

PROCEDURES FOR HANDLING VISITS FROM IMMIGRATION OFFICERS TO COUNTY FACILITIES

June 2019

In recent weeks, the federal government has signaled its intention to increase immigration deportation efforts, and news media have reported stories about attempts to arrest individuals in public buildings such as courthouses. The Department of Homeland Security (“DHS”) Immigration and Customs Enforcement (“ICE”) currently has a policy that discourages enforcement activity in what are termed “sensitive locations”, which include schools, hospitals, houses of worship and other places “that could reasonably be viewed as being at or near a sensitive location.” (<https://www.ice.gov/doclib/ero-outreach/pdf/10029.2-policy.pdf>). Arguably, public facing County facilities such as social service offices, libraries, and community centers, may reasonably be seen as “sensitive locations”, however they are not explicitly listed as such. Accordingly, prudence dictates that in the unlikely event of an ICE visit to a County facility, relevant employees understand the appropriate procedures to follow.

POSSIBLE PURPOSES OF ICE VISIT:

If ICE was to visit a County facility, it would most likely be for one of the following purposes: 1) To make an arrest, either with or without a warrant; 2) to conduct an interview; and/or 3) to serve a subpoena.

GENERAL INSTRUCTIONS

Receptionists, Desk Attendants, Security Guards and others in similar positions should be instructed that upon the arrival of ICE Special Agents, they are to *immediately contact the senior County official on duty at the visited facility*. Their role should end there, as the senior County official should manage the encounter with the visiting agents until help is available from agency leadership or the County Attorney’s Office:

- ICE Special Agents should be requested not to go beyond the immediate waiting area, but rather agents should be made comfortable, preferably, in a separate room, away from the internal offices, while waiting for the senior County official to arrive.
- Should ICE Agents insist on entering public areas of the facility without waiting for the senior County official, no action should be taken to interfere with their entry.
- However, despite not interfering with their entry, no affirmative consent to enter the facility beyond the waiting area should be given.
- The **senior County official on-duty in the facility should come to speak to the agents as soon as possible** and ascertain what they are seeking to do: effectuate an arrest; conduct interviews; or serve a subpoena.

SUBPOENAS

Subpoena Duces Tecum – for records. Generally, these subpoenas will be directed to the “custodian of records” of the individual department. In this instance, the senior County official can accept the subpoena, however, it should be forwarded to the Office of the County Attorney (OCA) for legal review; OCA will then provide advice on compliance.

Subpoena for an individual to appear at a hearing. In this instance, the person at the front desk should not accept the subpoena from ICE, unless they are the named person on the subpoena. If the ICE agent asks if the named individual on the subpoena is present in the building, the senior County official should be called to the desk. The senior County official should contact the individual named on the subpoena and if available ask (not order) the person to go to the front desk for service. If the person declines to accept service of the subpoena, the senior County official should inform the ICE agent that the person declines to come to the desk to accept service and the official lacks the authority to order to the individual to accept service because it is not related to County business. Note: the official does not have authority to permit ICE agents into the non-public areas of the building unless the ICE agent can produce a judicial search warrant.

REQUEST FOR AN INTERVIEW

It should be rare that an ICE agent would personally appear at a County facility for the purpose of an interview without making pre-arrangements with the individual, or an appointment. If an ICE agent does appear for that purpose, notify the senior County official on duty and/or the department head. At that time, the senior County official on duty and/or the department head should take the ICE agents' information, and inform them that they will be contacted to set up the interview. If the ICE agent calls the department in advance requesting to schedule an interview of an individual on site, notify the senior County official on duty and/or the department head, who will then consult with the Office of the County Attorney to evaluate the request. County managers should be mindful of 8 U.S.C. § 1373, and the requirement that local government entities "not prohibit, on in any way restrict, any government entity or official from sending to, or receiving from, the Immigration and Naturalization Service information regarding the citizenship or immigration status, lawful or unlawful, of any individual."

ARREST OR SEARCH WARRANT

As noted above, upon arrival, the ICE agent should be asked to wait in a separate or public area and made comfortable while a senior County official is immediately notified. The senior County official should speak with the ICE agent to ascertain the purpose of their visit, and if the ICE agent has a warrant, to obtain a copy of the warrant, and a copy of the ICE agent's identification. The senior County official should then:

- Notify the department head; and
 - If during office hours of 8:00 a.m. to 5:00 p.m., notify the County Attorney's Office by calling the main number at 240-777-6700, and explain the purpose of the call. The receptionist will immediately put the senior County official in touch with an attorney who can assist; and
 - Immediately scan and email a copy of the warrant and ICE agent's identification with the subject line: ICE WARRANT, to OCA as instructed by the attorney assisting you.
 - If it is after hours, the department head should contact their agency counsel.
 - As explained above, if the ICE agent refuses to wait while these steps are taken and/or claims there are extenuating circumstances that require their admission, such as an emergency or active pursuit of a suspect, no action should be taken by the employee to interfere with their entrance. However, no affirmative consent should be given and no assistance (outside of complying with 8 U.S.C. 1373) should be provided, except suggesting ways to effectuate the arrest that is least likely to disrupt other activities of the facility.
 - All personnel should be reminded that an arrest warrant does not authorize agents to simply wander around otherwise non-public areas of a County facility. Staff are not authorized to afford agents access to non-public areas except in the event of an emergency, active pursuit of a
-

suspect, or if the agents possess a warrant specifically authorizing such access (this is a judicial search warrant and that determination will need to be made by OCA).