

CF OPERATING PROCEDURE  
NO. 155-50

STATE OF FLORIDA  
DEPARTMENT OF  
CHILDREN AND FAMILIES  
Tallahassee, May 30, 2019

Mental Health/Substance Abuse

UNDOCUMENTED PERSONS IN STATE MENTAL HEALTH TREATMENT FACILITIES

1. Purpose. This operating procedure describes procedures and guidelines for the identification, discharge and/or repatriation of undocumented residents and/or illegal aliens who are committed to a state mental health treatment facility. It is the intent of the Department to verify the identity and immigration status of persons in the state mental health treatment facilities to determine eligibility for benefits, to expedite discharge planning, and to assist with repatriation efforts as appropriate.
2. Scope. This operating procedure applies to persons residing in a state civil mental health treatment facility committed pursuant to Chapter 916, Florida Statutes (F.S.), or pursuant to Chapter 394, F.S., due to mental illness, with the exception of the Sexually Violent Predator Program.
3. References.
  - a. Chapter 916, Florida Statutes (F.S.), Mentally Deficient and Mentally Ill Defendants.
  - b. Chapter 394, F.S., Florida Mental Health Act.
  - c. Public Law 104-191, Health Insurance Portability and Accountability Act of 1996.
  - d. CFOP 155-17, Guidelines for Discharge of Residents from a State Civil Mental Health Treatment Facility to the Community.
  - e. CFOP 155-22, Leave of Absence and Discharge of Residents Committed to a State Mental Health Treatment Facility Pursuant to Chapter 916, F.S.
  - f. CFOP 155-13, Incompetent to Proceed and Non-Restorable Status.
4. Explanation of Terms. As used in this operating procedure, the following terms shall mean:
  - a. Community Representative. An individual who works with residents and their families, community service providers and the recovery team to ensure continuity of care. The Community Representative assesses resident needs, plans services, links the resident to services and supports, assists in securing community placement, monitors service delivery and evaluates the effectiveness of service delivery. The community liaison, FACT team leader/case manager, forensic specialist, forensic case manager, or any other community staff may function as a civil or forensic resident's Community Representative.
  - b. Forensic Specialist/Forensic Case Manager. A staff member employed by a community mental health provider, under contract with a circuit/regional Mental Health Program Office, to provide an array of services for individuals who have been committed to the Department of Children and Families pursuant to the provisions of Chapter 916, F.S., as either Incompetent to Proceed (ITP) or Not Guilty by Reason of Insanity (NGI) due to mental illness.

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This operating procedure supersedes CFOP 155-50 dated December 15, 2017.

OPR: SMF

DISTRIBUTION: X: OSGC; ASGO; Region/Circuit Mental Health Treatment Facilities.

c. Freedom of Information Act. Legislation that guarantees access to government-held information. The Act requires that federal agencies provide access to records when requested by a citizen in writing.

d. Guardian. A person who has been appointed by the Court to act on behalf of a resident or property or both.

e. Recovery Plan. A written plan developed by the resident and his or her recovery team. This plan is based on assessment data, identifying the resident's (individual) clinical, rehabilitative and activity service needs. The plan further identifies the strategy for meeting those needs, documents treatment goals and objectives, establishes criteria for terminating the specified interventions, and documents progress in meeting specified goals and objectives.

f. Recovery Team. An assigned group of individuals with specific responsibilities identified on the recovery plan including the resident, psychiatrist, guardian/guardian advocate (if resident has a guardian/guardian advocate), community case manager, family member and other treatment professionals as determined by the resident's needs, goals, and preferences.

g. Resident. A person who resides in a state mental health treatment facility. The term is synonymous with "client," "consumer," "individual," "patient," or "person served."

h. State Mental Health Treatment Facility (SMHTF). A facility operated by the Department of Children and Families or by a private provider under contract with the Department to serve individuals committed pursuant to Chapter 394, F.S., or Chapter 916, F.S.

5. Identification and Verification of Citizenship Status. Identification and verification of citizenship status shall include the following:

a. Upon admission of residents to a civil or forensic facility, staff will review admission paperwork for initial identification of citizenship and/or immigration status in order to determine eligibility for benefits.

b. With authorization from the resident or guardian to release information, facility staff will attempt to determine a resident's citizenship status when it is either unknown or is believed to be undocumented and/or illegal. Staff may utilize any or all of the following methods to research immigration and citizenship status:

(1) Verify information with resident;

(2) Contact family members to verify citizenship/immigration status;

(3) Contact Community Representative/Forensic Case Manager to verify citizenship;

(4) Contact Social Security Administration to confirm/verify benefits and status;

(5) Complete release of information per Protocol for Assisting Individuals with Undocumented Presence in attached Appendix A;

(6) File Freedom of Information Act with U.S. Customs and Immigration Services (USCIS) to assist in determining citizenship; and,

(7) Contact Immigration and Customs Enforcement (ICE) to verify immigration status.

c. If ICE has issued a detainer for a resident, legal counsel at the facility will be provided with a copy of such detainer.

d. If the resident is discharged to ICE custody, the facility shall ensure a copy of resident's recovery plan is provided.

e. All efforts to verify citizenship status and/or contact with outside entities, including ICE, shall be documented in the resident's medical record.

#### 6. Discharge Standards.

a. Discharge planning is a collaborative process involving the resident, the family or guardian, if applicable, the recovery team, the Community Representative or Forensic Specialist/ Forensic Case Manager and circuit/regional staff. The process begins at admission and continues throughout the resident's hospitalization. CFOP 155-17, Guidelines for Discharge of Residents from a State Mental Health Treatment Facility to the Community outlines the guidelines for discharge of those committed to the Department pursuant to Chapter 394, F.S. CFOP 155-22, Leave of Absence and Discharge of Residents Committed to a State Mental Health Treatment Facility Pursuant to Chapter 916, F.S., outlines the guidelines for discharge of those committed to the Department pursuant to Chapter 916, F.S.

b. It is the responsibility of the SMHTF to accept persons for psychiatric care pursuant to the provisions of Chapter 394, F.S., or Chapter 916, F.S. Facilities will stabilize; provide treatment; provide competency restoration training and evaluation as appropriate; provide rehabilitation and enrichment services; and prepare the person for a successful return to the community.

c. It is the responsibility of the community representative for residents committed pursuant to Chapter 394, F.S., and the forensic specialist/forensic case manager for residents committed pursuant to Chapter 916, F.S., to participate in the development of the discharge plan and identify services and supports needed for the resident's discharge. The community representative or forensic specialist/forensic case manager will research resources for needs identified by the recovery team, participate in the discharge planning meeting, secure community placement and services in cooperation with state treatment facility social worker/discharge planner, maintain contact with the facility case manager and social worker, and ensure recommended services are received after the individual's discharge.

d. It is the responsibility of the Managing Entity (ME) to follow individuals residing in a SMHTF and ensure the individual's continuity of care. The ME will develop needed services/supports not readily available to persons preparing for discharge from the state mental health treatment facilities and monitor provision of all recommended services upon discharge through designated case management providers.

e. In the event adequate funding for community placement and/or services is hindered by the resident's citizenship status, the SMHTF staff will coordinate with the ME and circuit/region staff to develop alternative funding sources to ensure successful community reintegration.

7. Repatriation. For residents who express a desire to return to their home country, the facility's legal counsel shall coordinate repatriation efforts with the resident's legal representative, committing court, state's attorney, and Department of Homeland Security.

8. Data Reporting. All facilities will report data related to undocumented residents and/or illegal aliens to the designated staff member in the Mental Health Program Office in Tallahassee on a quarterly basis. Data will be submitted on the form provided by the Program Office.

BY DIRECTION OF THE SECRETARY:

*(Signed original copy on file)*

WENDY SCOTT

Director, State Mental Health Treatment Facilities, Policy and Programs

SUMMARY OF REVISED, DELETED, OR ADDED MATERIAL

Deleted paragraph 7, except paragraph 7d, because the information that was in paragraph 7 can be found in CFOP 155-17 and need not be repeated here. Paragraph 7d has been renumbered as paragraph 6e.

## Protocol for Assisting Individuals with Undocumented Presence

***These are general guidelines used by South Florida Behavioral Health Network Managing Entity. These are being disseminated to assist other state mental health treatment facility and community staff that may conduct discharge planning and benefits recovery activities on behalf of individuals served.***

***The focus of these activities is on state mental health treatment facility (SMHTF) residents who have been deemed discharge ready by the resident's recovery team and placed on the Department's Seeking Placement List (SPL) for Over 60 Days. These activities may also be taken for other individuals served in the state mental health treatment facility or in the community, on a case-by-case basis.***

***This may include involvement by the:***

- ***State Mental Health Treatment Facility Staff – social workers, discharge staff – known as Facility staff***
- ***Community – the Department's Regional Substance Abuse and Mental Health staff, the assigned behavioral health Managing Entity (ME) or subcontracted provider staff who assist with coordination of services. Assigned community provider may include, but are not limited to, mental health case managers, Florida Assertive Community Treatment (FACT) team members, or other assigned provider representatives – known as Community staff.***

1. The Facility and Community staff work together to identify each individual whose immigration status is unknown.
2. Once a person is identified as needing assistance with their current immigration status, the Facility or Community representative assists the individual in completing the attached Release of Information (ROI) form (Appendix B to this operating procedure). The signed ROI is then submitted to the behavioral health Managing Entity (ME). ***Refer to the attached sample Release of Information form (Appendix B to this operating procedure).***
3. The Managing Entity (ME) representative reviews the signed ROI form to ensure it is complete and accurate and then forwards the ROI form to the Immigration and Custom Enforcement (ICE) Office for processing.
4. The ICE representative will provide information to the ME about the person's legal status in the United States.
5. This preliminary information will be used to identify next steps of the individual's immigration process. The decision to pursue further action is made in collaboration with the person served and their treatment team.
  - This project works **best** for Cuban and Haitian Nationals who arrived in the United States prior to 1996 and who have committed a crime that makes them deportable. Once ICE receives the information request, they will advise the Community Representative that the person:
    1. Has already undergone deportation proceedings. However, because these individuals are not "deportable," they may be monitored in the US by Immigration through an "Order of Supervision." This Order allows the person served to become eligible for Social Security Administration (SSA) benefits and acts as a form of

identification. Individuals who become eligible for Social Security Income (SSI) also become eligible for Medicaid benefits. Medicaid benefits assist the individual in accessing medical and behavioral health services and supports.

2. Is eligible for deportation. In this case, ICE sets up an appointment, fingerprints the individual, and initiates the deportation process. This will lead to the individual being granted an Order of Supervision, allowing the person served to obtain SSA benefits and Medicaid.
- For all other non-US natives, this process allows us to understand the person's immigration status, if any. For example, they can inform the ME that the person entered the US and was a parolee and provide us with their assigned Alien number. With the Alien number, the ME representative may assist the individual by calling the Immigration Court automated system (1-800-898-7180). This information may be used to further the individual's immigration and naturalization process.

### Sample Release of Information Form

Applicant Name: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Aliases/AKA's: \_\_\_\_\_

Alien number (if any): \_\_\_\_\_ Country of Birth: \_\_\_\_\_

Year of Arrival: \_\_\_\_\_ Port of arrival: \_\_\_\_\_

Mode of Arrival: \_\_\_\_\_

Parent's Name (s): \_\_\_\_\_

Purpose of disclosure: \_\_\_\_\_

**Please include a brief description of the issue:**

Staff Member: \_\_\_\_\_ Phone: \_\_\_\_\_

**Name(s) of individual(s) to whom the United States Citizenship and Immigration Services (USCIS) is authorized to disclose information about the above-named subject:**

\_\_\_\_\_  
\_\_\_\_\_

**Organization name (if applicable) and address of individuals authorized to receive information about the above-named subject:**

\_\_\_\_\_  
\_\_\_\_\_

**Privacy Release:** (To be completed by the individual who is the subject of the records.)

To remain in compliance with the Privacy Act as well as DHS policy and regulations, United States Citizenship and Immigration Services (USCIS) may not disclose any information without written consent from the individual who is the subject of the records. Family members, friends, an attorney, an authorized representative, or other interested parties can not authorize the release of your personal information on your behalf.

I, \_\_\_\_\_, grant **Type Community Provider** and its staff permission to receive and review any information contained in my USCIS electronic records or paper file. I hereby authorize the **Type Community Provider** to \_\_\_ fully disclose any and all or \_\_\_ only disclose the following information \_\_\_\_\_ in my records to the individual(s) named above.

This consent is subject to revocation at any time except to the extent that the program which is to make the disclosure has already taken action in reliance on it. If not previously revoked, this consent will terminate upon: \_\_\_\_\_ (date). If no date of revocation is provided, consent is granted for one (1) year from date signed or the date indicated above if earlier.

Signature \_\_\_\_\_ Date \_\_\_\_\_  
(Applicant)