

## **TITLE VII – DEPARTMENT PROCEDURES**

### **SECTION 1600 – FEDERAL IMMIGRATION ENFORCEMENT ENGAGEMENT AND OVERSIGHT POLICY**

#### **A) Purpose**

To provide clear procedures for County staff when approached, questioned, or observed by federal immigration enforcement agents during work duties, to help protect staff and client safety, and ensure interactions are handled in a legally appropriate and consistent manner.

#### **B) Scope**

This policy shall apply to all Santa Cruz County departments, facilities, and staff except departments that have their own polices for federal immigration enforcement engagement and oversight.

#### **C) Policy**

These procedures establish County protocols for staff when federal immigration enforcement agents are present on, or attempt to access, County facilities or engage staff in the course of County business. The goal is to ensure interactions are handled consistently, lawfully, and in a manner that protects the safety and privacy of staff, clients, and the public.

County staff are empowered to promote and protect the health and safety of our community. Staff should help maintain a safe, calm environment by modeling professional, non-escalatory, and respectful behavior. Staff shall not physically touch, obstruct, or interfere with any officer or agent's movements or duties.

Communications on behalf of the County, including requests for documentation, information, interviews, statements, or access, shall be directed to and handled by Enforcement Liaisons as outlined in this policy. If confronted with interactions outlined in this policy, County staff shall take extra steps to protect the privacy and safety of clients.

## **D) Definitions:**

Covered Entity Department – Departments, agencies, and programs designated in the Board of Supervisor’s Resolution Declaring the County of Santa Cruz to be a Hybrid Entity for purposes of compliance with HIPAA as healthcare components that provide health care services, bill for health care, or operate health plans, and that create, receive, use, or share protected health information (PHI) as part of those activities. County departments and specific subdivisions within them which handle PHI are subject to the Health Insurance Portability and Accountability Act (HIPAA).

Response Liaisons – Response Liaisons are designated and authorized staff responsible for handling contacts with federal immigration enforcement agents. All other staff are to inform federal immigration enforcement agents or other law enforcement officers that only the designated individual is authorized to communicate with them. All other staff should follow the directives and statements listed in the Protocols section of this document.

Fourth Amendment – The Fourth Amendment of the U.S. Constitution protects people from unreasonable search and seizure by the government. The Fourth Amendment is not a guarantee against all searches and seizures, but only those deemed unreasonable under the law. The Fourth Amendment also provides legal protections around an individual’s expectation of privacy.

Plain View – Federal immigration enforcement agents may look at anything in “plain view” in a public area. An object is in “plain view” if it is obvious to the senses. For example, a federal immigration enforcement agent may visually inspect anything, including papers and files, that are clearly visible from the visitors’ side of the reception desk. The Plain View doctrine extends to sounds within “plain hearing” distance as well. Therefore, speech overheard with unassisted ears while standing in a public area, even if it originates from a Private Area, is also considered to be in Plain View.

Private Areas - Any space or facility that is not readily accessible to the public because it is locked and/or secured so that only authorized staff or clients may enter for purposes of client privacy protections.

Protected health information (PHI) - Individually identifiable health information that is protected under federal privacy rules. Health information that a Covered Entity creates or receives which identifies an individual and relates to:

- a) The individual's past, present, or future physical or mental health or condition.
- b) The provision of health care to the individual.
- c) The past, present, or future payment for the provision of health care to the individual.

Public Areas - Public lobby waiting areas that are not access controlled and unfenced areas outside of facilities such as parking lots and walkways.

Right to remain silent - Law enforcement and immigration agents may enter a Public Area of a County facility without a warrant or the facility's consent and may question any person present. These people have a right to remain silent. County staff can print and distribute Know Your Rights cards to clients and make them available in public spaces.

Safe Interactions Team - The County team responsible for reviewing incidents covered under this Policy and maintaining it.

**E) Procedures:**

1) Preparation

a) Establishing a Safe Interactions Team

The Safe Interactions Team consists of a representative of the CEO's office, a representative of County Counsel, a representative of OR3, and the County Safety Officer. Its function is as follows:

- (i) Review this policy annually, or more frequently as needed;
- (ii) Ensure departments have Response Liaisons for each location; and

(iii) Review Final Reports from departments after incidents covered by this policy.

b) Assigning and Training Response Liaisons

(i) Departments will designate at least two managers/supervisors as the Response Liaisons for each of their department's facilities that have Public Areas. Selections should be made to ensure at least one trained Response Liaison will be onsite during business hours to handle any inquires that may come to their department.

(ii) Response Liaisons will:

- (1) Attend the Know Your Rights (KYR) training; and
- (2) Help implement policies and procedures to ensure staff are assigned to specific duties during a potential or actual immigration enforcement activity including making sure members of the response team are notified immediately.

(iii) Responsibilities will include:

- (1) Implementing site protocols as called for in this policy; and
- (2) Reporting incidents to department leaders.

c) Code Black Notification

Each department will establish a Code Black procedure used to alert personnel of the presence of federal immigration enforcement agents at their facility.

(i) Only the Response Liaison can initiate a Code Black and will first notify the department's Code Black team.

(ii) Staff should be directed to shut down ALL computers and technology that contain private information and place all private files in a secure, locked location.

(iii) Staff should notify clients of their right to remain silent and that the County is taking steps to protect their information.

- (iv) Response Liaisons will document all facts about the immigration enforcement activities, identities of federal law enforcement agents, impacted people, and witnesses.
- (v) Each department should decide in advance which notification method they will use to implement Code Black and notify staff within that department. It should allow rapid communications to a large group of staff at once and be easy to maintain. Some methods include:
  - (1) Group Email;
  - (2) Desktop Phone Notifications;
  - (3) The Emergency Alert System; and
  - (4) Microsoft Teams.
- (vi) When activated, Covered Entities will take extra steps to ensure client privacy and safety such as powering down electronics, locking records, and keeping documents from Plain View.

## 2) Protocols

- a) Federal Immigration Enforcement Agents or Federal Law Enforcement attempts to enter County facilities
  - (i) County staff will immediately contact the Response Liaison on site. Staff shall not touch or physically block federal law enforcement officers from entering County facilities. They should remain calm and remember they are NOT REQUIRED to answer any questions from federal law enforcement, immigration, protesters, or journalists and have the right to REMAIN SILENT.
  - (ii) Response Liaisons meeting with law enforcement will:
    - (1) Direct the federal immigration enforcement agents to a location away from clients and confidential information if possible;
    - (2) Ask the federal immigration enforcement agents why they are there and ask for identification, recording their name and badge number. If possible, instruct another staff member to make a copy of any documentation provided by the agent, including their identification.

(3) If the federal immigration enforcement agent tries to enter into Private Areas, advise the agent these areas are designated solely for staff and clients, individuals accompanying patients, and for staff providing services to these clients. A warrant issued by a judicial officer (i.e., superior court judge or district/magistrate judge) is required to enter Private Areas.

A warrant issued by a judicial officer such as a District Court Judge is generally called a "judicial warrant." This differs from an "administrative warrant." An administrative warrant does not allow the federal law enforcement agent the ability to search Private Areas. Administrative warrants in the context of immigration matters are issued by the Department of Homeland Security, an Immigration Judge, or an Immigration Officer.

- (i) Clearly let the federal immigration enforcement agent know that you **DO NOT CONSENT** to a search of Private Areas without a properly issued warrant issued by a judicial officer.
- (ii) Ask the agent if they have a valid warrant issued by a judicial officer and have another staff member make a copy of the document.
- (iii) Ask the agent to wait in an area away from clients while immediately contacting department leadership.

b) Federal Immigration Enforcement Agent or Federal Law Enforcement enters County Private Areas without permission or warrant

(i) The Response Liaison should say, "I do not consent but because I have no other choice at this time, I will not interfere with your search." Once the Response Liaison or designated staff informs the federal immigration enforcement agent(s) that they DO NOT CONSENT to a search without a judicial warrant, staff will:

- (1) Call a Code Black;

- (2) Immediately contact their direct supervisor, Department Director, Assistant Director, and County Counsel to inform them of the unauthorized search;
- (3) Ensure the facility's staff document all facts about the search, actions taken, the identities of agents, and identities of clients; and
- (4) If able to, staff should calmly pass out Know Your Rights cards to clients.

3) After Incident Actions

- a) The Response Liaison will document the incident or interaction including the identities of any staff or clients impacted by the visit.
  - (i) If an immigration search occurred, the Response Liaison will document all the facts about the search including all actions taken by federal immigration enforcement agents that may be unlawful, the information in the warrant, the names and badge numbers of the agents, identities of anyone detained, and contact information of witnesses.
  - (ii) Response Liaison will share findings with department management to create a final report which includes:
    - (1) Summary of actions;
    - (2) Impact to staff and non-staff; and
    - (3) Lessons learned and recommended policy changes.
- b) The final incident report shall be distributed to the Safe Interactions Team

**F) Review**

This Policy will be reviewed annually by the Safe Interactions Team and after any incident where findings suggest a change in policy

**G) Addendums**

- 1) Quick Reference for Staff
- 2) Quick Reference for Response Liaisons

## **Quick Reference for Staff**

Federal Immigration Enforcement Agents or Federal Law Enforcement attempts to enter County premises

- (i) Contact the site Response Liaison immediately.
- (ii) Do not physically block or touch agents.
- (iii) Protect client confidential information from Plain View.
- (iv) You have the right to remain silent.
- (v) Follow Code Black procedures if directed to do so.

Federal Immigration Enforcement Agents or Federal Law Enforcement enters Private Areas without a warrant

- (i) As above, but record identities and actions of everyone involved.
- (ii) Follow Code Black procedures if implemented.
- (iii) Distribute Know Your Rights cards to clients if you feel comfortable doing so.

## **Quick Reference for Response Liaisons**

Federal Immigration Enforcement Agents or Federal Law Enforcement attempts to enter County premises

- Direct the conversation to a place away from clients
- Ask the purpose of their visit
- DO NOT CONSENT to access to Private Areas without a judicial warrant
- Ask the agent to step aside and wait momentarily while you contact department leadership

Federal Immigration Enforcement Agents or Federal Law Enforcement enters Private Areas without a warrant

- If agents enter Private Areas without a warrant or consent clearly let them know you DO NOT CONSENT to the search.
- Implement CODE BLACK
- Notify department leadership
- Allow staff to distribute Know Your Rights cards to clients if they feel comfortable doing so.