



13.03.05 **ILLEGAL ALIENS**

Occasionally illegal aliens receive probation on the condition they do not re-enter the United States illegally. The United States Citizenship and Immigration Services (USCIS) within the Department of Homeland Security (formerly the Immigration and Naturalization Service of the United States Department of Justice) has a system to notify the sentencing court when the agency becomes aware that a probationer has illegally re-entered this country.

When a court or a deputy receives notice from USCIS that it has located a probationer who has illegally re-entered the country, time is of the essence in bringing the defendant to court. USCIS is not able to transport defendants on state cases. USCIS cannot house defendants overnight and will not detain defendants at their agency's expense. Therefore, transportation shall be arranged immediately to bring the illegal alien before the sentencing court.

Upon being advised that USCIS has custody of a defendant on probation who has been ordered not to illegally re-enter the country, a deputy shall promptly seek a bench warrant for the

defendant's arrest from the sentencing court. If the defendant is on felony probation, deputies shall ask the court to have the bailiff forward the bench warrant to the Sheriff's Fugitive Detail for immediate service. If the defendant is on misdemeanor probation, deputies shall ask the court to have the bench warrant served in accordance with the customary practice used by that court.

Deputies shall make every effort to ensure the defendant's presence in court and to have the defendant's probation violated. A deportation action is not a sufficient alternative to the probation violation procedure.

