

COUNTY OF IMPERIAL

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PROBATION DEPARTMENT **MEMORANDUM**

To: All Probation Staff
From: Dan Prince, Chief Probation Officer
Date: January 23, 2020
Reference: ICE Guidelines/SB54

Effective immediately officers shall abide by the following:

Senate Bill 54: The California Values Act (the Act) generally prohibits law enforcement agencies from expending resources and personnel to assist the Department of Immigration and Customs Enforcement (ICE). This document summarizes the Act's prohibitions on the use of personnel and resources to assist in immigration enforcement and exceptions to those prohibitions.

- A. Prohibitions. The Act prohibits the use of Probation Department resources or personnel for immigration enforcement purposes, including:
1. Inquiries into immigration status;
 2. Detention of an individual in response to an Immigration and Custom Enforcement (ICE) hold request;
 3. Providing information on release dates unless the information is available to the public or is in response to a notification request by immigration authorities in accordance with GC § 7282.5;
 4. Providing personal information about an individual, including but not limited to, the individual's home or work address unless that information is available to the public;
 5. Participation in arrests based on civil immigration warrants;
 6. Assisting immigration authorities on the border or in territorial waters in immigration enforcement purposes (e.g., the apprehension or detention of, or search for, illegal aliens);
 7. Performing the functions of an immigration officer;
 8. Placing peace officers under the supervision of federal agencies for purposes of immigration enforcement;
 9. Using immigration officers as interpreters for law enforcement matters relating to individuals in department custody;
 10. Transferring individuals to ICE authorities unless authorized by a judicial warrant or probable cause determination (except as provided in GC Section 7282.5);
 11. Providing office space exclusively dedicated to immigration authorities within a city or county law enforcement facility;

12. Contracting with the federal government for use of Probation facilities (including the Juvenile Hall) to house individuals as federal detainees;

B. Permitted exceptions in accordance with GC 7282.5

1. Providing information on release dates unless the information is available to the public or is in response to a notification request by immigration authorities; and

2. Transferring individuals to ICE authorities unless authorized by a judicial warrant or probable cause determination (except as provided in GC Section 7282.5)

Exceptions limited to the following individuals:

a. The individual has been convicted of a serious or violent felony pursuant to Sections 1192.7(c) and 667.5(c) of the Penal Code.

b. The individual has been convicted of a felony punishable by state prison.

c. The individual has been convicted within the past 5 years of a misdemeanor for a crime that is punishable as a misdemeanor or felony for, or has been convicted of a felony within the last 15 years of a felony for, any of the offenses specified in sub-section (a)(3)(A) of GC section 7282.5.

d. The individual is a current registrant of the California Sex and Arson Registry.

e. The individual has been convicted of a federal aggravated felony or has an outstanding federal felony arrest warrant confirmed by ICE.

f. These exceptions do not apply to individuals under Probation supervision arrested, detained or convicted of misdemeanors that were previously felonies or were punishable as wobblers prior to Proposition 47.

C. (GC 7284.6-Exceptions) Prohibitions to the use of resources and personnel for federal immigration purposes does not include the following:

1. Probation Activities:

a. While conducting unrelated probation activities, investigating, enforcing or detaining an individual based on reasonable suspicion of, or arresting for, a violation of 8 USC 1326(a) (e.g., having been previously deported or removed), where there exists an outstanding order of removal or deportation and the individual has entered, attempted to enter, or is found in the United States.

(Note: Under the foregoing circumstances, the individual may be transferred to immigration authorities pursuant to a judicial warrant or judicial probable cause determination in accordance with GC section 7282.5.)

b. Responding to a request from immigration authorities for information about a specific person's criminal history or similar criminal history information accessed through CLETS.

c. Conducting enforcement or investigative duties associated with a joint law enforcement task force (such as the Sheriff's Gang Task Force and Narcotics Unit) so long as the following conditions are met:

1.) The primary purpose of task force is not immigration enforcement.

2.) Enforcement and investigative duties are primarily related to violations of state or federal law unrelated to immigration enforcement.

3.) An officer's participation on the task force does not violate any local law or policy.

d. Giving immigration authorities access to interview an individual in the Probation Department's custody, so long as such access complies with the requirements of the TRUTH Act (Chapter 17.2 of the Government Code, commencing with section 7283.)

D. Annual Reporting. If the Probation Department participates in a joint law enforcement task force, an annual report must be submitted to the Department of Justice documenting the following:

1. The purpose of the task force;
2. All federal, state, and local agencies involved in the task force;
3. Total number of arrests made during the reporting period; and
4. Number of people arrested for immigration enforcement purposes.

(Note: If the Sheriff is designated as the entity responsible for reporting, this information will be submitted by the Sheriff and Probation need not submit a report.)

List of offenses related to GC 7282.5(a) (3):

(A) Assault, as specified in, but not limited to, Sections 217.1, 220, 240, 241.1, 241.4, 241.7, 244, 244.5, 245, 245.2, 245.3, 245.5, 4500, and 4501 of the Penal Code.

(B) Battery, as specified in, but not limited to, Sections 242, 243.1, 243.3, 243.4, 243.6, 243.7, 243.9, 273.5, 347, 4501.1, and 4501.5 of the Penal Code.

(C) Use of threats, as specified in, but not limited to, Sections 71, 76, 139, 140, 422, 601, and 11418.5 of the Penal Code.

(D) Sexual abuse, sexual exploitation, or crimes endangering children, as specified in, but not limited to, Sections 266, 266a, 266b, 266c, 266d, 266f, 266g, 266h, 266i, 266j, 267, 269, 288, 288.5, 311.1, 311.3, 311.4, 311.10, 311.11, and 647.6 of the Penal Code.

(E) Child abuse or endangerment, as specified in, but not limited to, Sections 270, 271, 271a, 273a, 273ab, 273d, 273.4, and 278 of the Penal Code.

(F) Burglary, robbery, theft, fraud, forgery, or embezzlement, as specified in, but not limited to, Sections 211, 215, 459, 463, 470, 476, 487, 496, 503, 518, 530.5, 532, and 550 of the Penal Code.

(G) Driving under the influence of alcohol or drugs, but only for a conviction that is a felony.

(H) Obstruction of justice, as specified in, but not limited to, Sections 69, 95, 95.1, 136.1, and 148.10 of the Penal Code.

(I) Bribery, as specified in, but not limited to, Sections 67, 67.5, 68, 74, 85, 86, 92, 93, 137, 138, and 165 of the Penal Code.

(J) Escape, as specified in, but not limited to, Sections 107, 109, 110, 4530, 4530.5, 4532, 4533, 4534, 4535, and 4536 of the Penal Code.

(K) Unlawful possession or use of a weapon, firearm, explosive device, or weapon of mass destruction, as specified in, but not limited to, Sections 171b, 171c, 171d, 246, 246.3, 247, 417, 417.3, 417.6, 417.8, 4574, 11418, 11418.1, 12021.5, 12022, 12022.2, 12022.3, 12022.4, 12022.5, 12022.53, 12022.55, 18745, 18750, and 18755 of, and subdivisions (c) and (d) of Section 26100 of, the Penal Code.

(L) Possession of an unlawful deadly weapon, under the Deadly Weapons Recodification Act of 2010 (Part 6 (commencing with Section 16000) of the Penal Code).

(M) An offense involving the felony possession, sale, distribution, manufacture, or trafficking of controlled substances.

(N) Vandalism with prior convictions, as specified in, but not limited to, Section 594.7 of the Penal Code.

(O) Gang-related offenses, as specified in, but not limited to, Sections 186.22, 186.26, and 186.28 of the Penal Code.

- (P) An attempt, as defined in Section 664 of, or a conspiracy, as defined in Section 182 of, the Penal Code, to commit an offense specified in this section.
- (Q) A crime resulting in death, or involving the personal infliction of great bodily injury, as specified in, but not limited to, subdivision (d) of Section 245.6 of, and Sections 187, 191.5, 192, 192.5, 12022.7, 12022.8, and 12022.9 of, the Penal Code.
- (R) Possession or use of a firearm in the commission of an offense.
- (S) An offense that would require the individual to register as a sex offender pursuant to Section 290, 290.002, or 290.006 of the Penal Code.
- (T) False imprisonment, slavery, and human trafficking, as specified in, but not limited to, Sections 181, 210.5, 236, 236.1, and 4503 of the Penal Code.
- (U) Criminal profiteering and money laundering, as specified in, but not limited to, Sections 186.2, 186.9, and 186.10 of the Penal Code.
- (V) Torture and mayhem, as specified in, but not limited to, Section 203 of the Penal Code.
- (W) A crime threatening the public safety, as specified in, but not limited to, Sections 219, 219.1, 219.2, 247.5, 404, 404.6, 405a, 451, and 11413 of the Penal Code.
- (X) Elder and dependent adult abuse, as specified in, but not limited to, Section 368 of the Penal Code.
- (Y) A hate crime, as specified in, but not limited to, Section 422.55 of the Penal Code.
- (Z) Stalking, as specified in, but not limited to, Section 646.9 of the Penal Code.
- (AA) Soliciting the commission of a crime, as specified in, but not limited to, subdivision (c) of Section 286 of, and Sections 653j and 653.23 of, the Penal Code.
- (AB) An offense committed while on bail or released on his or her own recognizance, as specified in, but not limited to, Section 12022.1 of the Penal Code.
- (AC) Rape, sodomy, oral copulation, or sexual penetration, as specified in, but not limited to, paragraphs (2) and (6) of subdivision (a) of Section 261 of, paragraphs (1) and (4) of subdivision (a) of Section 262 of, Section 264.1 of, subdivisions (c) and (d) of Section 286 of, subdivisions (c) and (d) of Section 288a of, and subdivisions (a) and (j) of Section 289 of, the Penal Code.
- (AD) Kidnapping, as specified in, but not limited to, Sections 207, 209, and 209.5 of the Penal Code.
- (AE) A violation of subdivision (c) of Section 20001 of the Vehicle Code.