

## 7.2 Identification of In-Custody Persons Subject to Removal

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The federal government currently uses existing information-sharing programs between local, state, and federal law enforcement agencies to determine the immigration status of arrested individuals. Local law enforcement officers send the fingerprints of all individuals arrested and taken into custody to the FBI, which are automatically forwarded to ICE to be checked against federal immigration databases to determine whether noncitizen arrestees may be removable.

In addition, North Carolina law requires administrators of jails and correctional facilities to determine the immigration status of any person charged with a felony or impaired driving offense by questioning such individuals and submitting a query to ICE. *See* G.S. 162-62; *see also* John Rubin, [2007 Legislation Affecting Criminal Law and Procedure](#), Administration of Justice Bulletin 2008/01 at 33–34 (Jan. 2008).

Noncitizens interviewed or questioned by federal immigration agents or local law enforcement do not have to discuss their immigration status or manner of entry into the U.S. The Fifth Amendment privilege against self-incrimination covers immigration status if that information could lead to a criminal prosecution. Certain immigration violations are federal crimes, including entering the U.S. without inspection. *See supra* § 2.3D, Advise Your Clients of Their Rights.

Noncitizens have also been identified as subject to removal when serving a sentence of imprisonment in a Division of Adult Correction facility or serving a sentence of probation. Community Corrections, now a part of the Department of Public Safety, has issued a policy guidance regarding undocumented immigrants. *See* North Carolina Department of Public Safety, Division of Adult Correction and Juvenile Justice, [Community Corrections Policy & Procedures](#), Chapter C Offender Supervision § .0624 Undocumented Immigrants and Deportation (Aug. 2016). It states that the division will assist ICE with the identification and possible removal of undocumented immigrants placed on probation. It directs probation officers to notify ICE of any information regarding a probationer's undocumented status.