

# Protecting Immigrant Community Members Residential Settings

Increased immigration enforcement activities by United States Immigration and Customs Enforcement (“ICE”) and United States Customs and Border Protection (“CBP”) agents at people’s residences has raised concern in immigrant communities.

As a housing provider, there are things that you can do to protect your residents’ rights to be free from unwarranted searches and seizures if ICE or CBP agents show up on-site.

It is important to plan ahead and develop protocols for staff in the event that ICE, CBP, or other law enforcement officers come to your facility or property.

## PLANNING

### Create an Expectation of Privacy in Common Areas

ICE, CBP, and other law enforcement officers cannot enter onto property without a warrant where there is an expectation of privacy in the space, particularly as it relates to a person’s residence. You can make common areas more private in the following ways:

- Enclose semi-public places (e.g., parking lot, shared community space) with a gate or fence.
- Restrict access to the property (e.g., outdoor key or key code for lobby access, concierge at the entrance for visitor check-in).
- Post signs making clear that the space is private property and that a warrant is required for law enforcement to enter (see right for example).

**THIS PAMPHLET  
INCLUDES  
INFORMATION ABOUT:**

### PLANNING

Signage and physical barriers

Protocols and training

### LEGAL BACKGROUND

Constitutional protections

Understanding warrants and subpoenas



**ACLU**  
California

PROTECTING OUR COMMUNITY

**[Sample statement]** It is the policy of this [housing provider/shelter] to ensure that our residents are safe and protected. This [property/shelter] will take steps to the greatest extent possible under the law to protect our residents and their information. It is the policy of this [property/shelter] not to allow agents or employees of U.S. Immigration and Customs Enforcement (ICE) or Customs and Border Protection (CBP) access to our properties, records or information unless required to do so by law or a valid court order.

◀ Establish a **written policy** for who is allowed into the property and when.

## For Shelters and Group Homes

- Post signs making clear that the space is private property and that a warrant is required to enter:
- Lock all entrances to the shelter at night and when the shelter is not open to receive occupants. Have a staff member monitor the entrances at all times.
- Separate the front entrance area from the residential portion of the facility with a visible barrier.
- Restrict access to the residential portion of the facility, and require check-in and authorization by staff to enter that portion of the facility.
- Establish a written policy on who can be admitted into facility and when.
  - The written policy should state that the shelter has the right to exclude people from entering the premises.
  - Make sure the policy is made available to shelter occupants and the general public.
- If the shelter is in a church or school it is considered a “sensitive location” and falls under ICE’s “sensitive location” policy.
  - Tell the immigration officer that this is a sensitive location under ICE and CBP policy and ask them if they have supervisory approval to be there and to see a copy of that approval. CPB requires its agents to have written approval, and ICE does not, but you can still ask for the ICE supervisor’s name and number.
  - Whether or not supervisory approval is provided, inform staff to tell the officer: “This [property/shelter] does not consent to you being here/ questioning our residents/conducting a search.”

Post **signs** making clear that the space is private property and that a warrant is required for law enforcement to enter. ▼



## Protecting Private Information

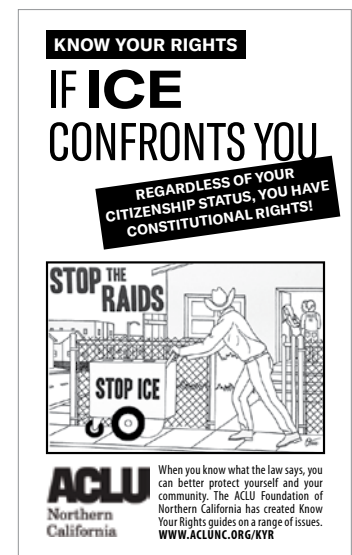
- If the facility or property maintains a list of occupants or resident names, do not collect immigration status information from residents, do not leave the list unattended, and do not provide any records to officers unless they have a search warrant signed by a judge.
- Refer all warrants and subpoenas to your Director or Legal Office.

If an agent has a warrant, designated staff should read it carefully to make sure that (1) it is signed by a judge, (2) it specifically describes the records sought, and (2) it has not expired. Make sure that you only permit the agent to take records that are specifically stated in the warrant.

## Develop Policies and Protocols, Educate Residents and Staff

- Conduct community meetings with residents and staff to go over safety protocols. Provide Know-Your-Rights training to residents. Train staff to:
  - Ask for and write down the agent's name, badge number, contact or other identifying information as well as the name of the agent's supervisor.
  - Immediately contact a supervisor and/or the designated person(s) to deal with law enforcement or immigration authorities.
  - Notify the immigration officers that staff is not authorized to answer any questions without consulting with a supervisor and to immediately contact a supervisor.
- Establish a policy that requires all visitors to check in with security or the building manager if they are not accompanied by a resident.
- Educate residents not to allow strangers into locked areas.
- Train all staff to respond in a uniform fashion and in accordance with the organization's adopted internal protocols on what to do if immigration officials appear on the premises.
- Inform staff members that they are not authorized to consent to a search and to not let immigration officers on-site unless a valid search warrant is presented.
- Designate particular staff to engage with law enforcement officers, including ICE and CBP agents, and train those staff members to identify and review subpoenas and warrants.
- Administrative warrants from the Department of Homeland Security are not binding without a court order (see attached example).

Provide **Know-Your-Rights** materials. ▼



- Security and front desk staff should have a script to use with all law enforcement officers or agents, such as:

Hello, can I get your name and see your identification please?

This area is not open to the public. We do not allow law enforcement activities here without a valid, judicial warrant unless they are responding to a call from this address. Do you have a valid, executed warrant to enter or search this property?

**[If they claim to have a warrant:]** I'm going to call my [supervisor/our general counsel] to review the warrant. I cannot let you enter. Please give me just a minute to call them. [Direct agents to designated place to wait, apart from others]

**[If no warrant:]** Okay then, I'm going to have to ask you to leave. This facility/building/shelter does not consent to you being here/questioning our members/conducting a search.

**[If requesting records:]** I am not authorized to share any records with you. If you have a subpoena or court order, please send it to this address for our [director/manager/legal office] to review.

.....  
◀ Prepare a **script** to respond to immigration officials

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## LEGAL BACKGROUND: KNOW YOUR RIGHTS

- The 4th Amendment of the U.S. Constitution protects against unauthorized governmental searches of residences.
- ICE, CBP, or other law enforcement authorities cannot search or enter a residence without a valid warrant signed by a judge, unless: (A) you consent or (B) there is an emergency.
- However, ICE and CBP may enter areas open to the general public.
- You do not need to consent to an officer's request to enter your home or property — ask for a warrant, and say “I do not consent to you entering or searching this area.”

An example of an **arrest warrant**. This document only permits an arrest of the indicated person, not entry into or a search of private property. ✓

**U.S. DEPARTMENT OF HOMELAND SECURITY**      **Warrant for Arrest of Alien**

**IMPORTANT:** An arrest warrant only permits an arrest of the indicated person, NOT a search of any of private property. If an officer attempts to search your house with only an arrest warrant, you may refuse

File No. \_\_\_\_\_

Date: \_\_\_\_\_

This warrant is only valid to arrest the person indicated here

**To: Any immigration officer authorized pursuant to sections 236 and 287 of the Immigration and Nationality Act and part 287 of title 8, Code of Federal Regulations, to serve warrants of arrest for immigration violations**

I have determined that there is probable cause to believe that \_\_\_\_\_ is removable from the United States. This determination is based upon:

- the execution of a charging document to initiate removal proceedings against the subject;
- the pendency of ongoing removal proceedings against the subject;
- the failure to establish admissibility subsequent to deferred inspection;
- biometric confirmation of the subject's identity and a records check of federal databases that affirmatively indicate, by themselves or in addition to other reliable information, that the subject either lacks immigration status or notwithstanding such status is removable under U.S. immigration law; and/or
- statements made voluntarily by the subject to an immigration officer and/or other reliable evidence that affirmatively indicate the subject either lacks immigration status or notwithstanding such status is removable under U.S. immigration law.

**YOU ARE COMMANDED** to arrest and take into custody for removal proceedings under the Immigration and Nationality Act, the above-named alien.

Must be signed by an immigration officer to be valid

\_\_\_\_\_  
(Signature of Authorized Immigration Officer)

\_\_\_\_\_  
(Printed Name and Title of Authorized Immigration Officer)

**Certificate of Service**

I hereby certify that the Warrant for Arrest of Alien was served by me at \_\_\_\_\_  
(Location)

on \_\_\_\_\_ on \_\_\_\_\_, and the contents of this  
(Name of Alien) (Date of Service)

notice were read to him or her in the \_\_\_\_\_ language.  
(Language)

\_\_\_\_\_  
Name and Signature of Officer

\_\_\_\_\_  
Name or Number of Interpreter (if applicable)

Form I-200 (Rev. 09/16)



An example of a **search warrant**. To authorize law enforcement entry into private spaces and searches and seizures of papers and things, a search warrant must be issued by a court and signed by a judge or magistrate. ▼

# UNITED STATES DISTRICT COURT

for the

In the Matter of the Search of  
*(Briefly describe the property to be searched  
or identify the person by name and address)*

)  
)  
) Case No.  
)  
)  
)

To search the premises, officials must have a **search warrant**. If officials only have an arrest warrant, they do not have authority to search or enter your property

Make sure the warrant has your correct name and address

## SEARCH AND SEIZURE WARRANT

To: Any authorized law enforcement officer

An application by a federal law enforcement officer or an attorney for the government requests the search of the following person or property located in the \_\_\_\_\_ District of \_\_\_\_\_  
*(Identify the person or describe the property to be searched and give its location):*

Officers are typically only allowed to search the person or property described here, nothing more

I find that the affidavit(s), or any recorded testimony, establish probable cause to search and seize the person or property described above, and that such search will reveal *(Identify the person or describe the property to be seized):*

The search can only be executed at the time indicated here

**YOU ARE COMMANDED** to execute this warrant on or before \_\_\_\_\_ *(not to exceed 14 days)*  
 in the daytime 6:00 a.m. to 10:00 p.m.     at any time in the day or night because good cause has been established.

Unless delayed notice is authorized below, you must give a copy of the warrant and a receipt for the property taken to the person from whom, or from whose premises, the property was taken, or leave the copy and receipt at the place where the property was taken.

The officer executing this warrant, or an officer present during the execution of the warrant, must prepare an inventory as required by law and promptly return this warrant and inventory to \_\_\_\_\_  
*(United States Magistrate Judge)*

Pursuant to 18 U.S.C. § 3103a(b), I find that immediate notification may have an adverse result listed in 18 U.S.C. § 2705 (except for delay of trial), and authorize the officer executing this warrant to delay notice to the person who, or whose property, will be searched or seized *(check the appropriate box)*

for \_\_\_\_\_ days *(not to exceed 30)*     until, the facts justifying, the later specific date of \_\_\_\_\_

Date and time issued: \_\_\_\_\_

Judge's signature

City and state: \_\_\_\_\_

Printed name and title

This warrant **MUST** be signed by a judge to be valid. If it is not signed, you are not required to permit a search

An example of an **immigration subpoena**. This is not binding without a court order. You can decline to produce the requested records. ✓

1. To (Name, Address, City, State, Zip Code) <div style="border: 1px solid red; padding: 5px; display: inline-block; color: red;">Make sure this lists your correct name and address before proceeding</div>	<b>DEPARTMENT OF HOMELAND SECURITY</b> <b>IMMIGRATION ENFORCEMENT SUBPOENA</b> to Appear and/or Produce Records 8 U.S.C. § 1225(d), 8 C.F.R. § 287.4
Subpoena Number	
2. In Reference To <div style="border: 1px solid red; padding: 5px; display: inline-block; color: red;">This section must specify a case or action</div> <hr/> <div style="display: flex; justify-content: space-between;"><span>(Title of Proceeding)</span><span>(File Number, if Applicable)</span></div>	

By the service of this subpoena upon you, **YOU ARE HEREBY SUMMONED AND REQUIRED TO:**

- (A)  **APPEAR** before the U.S. Customs and Border Protection (CBP), U.S. Immigration and Customs Enforcement (ICE), or U.S. Citizenship and Immigration Services (USCIS) Official named in Block 3 at the place, date, and time specified, to testify and give information relating to the matter indicated Block 2.
- (B)  **PRODUCE** the records (books, papers, or other documents) indicated in Block 4, to the CBP, ICE, or USCIS Official named in Block 3 at the place, date, and time specified.

Misleading text. DHS needs a court order to enforce this subpoena

Your testimony and/or production of the indicated records is required in connection with an investigation or inquiry relating to the enforcement of U.S. immigration laws. Failure to comply with this subpoena may subject you to an order of contempt by a federal District Court, as provided by 8 U.S.C. § 1225(d)(4)(B).

3. (A) CBP, ICE or USCIS Official before whom you are required to appear Name Title <b>Immigration Officer</b> Address <b>USCIS 630 Sansome Street, Rm. 1220 San Francisco, California 94111</b> Telephone Number	(B) Date  (C) Time 0900 <input checked="" type="checkbox"/> a.m. <input type="checkbox"/> p.m.
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4. Records required to be produced for inspection <div style="border: 1px solid red; padding: 5px; display: inline-block; color: red;">This must request specific records and may not be a general request (e.g. "all employment records"). Review the scope of the request and only provide what is specifically asked for and nothing more</div>
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Must be signed by an immigration officer to be valid



If you have any questions regarding this subpoena, contact the CBP, ICE, or USCIS Official identified in Block 3.

5. Authorized Official

_____ (Signature)
_____ (Printed Name) <b>Supervisory Immigration Officer</b>
_____ (Title)
_____ (Date)