director

**DATE:** January 7, 2010

**SUBJECT:** Director's Instruction 275; TR/CSBD Criminal Alien Release

This Director's Instruction is effective immediately and will remain in effect until incorporated into Department Order 1002, Inmate Release System. This Director's Instruction supersedes Department Order 1002, Inmate Release System, as follows:

#### INTAKE PROCESSES

- 1.1 ICE through a Memorandum of Agreement with the Department has established procedures during intake to expedite the process of identifying the Criminal Alien's immigration status within the United States.
- 1.2 Upon the Criminal Alien's admission to the Department, ICE will make an assessment and provide Department staff with each Criminal Alien's legal status in the United States. Staff will then record this information into AIMS as outlined by Department Orders. Should the Criminal Alien's immigration status change, ICE will provide the new information to the Department. Upon receipt of the information, Department staff shall update the Criminal Alien's AIMS information.
- 1.3 In the absence of information regarding the Criminal Alien's immigration status or if clarification is needed, the Department shall contact ICE regarding the Criminal Alien and obtain the necessary supplemental information.
  - 1.3.1 The Department shall not attempt to substitute its own determination of the Criminal Alien's immigration status independent of a finding from ICE.
  - 1.3.2 Only Department staff trained and authorized by ICE may advise an Criminal Alien regarding the immigration process as it relates to the Criminal Alien's immigration status.
- 1.4 Upon determination of citizenship, staff shall annotate the AIMS Personal Characteristics Screen with one of the following identifiers:
  - 1.4.1 "1" United States Citizen
  - 1.4.2 "3" Criminal Alien: Detainer is present. May or may not have a deportation order
  - 1.4.3 "5" Determined by ICE to be a Legal Permanent Resident, no detainer, not amenable to deportation
  - 1.4.4 "6" Determined by ICE to be a Legal Permanent Resident, with a detainer, may be amenable to deportation, pending final status, (either 3 or 5) by Immigration judge.

## CRITERIA

- 1.1. **Temporary Release (TR)(Community Supervision Begin Date (CSBD)** – Criminal Aliens who are statutorily eligible pursuant to ARS 31-233 A or B or 41-1604.11 A or B, may be authorized by the Director for a supervised discretionary release for up to 90 days prior to a designated release, for purposes preparatory to a return to the community. The designated release date, which may include the projection of release credits/good time to be earned, shall be the ERCD, SED or the Parole, Work Furlough, Home Arrest, Mandatory Release (MR), Provisional Release (PR) or Absolute Discharge. All above release types pertain to date of offenses prior to January 1, 1994 and/or on or after January 1, 1994.
  - 1.1.1 Criminal Aliens in an institution, private prison or Correctional Release Center who have been granted a release or Absolute Discharge by the Board, or who are eligible for an Administrative Release may be considered for a TR/CSBD under the following:
    - 1.1.1.1 The Criminal Alien shall not have a current conviction for a violent crime. Only Criminal Aliens with a current conviction for one of the statutes listed on Attachment A shall be eligible for a TR/CSBD.
    - 1.1.1.2 The Criminal Alien does not have a conviction for a sex offense and/or is not required to register as a sex offender by law.
    - 1.1.1.3 The Criminal Alien's current custody level is medium or below.
    - 1.1.1.4 Criminal Aliens who have had a previous revocation of release on the current commitment shall not be eligible for consideration of a TR/CSBD.
    - 1.1.1.5 Criminal Aliens with an identifier of "5" shall have an approved placement/program by Community Corrections prior to release.
    - 1.1.1.6 Criminal Aliens with an identifier of "3" or "6" do not require an approved placement/program by Community Corrections prior to release.
    - 1.1.1.7 The Criminal Alien has not been convicted pursuant to ARS 13-705P (formerly ARS 13-604.01) Dangerous Crimes Against Children, which requires GPS (Global Positioning System) monitoring.
  - 1.1.2 Criminal Aliens who are out to court when they meet their TR/CSBD eligibility date shall be returned to Department custody prior to being released on a TR/CSBD
  - 1.1.3 Criminal Aliens whose release date falls on a weekend, holiday, or holiday weekend shall be released in accordance with Director's Instruction 271, Adjusted Administrative Releases.
  - 1.1.4 Criminal Aliens with an identifier of "3" or "6", sentenced pursuant to ARS 13-901B and ARS 31-233 (SB1053), are not eligible for a TR/CSBD release and must serve until their Earned Release Credit Date. Criminal Aliens with an identifier of "5" are eligible for a SB 1053 release.
  - 1.1.5 Criminal Aliens with an identifier of "5" only, who are reverting from Home Arrest or Work Furlough to a Provisional or Mandatory release date shall be considered for a TR, unless their background includes a conviction for a sex offense or their current conviction is considered a violent offense.

## RELEASE PROCEDURES

- 1.1 Community Corrections shall review and approve/deny TR/CSBD eligibility, upon the Time Computation Unit's verification of statutory eligibility in accordance with Department Order 1002 Inmate Release Eligibility System.
- 1.2 The CO IV shall ensure that each CO III tracks the Criminal Aliens release and submits a standard pre-release packet seven months prior to release in accordance with Department Order 1001, Inmate Release System.
  - 1.2.1 The release packet shall indicate the proposed primary, secondary and third placements.
    - 1.2.1.1 Criminal Aliens with identifiers of 3 and 6, primary placement will be the detainer to ICE. Secondary and third placements shall still be proposed.
    - 1.2.1.2 Criminal Aliens with an identifier of 5, will be released directly to Community Supervision. The release packet shall include three proposed placements to the community.
- 1.3 The Institution Offender Information Unit shall complete Form 1004-26P Immigration Detainer Status Letter on all criminal aliens be released from ADC custody. .
  - 1.3.1 A copy of Form 1004-26P, the Immigration Detainer Status Letter shall be given to the ICE agent upon release of the Criminal Alien from the Department. A copy shall also be sent to Community Corrections and the Master Record File.
  - 1.3.2 A copy of the signed conditions of supervision and release Form 1002-3 and the pre-release investigation report and release authorization Form 1003-6A shall be given to the all Criminal Aliens with identifiers of 3,5 or 6 who have community supervision.
  - 1.3.3 Copies of the forms shall be sent to the Master Record File and Community Corrections.
  - 1.3.4 No Criminal Aliens with a citizenship status of "5" shall be released on a TR/CSBD unless there is an approved placement, by Community Corrections, to the community.
- 1.4 Community Corrections shall monitor all Criminal Aliens, using the AIMS batch report and Form 1004-26, released to the custody of ICE.
  - 1.4.1 Upon notification from ICE that the Criminal Alien is not amenable to deportation ADC shall take custody of the criminal alien within 72 hours from ICE. .Community Corrections shall::
    - 1.4.1.1 Notify the OIU, at the nearest complex, within 24 hours.
    - 1.4.1.2 The OIU, shall coordinate transportation with 24 hours upon notification from Community Corrections.
    - 1.4.1.3 Upon return to ADC custody, the criminal shall not be consider a violator and shall serve to the ERCD.
- 1.5 Any criminal alien not eligible for TR/CSBD or one-half deport shall be processed for their next eligible release date in accordance with Department Orders 1001 and 1002. The above process shall be followed for all supervised releases.

Attachments:

Attachment I: Non-violent ARS Codes

Attachment II: Form 1004-26P Immigration Detainer Status Letter

Attachment III: ICE Acknowledgement Letter

{Original Signature on File}

**Attachment 1**

<b>Non-Violent ARS Codes</b>	
<b>ARS code</b>	<b>DESCRIPTION</b>
130301	BURGLARY
130302	BURGLARY
131504	CRIMINAL TRESPASS 1ST DGR
131505	BURGLARY TOOLS POSSESSION
131506	BURGLARY 3RD DEGREE
131507	BURGLARY 2ND DEGREE
131602	CRIMINAL DAMAGE
131604	AGGRAVATED CRIMINAL DAMAGE
131703	ARSON OF STRUCTURE/PROPRTY
131706	BURNING OF WILDLANDS
131802	THEFT
131803	UNLAW USE OF MEANS OF TRNS
131804	THEFT BY EXTORTION
131805	SHOPLIFTING
131806	UNLAW FAIL RTRN RENTD PROP
131813	FAIL RTRN VEH-SECURITY/NT
131814	THFT MEANS OF TRNSPRTATION
132002	FORGERY
132003	CRIM POSS FORGERY DEVICE
132004	CRIMINAL SIMULATION
132006	CRIMINAL IMPERSONATION
132008	TAKING IDENTITY OF ANOTHER
132009	AGGRAVTD TAKING IDENTITY
132010	TRAFFICKING IDENTITY
132102	THEFT CRDT CRD OBT FRAUD
132104	FORGERY OF CREDIT CARDS
132105	FRAUDULENT USE CREDIT CARD
132107	FALSE STMT-OBT CREDITCARD
132301	EXTORTION THREAT TO INFORM
132307	TRAFFICKING IN STOLEN PROP
132310	FRAUDULENT SCHEMS ARTIFICS
132311	FRAUD SCHEME/PAC-CONCEAL
132312	ILLEGAL CONTROL ENTERPRISE
132316	COMPUTER FRAUD
132317	MONEY LAUNDERING
132319	SMUGGLING
132407	TAMPER W PUBLIC RECORD
132408	SECURE OFFENSE PROCEEDS
132409	OBSTRUCT CRIM INVEST/PROSC
132411	IMPERSONATE PEACE OFFICER
132502	ESCAPE THIRD DEGREE
132503	ESCAPE SECOND DEGREE
132505	PROMOTE PRISON CONTRABAND
132507	FAIL TO APPEAR FIRST DEG
132508	RESISTING ARREST
132510	HINDERING PROSECUTION
132512	HINDER PROSECUTION 1ST DEG
132514	CONTRABAND SECURE FACILITY
132708	TAKING IDENITY OF ANOTHER

**Attachment 1**

132802	INFLUENCE A WITNESS
132803	RECEIVING BRIBE BY WITNESS
132804	TAMPERING W WITNESS
132809	TAMPER W PHYSICAL EVIDENCE
132810	INTERFER W/JUDICIAL PROCES
132904	DISORDERLY CONDUCT
132910	CRUELTY TO ANMLS/POULTRY
132921	HARASSMENT
132923	STALKING
133019	SURREPT RECORD
133403	POSSESS & SELL INHALENT
133404	PRECURSOR CHEM-NONREPORT
133405	MARIJUANA VIOLATION
133407	DANGEROUS DRUG VIOLATION
133408	NARCOTIC DRUG VIOLATION
133409	INVLV/USE MNR IN DRUG OFFN
133415	DRUG PARAPHERNALIA VIOLAT
133417	USE ELEC COMM DRUG TRANS
133421	USE BLDG FOR DRUG SALE/MFG
133453	IMIT CTRL SBST/MFG/DISTRIB
133507	PUBLIC DISPLAY OBSCEN MTRL
133606	BIGAMY
133701	UNLAWFUL USE OF FOOD STAMP
133705	UNLAW COPY/SLE SNDS/IMGES
133724	OBTAIN UTILITY SVCS. FRAUD
133725	INTERF MONITOR DEVICE
134702	CONDUCTING A CHOP SHOP
250511	PARENT FAILS SUPPORT > 1996
280661	LEAVE ACCIDENT DEATH INJRY
280692	DWI LIQUOR OR DRUGS
280697	AGGRAVATED DRIVING/DWI
310130	DESTRUCTION OF PUBLIC JAIL
362531	CONTROLLED SUBSTANCE VIOL
441841	SALE UNREGISTER SECURITIES
441842	SALE SECURITIES UNREG AGNT
441991	FRAUD BUY-SELL SECURITIES
1302925	HOAX
1334050	POSSESS,SELL,MARIJUANA
1334060	POSSESSION & SALE NARCOTIC
2801381	DUI LQUOR/DRUGS/VPRS/COMBO
2801383	AGGRAVATED DUI
13292101	AGGRAVATED HARRASSMENT
13340401	PRCRSR/REGULTD CHEM VIOL
28062201	FLIGHT FROM LAW VEHICLE



**Arizona Department of Corrections  
801 South 16<sup>th</sup> St., #1, Phoenix 85034**



**Please use this form to notify the Arizona Department of Corrections  
Community Corrections PRIOR to releasing this person by telephone at  
602-771-5750 or e-mail at [adcdetainers@azcorrections.gov](mailto:adcdetainers@azcorrections.gov)**

**To be completed by ADC**

Date: \_\_\_\_\_

Inmate Name: \_\_\_\_\_ ADC Inmate Number \_\_\_\_\_

Inmate Name:	ICE A#	
Released from:	Date Released	Type of Release
CSED/SED from ADC (Completion Date):		
Approved Program <input type="checkbox"/>		Half To Deport Notification <input type="checkbox"/>

The above referenced subject was released to an ICE detainer on the indicated date. Please advise ADC of your disposition in this matter so that we may maintain case supervision. The rest of this form can be used for this purpose.

**To be completed by ICE and forwarded to:**

Arizona Department of Corrections  
Community Corrections, Warrants Unit  
801 S. 16<sup>th</sup> St., Suite #1  
Phoenix, AZ 85034  
Mail Code #924 -- Attention: Detainers

Scan to [adcdetainers@azcorrections.gov](mailto:adcdetainers@azcorrections.gov)  
FAX to: 602-252-5299

Inmate Name	File #
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	Was released on bond on: _____
	Was released Order of Release On Own Recognizance (OR) on _____
	Was deported on _____ to _____ at _____
	Other _____

Supervising ICE Officer \_\_\_\_\_ Phone number: \_\_\_\_\_

Subject Resides at: \_\_\_\_\_  
 \_\_\_\_\_  
 Phone: \_\_\_\_\_

Signature: \_\_\_\_\_ Title \_\_\_\_\_

Distribution: ICE Agent; Community Corrections; Master Record File

U.S. Department of Homeland Security  
2020 N. Central Avenue  
Phoenix, Arizona 85004



U.S. Immigration  
and Customs  
Enforcement

DEC 18 2009

Arizona Department of Corrections  
Charles L. Ryan, Director  
1601 West Jefferson Street  
Phoenix, Arizona 85007

Dear Mr. Ryan:

Immigration and Customs Enforcement (ICE), Detention and Removal Operations (DRO), agrees that when an inmate is received from the Arizona Department of Corrections (ADC), ICE DRO will notify ADC via the Form 1004-26p, as provided by ADC.

No ADC inmate will be released into the community by ICE DRO without prior notification to ADC.

ICE DRO is amenable to this stipulation and will follow the process set forth in ADC Director's Instruction regarding Temporary Release/Community Supervision Begin Date (TR/CSBD) Criminal Alien Release.

Sincerely,

A handwritten signature in blue ink that reads "Katrina S. Kane" followed by the initials "FOR".

Katrina S. Kane  
Field Office Director