

## Immigration Violations

### 425.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to members of the Yolo County Probation Department relating to immigration and interacting with federal immigration officials.

#### 425.1.1 DEFINITIONS

The following definitions apply to this policy (Gov. Code § 7284.4.):

**Criminal immigration violation** - Any federal criminal immigration violation that penalizes a person's presence in, entry, or reentry to, or employment in, the United States. This does not include any offense where a judicial warrant already has been issued.

**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 penalizes a person's presence in, entry or reentry to, or employment in the United States.

**Judicial warrant** - An arrest warrant for a violation of federal criminal immigration law and issued by a federal judge or a federal magistrate judge.

### 425.2 POLICY

It is the policy of the Yolo County Probation Department that all members make personal and professional commitments to equal enforcement of the law and equal service to the public. Confidence in this commitment will increase the effectiveness of this Department in protecting and serving the entire community and recognizing the dignity of all persons, regardless of their national origin or immigration status.

### 425.3 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 law enforcement 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 without regard to race, ethnicity, or national origin in any way that would violate the United States or California constitutions.

#### 425.3.1 BASIS FOR CONTACT

Unless immigration status is relevant to another criminal offense or investigation (e.g., harboring, smuggling, terrorism), the fact an individual is suspected of being an undocumented alien shall not be the sole basis for contact, detention, or arrest.

### 425.4 DETENTIONS AND ARRESTS

An officer shall not detain any individual, for any length of time, for a civil violation of federal immigration laws or a related civil warrant. (Gov. Code § 7284.6.)

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An officer who has a reasonable suspicion that an individual already lawfully contacted or detained has committed a criminal violation of 8 USC section 1326(a) (unlawful reentry) that may be subject to an enhancement due to a previous conviction of an aggravated felony under 8 USC section 1326(b)(2), may detain the person for a reasonable period of time to contact federal immigration officials to verify whether the United States Attorney General has granted the individual permission for reentry and whether the violation is subject to enhancement. (Gov. Code § 7284.6.) No individual who is otherwise ready to be released should continue to be detained only because questions about the individual's status are unresolved.

If the officer has facts that establish probable cause to believe that a person already lawfully detained has violated 8 USC section 1326(a) and the penalty may be subject to enhancement due to prior conviction for specified aggravated felonies, he/she may arrest the individual for that offense. (Gov. Code § 7284.6.)

An officer shall not detain any individual, for any length of time, for any other criminal immigration violation of federal immigration laws. (Gov. Code § 7284.6.)

An officer should notify a Supervisor as soon as practicable whenever an individual is arrested for a violation of 8 USC section 1326(a). (Reentry of Removed Aliens.)

### **425.4.1 SUPERVISOR RESPONSIBILITIES**

When notified that an officer has arrested an individual for a violation of 8 USC section 1326(a) or under the authority of a judicial warrant, the Supervisor should determine whether it is appropriate to :

- (a) Transfer the person to federal authorities or to jail.

### **425.5 FEDERAL REQUESTS FOR ASSISTANCE**

Absent an urgent issue of officer safety or other emergency circumstances, requests by federal immigration officials for assistance from the Yolo County Probation Department should be directed to a Supervisor. The Supervisor is responsible for determining whether the requested assistance would be permitted under the California Values Act. (Gov. Code § 7284.2 et seq.)

### **425.6 INFORMATION SHARING**

No member of the Yolo County Probation Department will prohibit, or in any way restrict, any other member from doing any of the following regarding the citizenship or immigration status, lawful or unlawful, of any individual (8 USC § 1373; Gov. Code § 7284.6):

- (a) Sending information to, or requesting or receiving such information from federal immigration officials.
- (b) Maintaining such information in Department records.
- (c) Exchanging such information with any other federal, state, or local government entity.

Nothing in this policy restricts sharing information that is permissible under the California Values Act.

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### 425.6.1 NOTICE TO INDIVIDUALS

Individuals in custody shall be given a copy of documentation received from U.S. Immigration and Customs Enforcement (ICE) regarding a hold, notification, or transfer request, along with information as to whether the detention facility intends to comply with the request. (Gov. Code § 7283.1.)

If the detention facility provides ICE with notification that an individual is being, or will be, released on a certain date, the same notification shall be provided in writing to the individual and to his/her attorney or to one additional person whom the individual may designate. (Gov. Code § 7283.1.)

### 425.6.2 ICE INTERVIEWS

Before any interview regarding civil immigration violations takes place between ICE personnel and an individual in custody, the detention facility 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. The consent form must be available in the languages specified in Government Code section 7283.1.

### 425.6.3 TRANSFERS TO IMMIGRATION AUTHORITIES

Members shall not transfer an individual to immigration authorities unless one of the following circumstances exist (Gov. Code § 7282.5; Gov. Code § 7284.6):

- (a) Transfer is authorized by a judicial warrant or judicial probable cause determination.
- (b) The individual has been convicted of an offense as identified in Government Code section 7282.5(a).
- (c) The individual is a current registrant on the California Sex and Arson Registry.
- (d) The individual is identified by the U.S. Department of Homeland Security's Immigration and Customs Enforcement as the subject of an outstanding federal felony arrest warrant.

### 425.6.4 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE

The Field Services Supervisor shall ensure that data regarding the number of transfers of an individual to immigration authorities, as permitted by Government Code section 7284.6(a)(4), and the offense that allowed for the transfer is collected and provided to the Office Supervisor for required reporting to the DOJ. (Government Code § 7284.6(c)(2) (see the Records Maintenance and Release Policy.)