
Immigration Violations

507.1 PURPOSE AND SCOPE

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

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

507.2 POLICY

It is the policy of the HCPD 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.

There are federal, state, and local laws regarding the sharing of information with federal immigration authorities. Accordingly any action taken regarding an individual's immigration status should be done in consultation with the division director of the affected division and county counsel.

507.3 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 HCPD 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.

507.4 IMMIGRATION STATUS AND DETENTIONS

Immigration status may be reported to the court as required. Any reasonably discovered change in the immigration status of any probationer or any discrepancy in the record about the person's immigration status should be documented and reported to the court.

No individual should be detained solely for the purpose of waiting for information from immigration officials (Government Code § 7284.6 and Humboldt County Code § 9121-7(c)).

507.4.1 IMMIGRATION INQUIRIES PROHIBITED

Officers shall not inquire into an individual's immigration status for immigration enforcement purposes (Government Code § 7284.6 and Humboldt County Code § 9121-6(a)).

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507.4.2 CALIFORNIA LAW ENFORCEMENT TELECOMMUNICATIONS SYSTEM (CLETS)

Members 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 (Government 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 (Government Code § 15160).

507.5 FEDERAL REQUEST FOR ASSISTANCE

Requests by federal immigration officials for assistance from this 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 (Government Code § 7284.2 et seq. and Humboldt County Code).

507.6 INFORMATION SHARING

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

Pursuant to California Government Code 7284.6(e) and the exceptions listed Humboldt County Code Section 9121, the HCPD or its officials are not prohibited from:

Sending to, or receiving from, federal immigration authorities, information regarding the citizenship or immigration status, lawful or unlawful, of an individual, or from requesting from federal immigration authorities immigration status information, lawful or unlawful, of any individual, or maintaining or exchanging that information with any other federal, state, or local government entity, pursuant to Sections 1373 and 1644 of Title 8 of the United States Code.

As addressed by the courts, immigration status under federal law only encompasses what an individual's immigration status is and does not include other information such as release dates or addresses. United States v. California, 921 F.3d 865, 891 (9th Cir. 2019). Information sharing pursuant to section 7284.6(e) should be discussed with upper management as this is an evolving area of law.

507.6.1 INFORMATION SHARING FOR JUVENILE PROBATION

Any release of information to federal immigration officials related to a youth involved in the juvenile delinquency system must be approved through the Juvenile Court. Approval from the court is obtained through the filing of a petition pursuant to Section 827(a) of the Welfare and Institutions Code.

Humboldt County Code 9121 states that "no county employee shall take action based on a person's immigration status unless required by federal law, state law, or court order or decision."

Therefore the only instances where a probation officer may file a petition requesting release of information to immigration authorities are those where such information sharing is mandated

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by federal statute. Prior to filing such a petition, an officer must receive approval from the Chief Probation Officer or Assistant Chief Probation Officer.

507.6.2 INFORMATION FOR ADULT PROBATION

Members shall not take any action regarding a person's immigration status, or cooperate with any federal employee with respect to federal immigration law unless required by federal law, state law, or court order or decision.

Request for notification of release dates from the Humboldt County Jail by federal immigration authorities should be referred to the Humboldt County Sheriff's Office.

507.7 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.

507.8 TRAINING

The Training Manager should ensure officers receive immigration training on this policy. Training should include prohibitions contained in the California Values Act (Government Code § 7284 et seq.).