

Immigration Status of Foreign Born Clients

508.1 PURPOSE AND SCOPE

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

508.2 POLICY

It is the policy of the San Diego 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.

It is the policy of the Department that officers comply with Senate Bill 54 as codified, enacted in 2017, which in most cases precludes the Department from using resources to conduct immigration enforcement or provide information to the Department of Homeland Security (DHS) for the purposes of immigration enforcement. If a client has been convicted of certain felonies or certain misdemeanors, officers have expanded discretion to cooperate in accordance with applicable Department procedures.

508.3 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 San Diego 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 without regard to race, ethnicity, or national origin in any way that would violate the United States or California constitutions.

508.4 IMMIGRATION STATUS AND DETENTIONS

Immigration status may be reported to the court as required. Any reasonably discovered change in the immigration status of a client (i.e. not discovered through interrogation of the client) or any discrepancy in the record about the person's immigration status should be documented.

No individual should be detained solely for the purpose of waiting for information from immigration officials (Government Code § 7284.6).

508.4.1 IMMIGRATION INQUIRIES PROHIBITED

Officers shall not inquire into an individual's immigration status for immigration enforcement purposes (Government Code § 7284.6).

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508.4.2 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).

508.5 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.).

508.6 INFORMATION SHARING

No member of this 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):

- (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.

508.7 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.

508.8 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.).

508.9 DEFINITIONS

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

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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.

508.10 REFERENCES

For further guidance, see Field Services Procedure Manual—Immigration Status of Foreign-Born Clients.