

# Immigration

## 428.1 DEFINITIONS

1. **Individual** – An “individual” is any person with whom the Probation Department interacts or otherwise encounters while in performance of the authorized functions of the Department, including, but not limited to, adults or juveniles under the Department’s supervision, juveniles in the custody of the Department, victims, witnesses, and those defendants in the criminal courts for whom the Department prepares reports.
2. **ICE** – “ICE” is the United States Department of Immigration and Customs Enforcement.
3. **Probation ICE Liaison** – The “Probation ICE Liaison” is the Probation Manager designated by the Chief Probation Officer as the person responsible for communicating with ICE on matters pertaining to immigration. The Chief Probation Officer will inform staff of who he has designated as the Probation ICE Liaison.

## 428.2 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to Contra Costa County Probation staff concerning cooperation with ICE on matters involving the immigration status of individuals.

## 428.3 POLICY

Contra Costa County is committed to treating everyone fairly, without regard to immigration status. The County also has an obligation to follow state and federal law, including, but not limited to, 8 U.S.C. Section 1373. It is the policy of this Department not to inquire into or report the immigration status of any individual, absent a legal mandate to do so or in situations involving a public safety concern. The purpose of this policy is to clarify this Department’s legal responsibilities and delineate the role of Probation staff in responding to immigration matters.

## 428.4 VICTIMS AND WITNESSES

To encourage crime reporting and cooperation in the investigation of criminal activity, all individuals, regardless of their immigration status, must feel secure that contacting or being addressed by members of the Probation Department will not automatically lead to immigration inquiry and/or deportation. Staff shall treat all individuals equally and without regard to race, color or national origin in full compliance with the United States and California Constitutions.

## 428.5 PROVIDING INFORMATION/ASSISTANCE TO ICE

Probation staff shall refer all ICE inquiries to the Probation ICE Liaison, or in the absence of the Probation ICE Liaison, to the Assistant Chief Probation Officer or Chief Probation Officer. Other than the Probation ICE Liaison, Probation staff are not authorized to contact ICE.

The primary role of the Probation ICE Liaison is to respond to ICE requests about an individual’s citizenship or immigration status. When the Probation Department receives a request from ICE, the only information

that the Probation ICE Liaison is required to report to ICE under this policy is the citizenship or immigration status of an individual under Probation's supervision or custody, if known.

The Probation Department shall not use Department resources or personnel to investigate, interrogate, detain, detect or arrest persons for immigration enforcement purposes, including any of the following:

- A) Inquiring into an individual's immigration status.
- B) Detaining of an individual on the basis of a hold request.
- C) Providing information regarding a person's release dates or responding to requests for notification by providing release dates or other information unless that information is available to the public, or is in response to a notification request from immigration authorities in accordance with Section 7282.5 of the Government Code.
- D) Providing personal information as defined in Section 1798.3 of the Civil Code, about an individual, including, but not limited to, the individual's home address, work address or telephone number unless the information is available to the public.
- E) Making or intentionally participating in arrests based on civil immigration warrants.
- F) Assisting immigration authorities in the activities described in Section 1357(a)(3) of Title 8 of the United States Code.
- G) Performing the functions of an immigration officer, whether pursuant to Section 1357(g) of Title 8 of the United States Code or any other law, regulation, or policy whether formal or informal.

The Probation ICE liaison shall keep a written record of all communication with ICE that includes the following information: who requested information and the type of information requested, the ICE contact, the date and type of information that was disseminated and by whom, the identifying information about the individual that is the subject of the inquiry that includes Probation ID Number (PID), name and date of birth, current charges, and the assigned Deputy Probation Officer.

If Probation staff members have any questions regarding the citizenship or immigration status of an individual that should be communicated to ICE, they shall immediately notify their supervisor, who will contact the Probation ICE Liaison. The Probation ICE Liaison will determine the appropriate course of action through consultation with the Assistant Chief Probation Officer or Chief Probation Officer.

Sworn Probation Department staff who are in the field may choose to render mutual aid per Penal Code Section 830.5(a)(5)(A) to any law enforcement agents, including ICE agents, if there is significant danger of personal injury or major property damage. If such assistance is rendered, the staff shall complete an Incident Report.

#### **428.7 CONFIDENTIAL JUVENILE MATTERS**

ICE detainers and transfer requests for individuals involved in juvenile cases will not be honored at the John A. Davis Juvenile Hall or the Orin Allen Youth Rehabilitation Facility. The individual who is the subject of the ICE detainer and/or transfer request and his or her guardian, if applicable, shall be given a copy of the documentation received from ICE regarding his or her detainer or transfer request, along with written notice that the Probation Department will not be complying with that ICE request. (Gov. Code Section 7283.1.)

Pursuant to Welfare and Institutions Code Section 831, Probation staff shall not provide information regarding an individual involved in a juvenile case to any Federal Agency absent a court order, as required by Welfare and Institutions Code Section 827.

#### **428.8 NOTICE TO INDIVIDUALS**

In all cases other than those set forth in section 428.7, above, when ICE has issued a hold, notification, or transfer request for an individual, that individual shall be given a copy of the documentation received from ICE regarding his or her hold, notification, or transfer request, along with written notice as to whether the

Probation Department will or will not comply with that ICE request. If the Probation Department notifies ICE that an individual in its custody is being or will be released on a certain date, a copy of that notification shall be provided in writing to the individual and his/her attorney or to one additional person who the individual may designate (Gov. Code Section 7283.1).

No individual who is otherwise ready to be released from custody will be detained solely for the purpose of making notification to immigration authorities, except in cases where the Probation Department is in possession of a valid arrest warrant.

#### **428.9 ICE INTERVIEWS**

In advance of any interview regarding civil immigration violations between ICE and an individual in the Probation Department's custody or supervision, the Probation Department shall provide the individual with a written consent form that explains the purpose of the interview, that the interview is voluntary, and that he/she may decline to be interviewed or may choose to be interviewed only with his/her attorney present. (Gov. Code Section 7283.1(a).)

Any interview for an individual in the Probation Department's custody or supervision shall be facilitated through the Probation ICE Liaison, after consultation with the Assistant Chief Probation Officer or the Chief Probation Officer.

#### **428.10 IMMIGRATION STATUS IN REPORTS AND FILE DOCUMENTATION**

Probation staff shall not ask an individual about his or her immigration status or document an individual's immigration status in a Court report. Staff may ask an individual about his or her language skills, place of birth, and related social history factors and may document that information in Court reports. Probation staff may document spontaneous statements made by individuals regarding immigration status in internal case notes.

#### **428.11 STAFF INQUIRIES WITH ICE – WHEREABOUTS**

If Probation staff suspects that an individual under the Probation Department's supervision has been deported or is in the custody of ICE, staff shall request the Probation ICE Liaison to contact ICE to inquire about the individual's whereabouts. If ICE confirms that an individual under the Probation Department's supervision has been deported, and that individual's matter is still active, Probation staff shall discuss the matter with their supervisor to determine the appropriate course of action in order to retain jurisdiction and/or toll time in the event that individual returns to the United States. Appropriate actions may include submitting a petition to revoke with a warrant request for adult cases or file a Welfare and Institutions Code Section 777 notice of violation for juvenile cases.

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