



*State of North Carolina
Department of Public Safety
Prisons*

Chapter: Q
Section: .0200
Title: **Deportation Releases and
Citizenship Verification**
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POLICY AND PROCEDURE

.0201 GENERAL

This policy establishes specific procedures for granting conditional release to selected inmates within the North Carolina Department of Public Safety, Prisons pursuant to N.C.G.S. § 148-64.1, as well as the return of such inmates into custody should they violate conditions of release. This policy also directs employees of the Division of Adult Correction, to comply with all federal regulations regarding inmate citizenship or immigration status pursuant to federal law 8 U.S.C. 1373.

.0202 DEFINITIONS

- (a) Deportation- the removal of an inmate from the United States and return to his/her Country of citizenship.
- (b) Final Removal Order-document issued by a federal immigration judge authorizing ICE agents to deport a specific inmate to his/her home country.
- (c) Department of Homeland Security (DHS) – federal agency tasked with “preventing terrorism and enhancing security; managing our borders; administering immigration laws; securing cyberspace; and ensuring disaster resilience”.
- (d) United States Immigration and Customs Enforcement (ICE) - federal agency within the Department of Homeland Security tasked with investigating and enforcing federal immigration statutes, including removal of illegal aliens from the United States.
- (e) United States Citizenship and Immigration Services (USCIS) - federal agency within the Department of Homeland Security tasked with administering the immigration system.
- (f) United States Customs and Border Patrol (CBP) – federal agency within the Department of Homeland Security tasked with regulating and facilitating international trade and enforcing U.S. regulations involving customs and immigration.
- (g) National Crime Information Center- (NCIC) is a computerized index of criminal justice information (i.e.- criminal record history information, fugitives, stolen properties, missing persons). It is available to Federal, state, and local law enforcement and other criminal justice agencies and is operational 24 hours a day, 365 days a year.
- (h) Rapid REPAT-process by which an inmate agrees to be deported after having served one half (½) of his/her minimum sentence. Selected inmates are eligible based on crime

conviction and agreement to never return to the United States and no pending charges in any jurisdiction.

.0203 GENERAL COMMUNICATION WITH FEDERAL AGENCIES

Prisons staff may not prohibit, restrict or impede federal officials from investigating the citizenship of individuals being held in our facilities. 8 U.S.C. § 1373. Prison staff may not prohibit, restrict or impeded the sending or receiving of information concerning citizenship or immigration status with government entities or officials. 8 U.S.C. § 1373. Prisons staff are directed to comply with all requirements of the federal law and:

- (a) Permit the Department of Homeland Security to meet with individuals in DPS correctional facilities for the purposes of inquiring into citizenship and immigration status;
- (b) share information regarding immigration status with the Department of Homeland Security, and
- (c) respond to all formal written requests and inquiries by the Department of Homeland Security for information concerning the scheduled release date and time for a particular individual committed to a DPS facility, and when asked give a 48-hour notice of an offender's release date and time.

Officers should always confirm that the person alleging to be a federal agent is in fact a federal agent before giving them access to the facility. This should include checking for proper identification.

.0204 ELIGIBILITY FOR CONSIDERATION FOR CONDITIONAL RELEASE

Pursuant to North Carolina General Statute § 148-64.1, the Post-Release Supervision and Parole Commission may conditionally release an inmate into the custody of United States Immigration and Customs Enforcement (hereinafter ICE) when:

- (a) The Department of Public Safety has received a final order of removal from ICE.
- (b) The inmate is convicted of and incarcerated for one or more of the following offenses (but not for any other felony offense):
 - (1) N.C.G.S. § 14-54. Breaking or entering buildings;
 - (2) N.C.G.S. § 14-56. Felony Breaking or Entering into, or out of, railroad cars, motor vehicles, trailers, aircraft, boats, or other watercraft;
 - (3) N.C.G.S. § 14-71.1. Felony Possession of Stolen Goods;
 - (4) N.C.G.S. § 14-100. Felony Obtaining Property by False Pretense, so long as the items have a total value less than one-hundred thousand dollars (\$100,000).

- (5) N.C.G.S. § 90-95 (d)(4). Possession of Schedule VI controlled substance.;
- (6) N.C.G.S. § 20-138.1 Driving While Impaired not resulting in death or serious injury.
- (c) The inmate has served at least one half of the minimum sentence imposed by the court or, if convicted of Driving While Impaired, has met all the parole eligibility requirements as established by statute, notwithstanding GS 20-179(p)(3).
- (d) The inmate agrees, in writing, to not reenter the United States unlawfully at any time in the future.
- (e) The inmate has no additional pending charges in North Carolina, any other state, or federal courts.

Inmates must meet the forgoing eligibility requirements. Although an inmate may meet all these requirements, there is no entitlement to a release under the Rapid REPAT Program, and the decision to release an inmate under that program is in the sole, non-appealable discretion of the Post-Release Supervision and Parole Commission.

.0205 PROCEDURES

- (a) Notice:
 - (1) The Department of Public Safety will notify affected inmates of their eligibility for conditional release to their home country after serving one-half of their minimum sentence. This notice will occur either by:
 - (A) Providing an individual letter and application form to each inmate confined on or after July 8, 2008: or;
 - (B) Providing a written description of this policy to each incoming inmate with convictions for the offenses outlined in .2004 during the initial processing for all newly admitted inmates.
 - (2) Each facility shall maintain a copy of this policy, application forms, and related memoranda, to include information related to eligible offenses and applications certifying an inmate's request to participate in this program.
 - (3) Information related to the Rapid REPAT program shall be posted on inmate bulletin boards and include eligibility requirements as well as procedures for submitting applications.
- (b) Application/Approval Process:

- (1) Qualifying inmates must submit a signed application form indicating he/she will not contest deportation and agreeing to not re-enter the United States at any time in the future.
- (2) Applications will be forwarded to the Deputy Director for Auxiliary Services, Assistant Director for Auxiliary Services or the Manager of Classification for review to ensure the applicant meets all statutory requirements. If so, the inmate's record will be reviewed to determine if a deportation detainer has been filed by ICE. If no detainer is on file, local ICE agents will be contacted to initiate a review on the inmate.
- (3) The Deputy Director for Auxiliary Services, Assistant Director for Auxiliary Services or the Manager of Classification will request and review an updated NCIC criminal history check to ensure there are no charges pending in any jurisdiction.
- (4) Upon verification that a deportation detainer is on file and no pending charges exist, the case will be forwarded to the North Carolina Post-Release and Parole Supervision office for final review and decision for conditional release to ICE agents.
- (5) The Post-Release and Parole Supervision office will notify the Deputy Director for Auxiliary Services, Assistant Director for Auxiliary Services or the Manager of Classification will be provided the names of all inmates approved for participation in the Rapid REPAT program.
- (6) These inmate names will be provided to the designated ICE office to arrange for the final removal hearings.
- (7) The Deputy Director for Auxiliary Services, Assistant Director for Auxiliary Services or the Manager of Classification will be provided a list of all inmates issued final removal orders. ICE agents will provide the Chief with the date established for the next transport of aliens under the Rapid REPAT program.
- (8) Divisional transportation will arrange for the transport of selected inmates to the designated transfer point for ICE to assume custody.
- (9) Designated staff at each facility will document on the OPUS External Movement screen (IP20) the transfer utilizing the appropriate movement codes.
- (10) Deputy Director for Auxiliary Services, Assistant Director for Auxiliary Services or the Manager of Classification will ensure a "Wanted" notification is entered on NCIC to alert criminal justice agencies that the subject is on conditional release from the North Carolina Division of Prisons and should be returned to our custody to complete service of their prison term.

.0206 RETURN TO CUSTODY

- (a) The Prisons Administration Security Post/PIN Desk will receive notification via NCIC. Security staff will confirm the wanted person status and notify Extradition staff to arrange for return to the North Carolina Prisons as a conditional release violator.
- (b) Extradition will contact Prisons' Jail Transportation staff to determine the appropriate admission location and reserve a bed. Jail transportation staff will enter the admission on the appropriate OPUS Screens in keeping with policy 2F.2803.
- (c) ICE officials will be contacted to ensure they are aware of the re-entry after deportation.
- (d) The violator will be returned to the custody of Prisons and will complete the diagnostic process as established for parole violators. He/she will be required to complete the balance of their sentence



Commissioner of Prisons

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