

Immigration Response: Probation Interaction and Communication with Immigration and Customs Enforcement (ICE)/Federal authorities

508.1 PURPOSE

The purpose of this policy is to memorialize the Department's immigration reporting and information sharing practices.

This Policy adheres to all federal and state laws as well as the local policy adopted by resolution of the County of Sonoma Board of Supervisors on January 10, 2025.

It is the policy of the Sonoma County Probation Department that all members make professional commitments to equal enforcement of the law and equal service to the public. The interactions of Sonoma County Probation Department personnel with the United States Immigration Customs Enforcement ("ICE") shall be in accordance with the below outlined policies and procedures, and in compliance with any directives issued by the County of Sonoma Board of Supervisors. To the extent there is a conflict between this procedure and an ordinance adopted by the County of Sonoma Board of Supervisors concerning interaction by Sonoma County Probation Department personnel with ICE, the ordinance shall govern and control.

508.1.1 DEFINITIONS

The following definition applies to this policy (Government Code § 7284.4):

Immigration enforcement – Any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal civil immigration law, including any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal criminal immigration law that potentially penalizes a person's presence in, entry or reentry to, or employment in the United States.

508.2 PRINCIPLES AND GUIDELINES FOR ADULT DIVISION

508.2.1 COMPLIANCE WITH FEDERAL LAW

Nothing in this policy shall be interpreted to prohibit or restrict the sharing or exchange of information regarding any adult person's citizenship or immigration status as required under federal law (8 U.S.C. §§ 1373, 1644) or as permissible under the California Values Act. (See also Cal. Gov. Code § 7284.6(e).) This information sharing applies only to an individual's immigration status and does not include sharing any other personal information, such as release dates or addresses. (United States v. California, 921 F.3d 865, 891 (9th Cir. 2019.); Cal. Gov. Code § 7284.6(a)(1)(D).)

The following situations always require a response and cooperation with federal authorities:

- (a) A valid Judicial Warrant or Judicial Probable Cause Determination signed by a federal court judge or federal magistrate related to federal criminal law;

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- (b) A federal district court subpoena, sometimes entitled as a "Subpoena Duces Tecum", to produce documents, information, or objects;
- (c) An Extradition Order for an individual who has been charged with committing a serious crime in another state or outside the United States.

508.2.2 REQUESTS

Any request received by staff from a representative of Homeland Security or ICE must be reported to their manager. This includes any form of communication (email, phone, letter, in person request, or any other form of communication). Staff shall consult with their manager or the Deputy Chief for direction. Management will contact County Counsel if it is uncertain or not clear from the face of the document what type or level of cooperation is needed, if any.

508.2.3 FEDERAL REQUESTS FOR HOLDS, TRANSFERS, OR NOTIFICATIONS OF RELEASE

Requests for holds/detentions - State law prohibits holding or detaining individuals in custody solely for civil immigration reasons beyond their normally scheduled eligible release date/time, regardless of the nature of the charges or conviction. (Cal. Gov. Code § 7284.6(a).)

Requests for transfers and/or release notifications - Probation is never required to respond to federal requests for transfer or release notifications and retains discretion to decline these requests for any reason. Requests by any federal official for transfer or release information should be directed to a manager or above. Management will determine whether the requested information is permitted by the California Values Act and local law. (See also Cal. Gov. Code § 7282.5(a) and/or § 7284.6). Any information shared or access provided will comply with the state requirements outlined in Cal. Gov. Code § 7283.1.

508.2.4 COMPLIANCE WITH THE CALIFORNIA PUBLIC RECORDS ACT

If Probation provides ICE or other federal authorities with any records and/or engages in any communications, all records provided, and any communications shall be documented and deemed a "public record" for purposes of the California Public Records Act (Cal. Gov. Code § 7920.000 et seq.). (Cal. Gov. Code § 7283.1(c).) The County will apply and redact for any exemptions for privacy, personal information, and all others as permitted under the CPRA prior to disclosure. (Id.) The definition of providing "ICE Access" for the purposes of civil immigration enforcement includes any of the actions or steps listed in Cal. Gov. Code § 7283(d).

508.2.5 REQUIRED DATA COLLECTION

The County Sheriff's Office is required to collect and track certain data which shall be reported annually to the Board of Supervisors for compliance and hold at least annually a community forum and receive public comment. (Cal. Gov. Code § 7283.1(d).) The data may be reported through statistics, or if statistics are not maintained, through individual records with personally identifiable information redacted as appropriate. (Id.)

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To the extent Probation provides ICE access to an individual during any given year, it similarly shall comply with the above requirements as mandated by Cal. Gov. Code § 7283.1(d). The data shall be entered by the responding staff in the case management system.

508.2.6 PROHIBITED ACTIVITIES UNDER STATE LAW

State law prohibits law enforcement officers from using any agency resources or personnel to investigate, interrogate, detain, detect, or arrest persons for civil immigration enforcement purposes. (Cal. Gov. Code § 7284.6.) No officer shall participate or assist in any action or activity as listed in Cal. Gov. Code § 7284.6(a)(1) through (6).

508.3 PRINCIPLES AND GUIDELINES FOR JUVENILE SERVICES DIVISION

In California, all records and information contained within a dependency and/or juvenile justice case file are confidential and not available to the public, with limited exceptions as specified in Welfare and Institutions Code § 676. Under Welf. & Inst. Code ("WIC") § 827, only specified individuals and agencies are allowed to inspect a juvenile case file and receive any related information. On January 1, 2016, Welf. & Inst. Code § 831 took effect and prohibits the disclosure of juvenile information to federal officials without the filing of a WIC 827 petition and a court order.

508.3.1 FEDERAL REQUESTS FOR JUVENILE INFORMATION

If a federal officer or agent contacts probation, staff shall not confirm or deny any knowledge of the youth and shall inform the requestor that any request to obtain or receive information about an individual who is or was under the juvenile court's jurisdiction must be accessed via the JV-570 Petition process, as required under WIC § 827.

Probation Staff shall notify their manager or Deputy Chief about any federal request and that the required response was provided.

508.3.2 RECEIPT OF SIGNED COURT ORDER - FOLLOW UP ACTIONS REQUIRED

Any person or agency making a request to view or receive juvenile case information is required to submit/e-file with the Juvenile Court, as well as send copies to certain parties, including Probation, the following Judicial Council forms: the JV-570 Petition, a JV-571 ("Notice of Petition for Access to Juvenile Case File"), a JV-572 ("Objection to Release of Juvenile Case File"), and either a JV-573 or JV-574 (Proposed Court Order).

Once the packet is received by the Juvenile Court, the court staff will send "Notice" to all parties either via paper and/or email, with 10 days to respond. Before the Juvenile Court signs any court order giving a non-authorized party access to information in the juvenile file, the Court will review all objections and, if necessary, hold a special hearing WIC § 827 hearing.

In the event a signed court order is received, Staff shall immediately notify the manager, Deputy Chief.

1. The Probation Officer, under the supervision of their Supervisor shall gather only the requested information and/or documents noted in the court's instructions and/or contained in the signed court order. The information gathered shall be shared with

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the manager or Deputy Chief who shall review the information and will notify County Counsel, if necessary.

2. Upon receipt of Management approval, the Probation Officer shall submit the approved documents to the Juvenile Court and document this in the case management system including the date of the Court's signed order allowing release of the records.

508.4 VICTIMS AND WITNESSES

To encourage cooperation, all individuals, regardless of their immigration status, must feel secure that contacting or being addressed by members of the Sonoma County Probation Department will not automatically lead to immigration inquiry and/or deportation. While it may be necessary to determine the identity of a victim or witness, members shall treat all individuals equally and shall abide by applicable state and federal laws and constitutional protections.

508.4.1 U VISA AND T VISA NONIMMIGRANT STATUS

Under certain circumstances, federal law allows temporary immigration benefits, known as a U visa, to victims and witnesses of certain qualifying crimes (8 USC § 1101(a)(15)(U)).

Similar immigration protection, known as a T visa, is available for certain qualifying victims of human trafficking (8 USC § 1101(a)(15)(T)).

Any request for assistance in applying for U visa or T visa status should be forwarded in a timely manner to the appropriate prosecutor or the appropriate law enforcement agency.

508.5 CALIFORNIA LAW ENFORCEMENT TELECOMMUNICATIONS SYSTEM (CLETS)

Staff shall not use information transmitted through CLETS for immigration enforcement purposes except for criminal history information and only when consistent with the California Values Act (Cal. Gov. Code § 15160).

Additionally, members shall not use the system to investigate immigration violations of 8 USC § 1325 (improper entry) if that violation is the only criminal history in an individual's record (Cal. Gov. Code § 15160).

508.6 CALIFORNIA DEPARTMENT OF MOTOR VEHICLES

Members shall not obtain, access, use, or disclose noncriminal history information maintained by the Department of Motor Vehicles for immigration enforcement (Vehicle Code § 1808.48).

508.6 TRAINING

The department's employee onboarding will include immigration training related to this policy. Training should include prohibitions contained in the California Values Act (Government Code § 7284 et seq.).