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May 1, 2025

Guidance on ICE Enforcement in Sensitive Locations

Constituents and stakeholders have recently contacted the Minnesota Attorney General's Office about changes to federal policies and practices related to immigration enforcement and the impact of those changes on sensitive locations such as healthcare settings, houses of worship, and sites where social services are provided, among others.

On January 31, 2025, U.S. Immigration and Customs Enforcement (ICE) issued a directive rescinding previous guidelines that had been in existence for more than a decade that protected sensitive locations like houses of worship, schools, courts, medical clinics, hospitals, and other locations from immigration enforcement. The Minnesota Attorney General's Office provides this guidance for Minnesota organizations like houses of worship, shelters and other social-service organizations, medical clinics, hospitals, and other sensitive locations as they consider how to respond to ICE's new directive.

This guidance addresses who does and does not enforce federal immigration law, the rules that apply to immigration enforcement in public and non-public spaces at sensitive locations, the difference between judicial and administrative warrants, protocols an organization may establish for interacting with ICE, and an organization's rights and responsibilities if ICE is conducting immigration enforcement, among other related topics.

This guidance does not address:

- the rights of individuals who may be subject to immigration enforcement at a sensitive location or any other location. Many other organizations provide reliable "Know Your Rights" guidance for individuals. Rather, this guidance is intended for organizations that are or maintain sensitive locations.
- an organization's rights and responsibilities if ICE agents show up at a sensitive location to conduct employee work-authorization compliance activities. Rather, it addresses what an organization may do if ICE agents show up to investigate or apprehend people that agents suspect lack legal authorization to be the country.
- ICE enforcement in Minnesota schools. The Attorney General's Office issued guidance on February 14, 2025 about ICE enforcement on school grounds in Minnesota.
- ICE enforcement in Minnesota courts. The Minnesota Judicial Branch sets policies and provides guidance for courts.

This guidance is not legal advice. Organizations should consult with their own attorney if they have specific legal questions about their rights and obligations under the law.

Federal authorities enforce immigration law.

Immigration into the United States is regulated by federal law and primarily enforced by federal authorities. Primary responsibility for the enforcement of immigration law rests with the U.S. Department of Homeland Security (DHS), and specifically with three agencies within DHS: U.S. Immigration and Customs Enforcement, U.S. Customs and Border Protection (CBP), and U.S. Citizenship and Immigration Services (USCIS). ICE is responsible for interior enforcement and for detention and removal operations, CBP enforces immigration laws at or near borders and ports of entry, and USCIS processes applications and petitions for immigration and naturalization benefits.

These federal agencies are charged with enforcing federal immigration law. Under the Tenth Amendment to the U.S. Constitution, no state or local authorities may be coerced into enforcing federal immigration law.

Local law-enforcement agencies, however, may voluntarily enter into agreements with ICE, known as 287(g) agreements, that authorize them to perform certain immigration enforcement functions of ICE officers. While 287(g) agreements are provided for by federal law, organizations should be aware that courts have yet to address whether local law-enforcement agencies' participation in 287(g) agreements is consistent with Minnesota law.

ICE may enter public areas without an organization's permission.

Most places that provide services have both public areas, like a lobby, and non-public or private areas, like a back office, patient care areas, or employee breakrooms. Different rules apply to where ICE agents may go.

ICE may enter the public areas of a sensitive location or any location for immigration-enforcement purposes without an organization's permission. For example, ICE generally does not need permission or a warrant to conduct law enforcement activities in a hospital waiting room, a church's worship area, or a library's reading room.

For the most part, ICE can conduct any type of otherwise-lawful activity in the public area of a sensitive location. This includes speaking with the organization's clients who are in the public area, listening to conversations that can be heard while in the public area, and reading information that is in plain view from the public area.

Organizations concerned about their clients' sensitive information should not store it where the public can observe it nor discuss it where it can be easily overheard from the public space.

ICE may enter non-public areas only with an organization's permission or a court-issued warrant or subpoena.

In general, an area is considered non-public if the area is not available to the public and people in that area have an expectation of privacy. ICE may enter non-public areas if the organization or one of its employees gives permission for ICE agents to do so.

For ICE to enter a non-public space without an organization's permission, ICE must possess a subpoena or a court-issued warrant, also called a judicial warrant, to conduct a search or investigation. A judicial warrant is a formal written order that gives ICE agents permission to arrest someone, search an area, or seize documents. To be valid, the judicial warrant must be signed by a U.S. district court or a state court judge and must describe the location to be searched and/or the persons or items to be seized. In addition, any warrant to search a location (as opposed to arrest someone) must have been signed recently by the judge—within the last 14 days if it is signed by a U.S. district court judge; and within the last 10 days if it is signed by a state court judge.

Organizations have the right to read the warrant to determine that it is a judicial warrant that authorizes the agent to enter private spaces for enforcement purposes.

If an organization does not give permission to enter its non-public spaces, ICE may not enter non-public spaces without a court-issued warrant or subpoena.

There are no clear rules for cataloguing which spaces are public and which are private.

As noted above, immigration officers do not need a warrant or consent to enter the areas of sensitive locations that are usually open to the public. By contrast, private areas should be less accessible to immigration officers.

In general, the more a particular area or room exhibits characteristics associated with privacy, the less accessible it should be to immigration officers acting without a warrant. Indicators of privacy might include secured doors and prominent signs noting restricted access. Rooms where sensitive, personal activities occur outside of public view are more likely to be considered private: For example, in 1994 the Florida Supreme Court concluded that a hospital patient's room is not "a public place for Fourth Amendment purposes," where the Fourth Amendment to the U.S. Constitution protects people against unreasonable searches and seizures.

Even if a shelter is open to the public for some purposes, such as offering meals, organizations that provide shelter to people also have private spaces. Like in other organizations or a business, whether a space in a shelter is public or private depends on whether someone has a reasonable expectation of privacy when they are in a specific area. In general, private spaces include bedrooms and sleeping areas, even if they are used by more than one shelter client. For example, a shelter client that shares a large sleeping area with other clients may still have an expectation of privacy and a judicial warrant is required for ICE to enter the area without the organization's permission. Shelter staff and residents are not required to consent to a warrantless entry into a bedroom or living quarters.

In addition, even spaces usually available to the public should remain inaccessible to immigration officers after hours, when they are no longer open to the public: for example, a federal appeals court concluded in 2004 that warrantless entry into a medical office violated the Fourth Amendment because the office was not open to patients at the time of the search.

An administrative warrant is different from a court-issued warrant. It does not allow ICE to enter non-public areas without permission.

ICE also issues its own forms, sometimes referred to as "administrative warrants" or "ICE warrants," which direct ICE agents to arrest a named individual for alleged violations of federal immigration law. Administrative warrants might state "Department of Homeland Security" or "Form I-200" or "Form I-205."

Administrative warrants are not issued by a court and do not allow ICE to enter non-public areas without permission. An organization is not required to allow ICE to enter non-public areas on the basis of an administrative warrant alone.

As with a judicial warrant, organizations have the right to read the administrative warrant in order to determine that it is an administrative warrant that does not authorize the agent to enter private spaces for enforcement purposes.

One way to tell the difference between an administrative warrant and a judicial warrant is to examine the top of the document and who signed the document. The top of a judicial warrant will have the word "court" on it and will be signed by someone with the title of "judge." The top of an administrative warrant will have the words "Immigration and Customs Enforcement" and will not be signed by a judge but instead will be signed by an immigration "officer" or "official."

If an organization does not consent to an ICE agent with an administrative warrant entering a private area, then ICE may wait in a public space outside the private space.

Organizations may establish protocols for interacting with ICE.

Organizations with both public and private spaces may clearly mark which areas are not for the public and ensure that access to non-public areas is restricted.

Organizations should designate a specific staff person responsible for interacting with ICE agents if they come to a sensitive location for enforcement purposes; all staff should refer ICE agents to that staff person.

If an ICE agent requests access to a private area, the staff person has the right to document the agent's name, ID number, and the name of the agency. The staff person has the right to ask whether the agent has a warrant and to request to inspect a warrant to determine whether it is a judicial or administrative warrant. A staff person should show any warrant to the organization's designated point person to determine next steps.

If ICE agents have a judicial warrant that authorizes entry into non-public space, organization staff have the right to watch the agents to make sure they are complying with the judicial warrant and are only entering private areas that are designated in the warrant. Staff are not required to answer an ICE agent's questions, including questions about individuals or their whereabouts.

Staff should not interfere with ICE agents' lawful activities. Audio or video recording by organization staff of any interaction with ICE is also allowed. Providing false information to ICE agents is illegal and can result in severe penalties, including criminal charges.

Organization staff should be aware that if ICE shows up at an organization to arrest someone, that person is not required to answer questions about their immigration status, how they entered the country, where they were born, or other information. They should also be aware that a person has the right to remain silent and to refuse to sign any paperwork before they have had the opportunity to speak with a lawyer. Staff should further be aware, however, that ICE is not required to wait for a lawyer to be contacted before taking the person into custody.

Organizations are not required to ask for or retain the immigration status of people they serve. Organizations may not discriminate on the basis of immigration status.

In general, organizations are not required to ask for or store the immigration status of people they serve. An organization may request immigration data if the person chooses to apply for certain government benefits that require the information, like government-funded health insurance. Additionally, hospital emergency departments are required by law to provide emergency screening and stabilization services regardless of the patient's immigration status.

If an organization does collect and retain information about its clients' citizenship or immigration status, it may be required to provide the information to ICE if it obtains a judicial warrant to collect the information. Destroying documents identified in a judicial warrant can result in criminal charges.

In general, it is a violation of both state and federal law to discriminate against someone on the basis of their immigration status. Under the Fifth and Fourteenth Amendments to the U.S. Constitution, all people in the country, not just U.S. citizens, are entitled to due process and equal-protection rights.