

SUBJECT: Immigration/Residency Status

PURPOSE:

The __ Judicial District Probation Department (“Probation”) provides supervision to offenders sentenced to probation irrespective of the offender’s citizenship. However, because the residency status of an offender on probation is directly related to the offender’s ability to comply with the terms and conditions of probation, as described in C.R.S. 18-1.3-204, the following local policy shall be followed by Probation for adult offenders. This policy is inapplicable to JD cases.

POLICY:

1. Notification of Immigration Status to Immigration and Customs Enforcement (ICE), Department of Homeland Security

- a. If an offender aged 18 years or older informs Probation that he or she was born in a country other than the United States and its territories, probation officers:
 - i. Shall verify the offender’s immigration status by:
 1. Asking the offender to provide all ICE documentation authenticating the offender’s status, including but not limited all documents filed with ICE to request legal status; or
 2. Completing an appropriate query in NCIC; or
 3. Requesting a copy of the offender’s work authorization card.
 - ii. Shall complete a Notification of Criminal Alien form, submit the form to ICE, and place a copy of the form in the offender’s file.

2. Pre-sentence Investigations

- a. If an offender aged 18 years or older informs Probation that he or she was born in a country other than the United States or its territories during a pre-sentence investigation, the PSI writer shall follow the procedures set forth in section 1(a) of this policy and shall note in the PSI when the Notification of Criminal Alien form was submitted to ICE.
- b. If a PSI writer receives information from ICE regarding an offender’s residency status, that information shall be included in the PSI. For example, “According to ICE records, a detainer has been placed on the defendant at the county jail.”
- c. If the PSI writer makes a sentence recommendation in the PSI, recommendations for all identified undocumented immigrant offenders shall read as follows: “The defendant is eligible for probation supervision should the Court so order. However, based on the defendant’s undocumented immigration status, it may be illegal or impossible for the defendant to comply with certain probation conditions. Therefore, the recommendation in this matter is deferred to the Court.”

3. Procedures Related to Offenders Subject to Deportation

- a. Verification of Deportation Status

- i. If a probation officer has reason to believe an offender under probation supervision has been deported, the probation officer shall attempt to confirm an offender's location and immigration status utilizing NCIC.
 - ii. In the event that deportation information is unavailable in NCIC, the probation officer may attempt to confirm an offender's location and immigration through other means as authorized by department policy.
 - b. Filing of a Complaint and Warrant when Deportation is Verified
 - i. Probation officers shall file a complaint and request a warrant when an offender fails to report to probation, deportation has been verified, and there has been no contact from the offender for at least 30 days.
 - ii. Probation officers shall close the case utilizing the "DEPO" code in the Eclipse event screen upon verification that a warrant for the offender has been issued.
 - iii. Complaints for revocation filed pursuant to this section shall be in narrative format and include the following:
"The defendant was deported on _____ and is not appropriate for community supervision due to his/her immigration status."

4. Requests for Offender Status or Data

- a. Requests for offender information made by ICE shall be addressed in accordance with the Colorado Criminal Justice Records Act and Colorado Supreme Court Chief Justice Directive 05-01.