COUNTY OF LOS ANGELES
PROBATION DEPARTMENT
DIRECTIVE

No.: Revised 1385
Issued: 08/05/15
Post until: 09/05/15

SUBJECT: HEALTH INFORMATION PORTABILITY AND ACCOUNTABILITY ACT (HIPAA) COMPLAINT POLICY AND PROCEDURES

The purpose of this Directive is to establish a policy and procedures to ensure that privacy complaints regarding the use or disclosure of Protected Health Information (PHI) are addressed and resolved effectively and promptly in accordance with the Health Insurance Portability and Accountability Act (HIPAA) Privacy and Security Rules.

Employees who violate this policy may be subject to progressive disciplinary action up to and including discharge, as well as civil and criminal penalties. Non-County employees, including contractors, may be subject to termination of contractual agreements, denial of access, and/or civil and criminal penalties.

Policy

It is the Probation Department's policy to protect the privacy of PHI in compliance with applicable laws, as well as existing Departmental policies and business practices. All complaints related to privacy will be investigated and resolved internally or with the assistance of the County's Chief HIPAA Privacy Officer (CHPO) and Chief Information Security Officer (CISO), as applicable. The Probation Department will help ensure that individuals who report security and privacy-related complaints understand the complaint process and are appropriately informed through investigation and resolution. As a general practice, complaints will be internally facilitated, resolved and closed within thirty (30) business days of the investigation being opened by the assigned staff. Complaints that have not been resolved internally will be promptly forwarded to the CHPO for resolution.

Individuals may utilize this complaint process for issues concerning:

1. Disagreement with Probation's privacy policies and/or procedures
2. Suspected violations in the use, disclosure, or disposal of PHI
3. Retaliatory or intimidating actions resulting from use, disclosure, or disposal of PHI

Complainants

Any person, regardless of whether the Probation Department maintains his or her PHI, may file a complaint regarding suspected violations of the HIPAA Privacy and/or Security Rules by an employee or workforce member of the Probation Department. Members of the Probation Department workforce or Business Associates may file a complaint regarding a suspected violation of the HIPAA Privacy and Security Rules by another member of the Probation Department workforce. As such, the Probation

Department may not intimidate, threaten, coerce, discriminate against, or take other retaliatory action against its workforce, including Whistleblowers and clients, for filing complaints.

Anonymous complaints are permitted, but insufficient detail may delay, hinder, or prevent a full investigation.

Any complainant may exercise the right to have a representative intervene on his or her behalf, and/or assist during the complaint process. A complainant may file a complaint with the Office for Civil Rights, U.S. Department of Health and Human Services at any time before, during, or after initiating the complaint process.

The Probation Department will refer complaints it is not responsible for handling to the appropriate County Department or Business Associate for investigation and resolution.

Definitions

"Business Associate" has the same meaning as the term "business associate" at 45 C.F.R. § 160.103. For the convenience of the parties, a "business associate" is a person or entity, other than a member of the workforce of covered entity, who performs functions or activities on behalf of, or provides certain services to, a covered entity that involve access by the business associate to Protected Health Information. A "business associate" can also be a subcontractor that creates, receives, maintains, or transmits Protected Health Information on behalf of another business associate.

"Protected Health Information" has the same meaning as the term "protected health information" at 45 C.F.R. § 160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity. For the convenience of the parties, Protected Health Information includes information that (i) relates to the past, present or future physical or mental health or condition of an Individual; the provision of health care to an Individual, or the past, present or future payment for the provision of health care to an Individual; (ii) identifies the Individual (or for which there is a reasonable basis for believing that the information can be used to identify the Individual); and (iii) is created, received, maintained, or transmitted by Business Associate from or on behalf of Covered Entity, and includes Protected Health Information that is made accessible to Business Associate by Covered Entity. "Protected Health Information" includes Electronic Protected Health Information.

"Workforce" means employees, volunteers, trainees, and other persons whose conduct, in the performance of work, is under the direct control of Probation, whether or not they are paid by the County.

Authority

HIPAA Privacy Rule, Title 45 Code of Federal Regulations (CFR), Section 164.530(d).

Complaint Procedure

All privacy and security complaints must follow the HIPAA Privacy Complaint Notification Procedure to ensure proper handling. The objectives of the complaint procedure are to:

- Respond to the complainant's (or the complainant's personal representative's) concerns regarding use or disclosure of PHI in a timely, effective, sensitive and confidential manner.
- Provide a process to resolve complaints regarding privacy of PHI in accordance with the HIPAA Privacy Rule.
- Provide a consistent and fair mechanism for monitoring, tracking, and evaluating HIPAA privacy complaints.

1. The complainant must complete Sections I through III of the *HIPAA Privacy Complaint Notification Form* (Attachment I), and submit the form to:

   Departmental Information Security Officer
   Los Angeles County Probation Headquarters
   9150 East Imperial Highway
   Downey, CA 90242

2. If the HIPAA Privacy Complaint Form is incomplete or inaccurate, the Probation DISO or a designated representative will log receipt of the form and contact the individual who filed the complaint to assist with proper completion or correction. The complainant will not be prevented from accessing the complaint process solely on the grounds of the complaint being filed incorrectly. Upon receipt of the completed HIPAA Privacy Complaint Form, the DISO or a designated representative will also log the information.

3. The DISO will inform the complainant within five (5) business days, by email, letter or phone call, that his or her complaint has been received. The method of contact and date/time must be documented. Notification to the complainant will state that an investigation has been initiated and that the complainant will be contacted by the individual investigating the complaint within fifteen (15) business days.

4. If the complaint meets one of the three categories of a valid HIPAA Privacy Complaint identified in the Policy section of this Directive, the DISO will also consult with the County's Chief HIPAA Privacy Officer (CHPO) and Chief Information Security Officer as applicable. If the complaint does not meet one of the three categories of a valid HIPAA Privacy Complaint, the DISO will consult with the County's CHPO for confirmation and/or refer the complaint as necessary to the appropriate individual or entity. An official notification will be sent to the complainant stating the outcome or referral using U.S. Postal Service First Class mail.

5. If at any time during the complaint process a delay in response is experienced due to unexpected circumstances, the complainant will be made aware of the nature of the delay. Reasons for the delay will be documented in the complaint log. As a general practice, complaints will be internally facilitated, resolved and closed within thirty (30) business days of the investigation being opened by the assigned staff.

6. The DISO is responsible for assessing the nature of the complaint, identifying all individuals named in the complaint, and determining possible courses of action to resolve the problem.

7. The DISO will notify the Probation Department's Chief Information Officer, or his or her designee, to contact the Chief Probation Officer and/or other entities named in the complaint and inform them of receipt, nature of the complaint, and the HIPAA Privacy Complaint process. If the Chief Probation Officer is specifically named by the complainant as a subject of the complaint, or if there is any concern for a potential conflict of interest, the DISO will contact the County's CHPO to lead the complaint resolution process.

8. All notes generated by the DISO during the complaint resolution process, including the DISO's investigation strategy, activities, and attempts to resolve the complaint, will be recorded and documented. The DISO will also create a file with the complainant's name that will contain the HIPAA Privacy Complaint and any relevant documentation submitted to the County's CHPO.

9. The DISO will provide to the complainant written notice of the determination using U.S. Postal Service First Class mail via first class mail, and determine whether a separate letter to the facility is required. Copies of the determination letter will be sent to the individual(s) named in the complaint (if applicable); and, a copy will be sent to the Department Head of the affected Department (if applicable), Chief Probation Officer and the County's CHPO.

10. In the event that the DISO determines a violation has occurred which has resulted in a harmful effect to the complainant, the DISO will take steps to mitigate such harmful effect pursuant to HIPAA Privacy Rules.

11. If the complainant does not agree with the findings and action presented in the determination letter, the DISO will escalate the complaint to Chief Probation Officer, and the County's CHPO and CISO, as applicable. The DISO will also contact the complainant to inform him or her of the escalation. The CHPO will conduct any additional investigation deemed necessary or appropriate at his or her discretion, and will also consult with County Counsel as needed. If the County CHPO or County Counsel requests a complainant's file for review, the DISO will record the request on the complaint log and forward copies of the materials. Original documents will not be sent unless requested as part of a formal litigation request; all original documents should be returned to the DISO at the end of the litigation. The CHPO will coordinate

with the Probation DISO in the final resolution of the complaint and will ensure that the Probation DISO is notified of all related correspondence.

Administrative Review of Violation Determinations

In the event of determination that a workforce member has violated Probation's HIPAA policies and procedures, appropriate administrative review and action will be initiated.

- It is the responsibility of Probation Human Resources to take appropriate administrative action in accordance with all applicable Probation and/or Countywide policies and procedures.

- Probation Human Resources will consult with the workforce member's management, and the Probation DISO in determining the appropriate administrative action. The workforce member's manager and/or supervisor will provide a written report to the Probation DISO regarding the administrative action taken.

Documentation Retention

Probation Human Resources will be the custodian for Probation records related to personnel activity concerning HIPAA violations. The Probation DISO will be the custodian for Probation records related to investigations of HIPAA complaints.

All documents created or completed under this policy and procedure must be retained for a period of at least six (6) years from the date of creation or the date when it was last in effect, whichever is later.

For any questions or concerns regarding this Directive, please contact the Probation DISO at (562) 940-2843.

Jerry E. Powers, Chief Probation Officer

Attachment: HIPAA Privacy Complaint Notification Form

COUNTY OF LOS ANGELES
Probation Department
HIPAA Privacy Rule: 45 C.F.R. § 164.530(d)

HIPAA PRIVACY COMPLAINT NOTIFICATION FORM

GENERAL INFORMATION

The information you provide here will remain confidential to the extent possible. However, we may need to divulge the information to investigate your claim. Anyone may file a complaint. Members of the workforce may use this form to report violations of the HIPAA Privacy Rule by others in the workforce. To mail a complaint, please return the completed form to: *Departmental Information Security Officer (DISO), Probation Department, County of Los Angeles, 9150 East Imperial Highway, Downey, CA 90242.* For assistance completing this form, please contact Probation's DISO at (562) 940-3721.

SECTION I – Person Filing the Privacy Complaint (Print or Type):

DATE:					
LAST NAME:		**FIRST NAME:**		**MI:**	
STREET ADDRESS:			**APARTMENT #:**		
CITY:		**STATE:**		**ZIP CODE:**	
HOME PHONE #:	( )	**CELL #:**	( )	**WORK #:**	( )
BEST WAY TO REACH YOU:		**BEST TIME TO REACH YOU:**			

SECTION II – Consent to Disclose Your Name (optional):

Please checkmark the appropriate box.

☐ I consent to my name being disclosed to investigate this complaint. (Information about you in our investigation will only be disclosed to the extent required to perform the investigation or within the limits allowed by law.)

☐ I do not consent to my name being disclosed. (Not using your name may hinder our investigation.)

SECTION III – Privacy Complaint Filed Against:

ORGANIZATION:		**PHONE #:**	( )		
LAST NAME:		**FIRST NAME:**		**MI:**	
STREET ADDRESS:			**SUITE #:**		
CITY:		**STATE:**		**ZIP CODE:**	

Please checkmark the appropriate box.

I have reason to believe that the organization/person:

☐ Inappropriately disclosed personal health information.

☐ Inappropriately used personal health information.

☐ Inappropriately disposed of personal health information.

☐ The organization's privacy policies and procedures violate HIPAA requirements.

Do you have a witness(es)? ☐ Yes ☐ No

WITNESS LAST NAME:		**FIRST NAME:**	
ADDRESS:		**PHONE #:**	( )

COUNTY OF LOS ANGELES
Probation Department

HIPAA Privacy Rule: 45 C.F.R. § 164.530(d)

HIPAA PRIVACY COMPLAINT NOTIFICATION FORM

Please provide a detailed description of your privacy complaint. The information should explain what, when, how, and where the incident happened, including why (if known). To provide more information, please attach additional pages.

Filing a complaint is voluntary. However, without the information requested above, the Probation Department may be unable to proceed with the investigation of your complaint. We collect this information under authority of the Privacy Rule issued pursuant to the Health Insurance Portability and Accountability Act of 1996. Names of other identifying information about individuals are disclosed when it is necessary for investigation of possible health information privacy violations,for internal systems operations, or for routine uses, which includes disclosure of information outside Probation for purposes associated with health information privacy compliance and as permitted by law. The Probation Department may not intimidate, threaten, coerce, discriminate or retaliate against you for filing this complaint, or for taking any other action to enforce your rights under the Privacy Rule. You are not required to use this form. You may also write a letter to submit your complaint with the same information. Mail the complaint to: *Departmental Information Security Officer (DISO), Probation Department, County of Los Angeles, 9150 East Imperial Highway, Downey, CA 90242.* You may also file a complaint with the Office for Civil Rights, U.S. Department of Health & Human Services.

Signature of Complainant or Complainant's Representative	Please Print Name if Other than the Complainant.	Date

If signed by the Complainant's personal representative, please state relationship to the Complainant and authority to do so.

- **Did you complete the information requested on the form?**
- **Did you provide a phone number and address where we can contact you?**