

Immigration Enforcement Guidance for Places of Worship

Who Enforces Immigration Law?

Immigration is regulated by federal law and enforced by the U.S. Department of Homeland Security (DHS). In Alaska, state and local law enforcement cannot enforce immigration law.

One way in which DHS enforces immigration laws is by apprehending and repatriating (“removing”) people back to their home countries if they do not have permission to be in the United States. Without a final removal order from an immigration judge, DHS must provide due process, including an appearance before an immigration judge, before it can deport someone.

Immigration and Customs Enforcement (ICE), a sub-agency of DHS, is responsible for non-border enforcement and for detention and removal operations. Other federal law enforcement agencies have also been tasked with assisting ICE in enforcement operations. Throughout this guide, terms like “ICE agent”, “immigration official”, and “immigration agent” all refer to federal law enforcement officers empowered to enforce immigration law.

FAQs

Are places of worship required to enforce immigration laws or cooperate with immigration officials?

No. Places of worship are not required and cannot be forced to cooperate with immigration officials.

Can immigration officials enter my house of worship without a warrant?

ICE agents and others may enter the public spaces of a church, mosque, temple or other place of worship without a warrant, but not private areas.

If an ICE agent or other law enforcement officer wants to enter those private spaces, they must present a hard copy of a warrant signed by a federal judge.

How can the Fourth Amendment protect people in private places in a house of worship?

Under the Fourth Amendment, the permissibility of a search depends on whether a person has a reasonable expectation of privacy in the area searched. The test is: at the time of the search, was it the person's subjective, actual expectation that the place or things searched were private, and was that expectation objectively reasonable, i.e., would it be generally recognized by society?

What are considered public areas v. private areas and how does this impact immigration enforcement?

Public areas include lobbies, waiting areas, and any other places open to the public. Non-public areas of a house of worship could include offices, kitchen areas, sleeping quarters, staff lounge areas, etc., essentially any place not open to the public.

Houses of worship should identify and distinguish (ideally with legal advice) their private spaces from their public ones, if any. This can be done by placing signs identifying private areas and clearly restricting access to private areas, such as by placing a staff member at the main entrance tasked with signing in visitors.

Can an immigration agent access a private area at a house of worship?

No. Immigration agents cannot access private areas without (1) consent or (2) a valid judicial warrant.

If a house of worship does not give permission for immigration agents to enter its non-public spaces, then they cannot enter without a valid judicial warrant.

To be valid, a judicial warrant must:

- be signed by a US district court or a state court judge;
- describe the location to be searched and/or the persons or items to be seized; and
- be dated and issued within the past 14 days.

All information in the warrant must be correct in order for the warrant to be valid.

What is an administrative warrant?

DHS issues its own forms, sometimes referred to as "administrative warrants" or "ICE warrants," which direct immigration agents to arrest a named individual for alleged violations of federal immigration law. An administrative arrest warrant or immigration enforcement subpoena is not the same as a judicial warrant and does not require a non-profit to grant immigration agents access to private areas.

Representatives of a house of worship have the right to read the warrant and check that it is a judicial warrant and that it authorizes the agent to enter private spaces for specific purposes. It is critical that staff be able to distinguish between a valid judicial search warrant and administrative warrants.

Should a house of worship designate a specific person to interact with ICE if they arrive at a facility?

Yes, it is a good idea to designate an “authorized person” who is trained to interact with immigration agents and who understands how to identify a valid judicial warrant and confer with legal counsel before allowing a search to occur. All other staff should be trained to refer immigration agents to the “authorized person.”

What should congregation members do if they don’t have an “authorized person” or are waiting for them to arrive?

Ask the agent for identification and a business card. Ask the agent to step outside. Once there, you can discuss what the agent wants and whether they have any legal documents.

What if a judicial warrant is presented?

Staff or members of a house of worship should always contact their designated “authorized person.” If a judicial warrant appears to be valid, preferably, consult with legal counsel before taking any action. Always get a copy of the warrant.

What if a search is required by a judicial warrant?

If ICE presents a valid judicial warrant, then the house of worship must allow the immigration agents to enter the private areas specified in the warrant. Congregation members have the right to monitor agents to ensure they comply with the judicial warrant, i.e., they are only entering private areas designated in the warrant.

Congregation members may also take audio or video recordings of any interaction with ICE; however, staff should not interfere with the agents’ lawful search.

What if an ICE agent says a congregation member needs to be arrested to avoid imminent harm or risk, or threatens other congregation members with harboring for not allowing a search?

Without a valid judicial warrant, cooperation is not required. It is not harboring to deny access to private areas if there is not a judicial warrant.

Am I required to talk to a police officer or ICE agent if they enter the congregation and ask questions?

No. Everyone has a right to remain silent and you are not required to answer any questions from immigration officials. You are not required to tell them anything about anyone’s immigration status. Providing false information to ICE agents is illegal and can result in severe penalties, including criminal charges.

Can immigration officials be stationed outside or near a place of worship?

Yes. If there are ICE agents outside or near your place of worship, you can send a designated, well-trained congregation member outside to verify the individuals' identities. If that person can confirm they are immigration agents, it may be a good time to remind people of their rights or prepare should the agents attempt to gain entry.

If a faith group publicly declares its place of worship as a “sanctuary” for immigrants, can that provide any additional legal protection to the congregation or to immigrants?

No. The concept of “sanctuary” in a place of worship is not recognized by federal law and it provides no protection from prosecution for members of the congregation.

Are there any risks that could result if a faith group makes a public declaration as a “sanctuary” for immigrants?

It depends. A declaration itself probably would not justify a prosecution, but it may put the congregation on the government's radar. Importantly, most courts have found the federal harboring and transporting statutes have an “intent” requirement, which means that to convict someone, the prosecutor must prove that the person or organization providing shelter to or transporting an undocumented immigrant intended to help the immigrant to remain unlawfully in the United States.

Recommendations for Places of Worship

Learn the implications related to harboring and transporting laws and conduct activities based on perceived risk factors.

[Sanctuary congregations and harboring FAQs \(ACLU\)](#)

Prepare and implement an internal policy to protect congregants from immigration enforcement.

Internal policies should include:

- A written policy designating private areas.
- An internal protocol on the procedure to interact with immigration agents, including protocol for handling law enforcement requests.
- The designation of a well-trained individual to approach ICE agents outside or near the property.

Adopting a policy of nondiscrimination at your place of worship and of welcoming and helping persons in need.

Policy should state that all people are welcome regardless of immigration or citizenship status, race, ethnicity, gender identity, or sexual orientation, etc.

Create and disseminate educational materials and “Know Your Rights” trainings for congregants and community members.

- [ACLU Know Your Rights: Immigration Enforcement](#)
- [ACLU Know Your Rights: Fight Back Against Mass Deportation](#)
- [We Have Rights Videos](#)
- [KYR graphics and wallet cards \(ACLU\)](#)
- [Judicial v. Administrative warrants](#)

Host or provide emergency safety planning for immigrant families.

- [Family Safety Plan \(ILRC\)](#)

Compile and provide contact information for local organizations providing free legal assistance for families.

- [Legal Resources in Alaska](#)

Additional Resources

- [Sanctuary congregations and harboring FAQs \(ACLU\)](#)
- [Immigrant welcoming congregations \(Church of Christ\)](#)

Relevant Laws

- **U.S. Constitution - 4th Amendment**

- The Fourth Amendment is a constitutional right for all individuals to be free from illegal searches or seizures.
- The Fourth Amendment may limit immigration enforcement agents' activities at a place of worship.
- Under the Fourth Amendment, the reasonableness of a search depends on whether a person has a reasonable expectation of privacy in the areas searched.
- Even buildings, such as places of worship that serve the public may have areas where an individual has a reasonable expectation of privacy.

- **8 U.S.C. § 1324: Federal criminal harboring and transporting laws**

- 8 U.S.C. § 1324 prohibits concealing, harboring, or shielding from detection (or attempting to conceal, harbor, or shield) an undocumented immigrant, with knowledge or reckless disregard of the immigrant's unlawful status.
- 8 U.S.C. § 1324 prohibits transporting or moving (or attempting to transport or move) an undocumented immigrant from one place to another, with knowledge or reckless disregard of the fact of the immigrant's unlawful status, where the transportation helps the immigrant remain in the United States unlawfully.

For more information, contact ACLU of Alaska at info@acluak.org or www.acluak.org.