

# Parents & Legal Guardians of Minor Children & Incapacitated Adults

Section 5.1 of the Directive requires at first encounters of noncitizens that ICE personnel affirmatively inquire into parental and legal guardianship status. And it states further, ICE personnel should generally inquire about the status during all encounters.

## Identification & Arrest Process

### Identify Noncitizen Parents & Legal Guardians at all Encounters

- Does the noncitizen a parent or legal guardian have:
  - Minor child(ren) in the U.S., or
  - Incapacitated adult(s) in the U.S.?

AND;

- Is the noncitizen a primary caretaker

OR

- Parent or legal guardian, AND
- An active child welfare, family court, or guardianship proceeding.



*Note: if the noncitizen parent/legal guardian is taken into custody, a custody review will be required for noncitizens with active child welfare or guardianship proceedings.*



### Arrest of Parent or Legal Guardian

- Make sure to use the updated ICE Form 71-078 Caregiver Designation at Arrest, documenting the parent or legal guardian's caregiving arrangements.
- Place the ICE Caretaker Designation form into the A-file and document in (b)(7)(E)
- If Child Protective Services (CPS), Adult Protective Services (APS), or local law enforcement are called because the parent/legal guardian is unable to identify a caretaker, then this form should document that.



### Document the Identification of a Covered Individual in EARM & I-213

- Enter a Parental Interests alert in (b)(7)(E) [TBD]
- Document information about minor child(ren) or incapacitated adult (name, age, immigration status, current location, caretaker info, child welfare/ family court proceedings, etc.). Documenting information early can help expedite removal process later.
- Document in (b)(7)(E) and the I-213 if CPS, APS, or local law enforcement were called to take custody of the child(ren)/ incapacitated adults OR if the parent/legal guardian already has an open child welfare/family court proceeding If known include caseworker information/county of arrest.



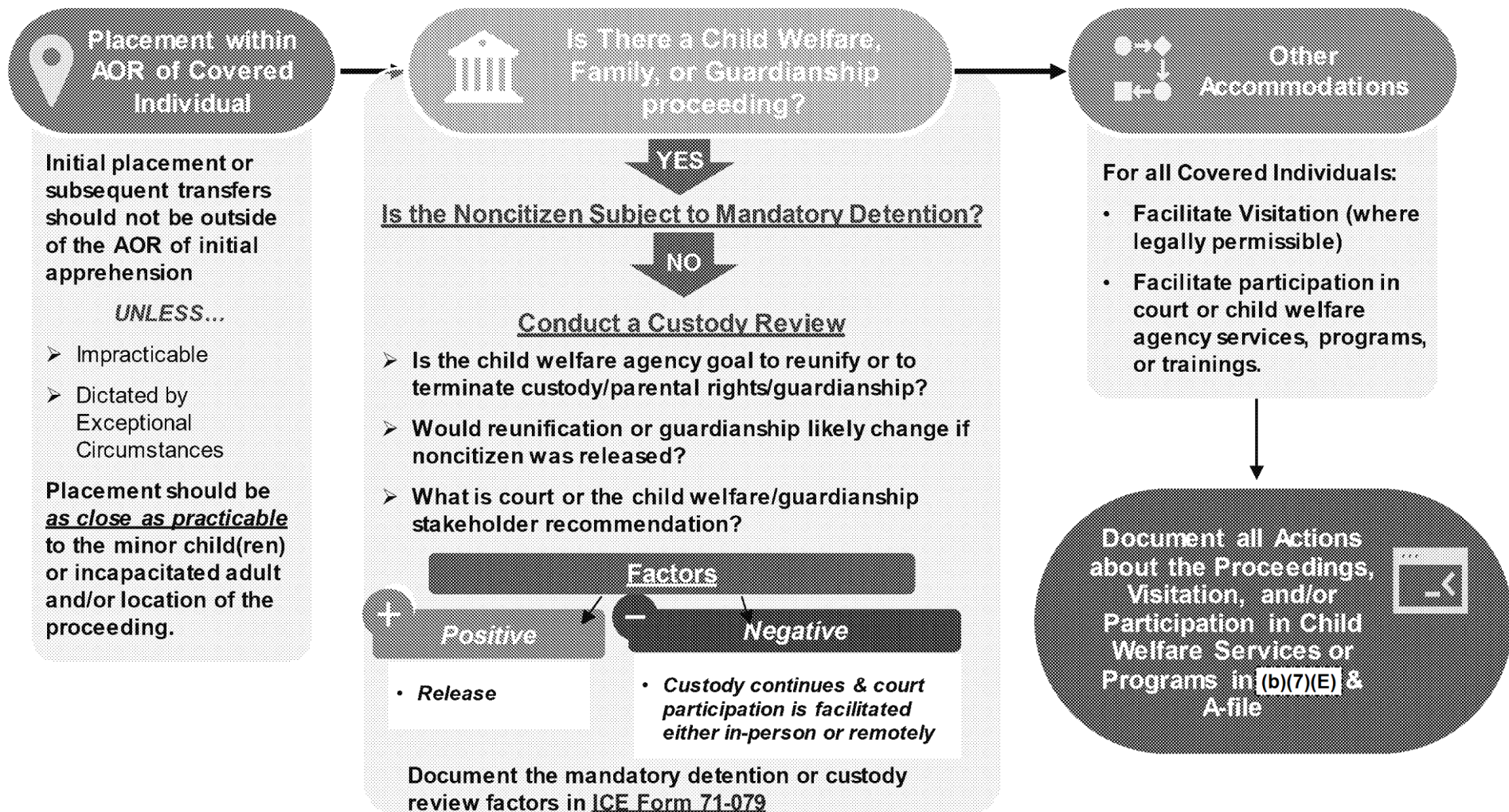
\* If you have questions about the PI Directive or need assistance with child welfare stakeholders contact the ERO Parental Interests Coordinator: (b)(7)(E) @ice.dhs.gov.

\* If a case involves a FAMU, separated FAMU, or an unaccompanied child (UC) contact the Juvenile & Family Case Management mailbox (b)(7)(E) @ice.dhs.gov for guidance.

\* Where there are Custody Resource Coordinators (CRCs), Field Offices can decide that a CRC's role includes assisting in Parental Interests cases (child welfare information or release or repatriation planning). Contact (b)(7)(E) @ice.dhs.gov for remote assistance.

# Parents & Legal Guardians of Minor Children & Incapacitated Adults

## Custody



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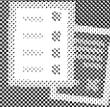
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# Parents & Legal Guardians of Minor Children & Incapacitated Adults

## Pre-Removal Process

### Pre-Removal Planning

Parent/Legal Guardian documents their decision on whether to reunify with dependents prior to removal...



Parents/Legal Guardians with Children/Incapacitated Adults (dependents) in U.S. (covered individuals\* only)

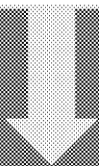
Provide the ICE Form 71-076 Pre-Removal Parental Interests Election\* to parent & legal guardians (upon final order of removal) who are:

Primary caretaker/custodians  
OR

Who are in child welfare/family court/guardianship proceedings.



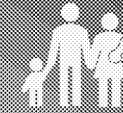
\*Questions about who is Covered Individual: ERO Parental Interests Coordinator/PI mailbox.



FOD Pre-Removal Review  
(See ICE Form 71-080)

### Removal Planning

Parent & Legal Guardian Elects:



#### Reunification for joint repatriation:

- Requires Coordination with the current caretaker of the children.
- Coordinate with the Field Office Juvenile Coordinator.
- Contact ERO PI Coordinator if parent needs U.S. passport application forms for U.S. citizen child/ren.

OR

#### Dependent(s) remain in U.S.:

- Provide opportunity to make alternative caregiving arrangements.
- Share appropriate State Delegation of Parental Authority form/s & facilitate completion



**NOTE: ICE WILL NOT INTERVENE IN CUSTODIAL DISPUTES IF THE CAREGIVER IS NOT WILLING TO COORDINATE.** Consult ERO Parental Interests Coordinator or OPLA with any questions.

AND IF



#### Ongoing Child Welfare/Family Court /Guardianship Proceedings

- FOD Pre-Removal Review (ICE Form 71-080): FODs must consider under the totality of circumstances whether continuing with removal is appropriate.
- Provide noncitizen opportunities to communicate with CPS or other stakeholders regarding their proceedings.

### Effecting Removal



(with children or incapacitated adults)

#### Transport & Booking Travel

For noncitizens with minor children, contact the local Field Office Juvenile Coordinator to request assistance in coordinating the travel arrangements.



Document ALL actions/decisions in (b)(7)(E) & place copies of documents in the A-file.

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