



**City and County of San Francisco
Juvenile Probation Department**


WILLIAM P. SIFFERMANN
CHIEF PROBATION OFFICER

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MEMORANDUM

February 10, 2010

TO: All Juvenile Probation Department Personnel

FROM: William P. Siffermann
Chief Probation Officer 

RE: Juvenile Probation Department's Response to Ordinance No. 228-09

On November 10, 2009, the Board of Supervisors enacted Ordinance No. 228-09, (see attached) which amends Chapter 12 of the Administrative Code relating to the Confidentiality of Juveniles' Immigration Status. The Ordinance seeks to modify the Juvenile Probation Department's current policy which permits probation staff to report to federal immigration authorities those juveniles booked on felonies who are suspected of being in violation of federal immigration laws.

The Ordinance, effective December 10, 2009, directed the Juvenile Probation Department, to "modify its policies and practices to comply with the provisions of this Ordinance **to the extent permitted by state and federal law,**" within 60 days of its effective date (February 10, 2010).

The Juvenile Probation Department has reviewed the amendment contained in Ordinance No. 228-09 to determine whether it can adopt the amendments consistent with state and federal law. **In light of the current restrictions in federal law, and in particular the position taken by federal law enforcement authorities, the Department has concluded that it cannot modify its policies and practices.**

Federal civil law does not require an entity such as the Department to report to federal immigration authorities. But until a court rules otherwise, a federal civil statute appears to prohibit the Department from further restricting its reporting policy. More importantly, federal criminal authorities have indicated that Department employees may violate federal criminal law if they harbor or transport juvenile detainees who are undocumented. Although the Department believes that our staff have at all times acted legally, we must seriously consider these statements by federal authorities. **Until these issues of federal civil and criminal law are resolved, the Department cannot modify its policies and practices.**

The Juvenile Probation Department, however, continues its commitment to provide services and equal treatment to all juveniles referred to it, without regard to race or ethnicity. The policy that governs the reporting of juveniles to immigration authorities specifically prohibits reporting based on ethnicity or ability to speak English. Similarly, Department policy does not permit probation officers to detain juveniles based on perceived undocumented status. **Under state law, juvenile probation officers are required to ask juveniles about their living situation, but we are not to directly question juveniles, their parents or their guardians about whether they are undocumented.** The Department will continue to educate and train staff in these principles of equal treatment. The Department remains steadfast in our commitment to deliver comprehensive probation services to all juveniles in a manner that promotes rehabilitation and ensures public safety.

WPS:lta

Attachment