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Attorney General Guidance: **Information for Massachusetts Municipalities Regarding Immigration Enforcement**

The Attorney General's Office (AGO) has received a number of questions from municipalities about the increase in enforcement actions by U.S. Immigration and Customs Enforcement (ICE) agents, the role of local authorities in immigration enforcement, and the rights people have when they interact with federal immigration officers. This guidance is meant to provide municipalities with information about their interactions with ICE.

This guidance is not legal advice or a formal legal opinion of the Attorney General. A municipality should consult with legal counsel about specific questions and concerns and to determine how the considerations discussed below affect a particular municipality.

1. How to prepare your community for potential increased ICE enforcement

Hold "Know Your Rights" trainings; provide rights cards; and consult the [Attorney General's website](#) and guidance from other organizations and state agencies, such as the Office for Refugees and Immigrants, the MIRA Coalition, and the National Immigration Law Center. Municipalities may also consider, where applicable, engaging in emergency planning with those they are serving to prepare for the possibility of arrest or detention by ICE.

For more information on emergency planning, please see the [Attorney General's Emergency Planning Guide for Parents with Uncertain Immigration Status](#).

Municipalities can also provide guidance to [schools](#), [service providers](#), and [others](#) on how they can support their constituents.

2. How to prepare municipal agencies and employees for potential ICE presence

Municipalities should consider adopting comprehensive policies and procedures that apply to any law enforcement activity in municipal buildings, on municipal property, or during municipal events, including immigration enforcement activity by ICE.

Recommended policies include:

Designation of Private Areas: Develop policies on how to designate private areas that are not accessible to the general public. Designating such areas through signage, key cards, or locks can promote a safe environment conducive to a municipal agency's mission, and any private areas should be clearly marked as such. Like other law enforcement agencies, ICE cannot gain access

to such designated private areas without consent or a judicial warrant or court order. Even outdoor spaces like parking lots can be designated as private if they are only accessible to municipal employees, invited guests, or designated individuals. Signage delineating such areas as private should be made large enough to be visible at a distance and use reflective material so as to be visible after dark.

Designations of private areas may not be used to improperly exclude any groups or individuals from otherwise public spaces. For example, as discussed below, meetings required to be public may not be designated as “private.”

Protocols and Training: Specific protocols should be developed to address any ICE presence in municipal spaces. Relevant staff members should be trained and, if possible, a staff member should be designated for potential interactions with ICE or other law enforcement officials. Any response may include the following steps:

- (1) Ask the officer to wait outside (or in a public space) while you contact legal counsel or other appropriate point person;
- (2) Inform the officer that you are not attempting to obstruct their actions, but that you are not authorized to respond to the request and need to contact the appropriate person before you can provide access;
- (3) Ask the officer if they have a judicial warrant or court order, and if so, ask for a copy of the document; and
- (4) Ask the officer for their name, identification number, and the name of the agency with which they are affiliated.

3. When can ICE enter private areas on municipal property?

Immigration officials may present a variety of documents, not all of which are warrants in the constitutional sense. Municipal entities are not required to consent to a search of the private areas of their premises unless presented with a judicial warrant or other court order, signed by a judge or magistrate, and based on probable cause.

Subpoenas, whether administrative or judicial, are documents that request the production of documents or testimony. They generally do not require immediate responses and can be challenged in court. If feasible, a designated staff member should review all documents presented by immigration officials with the assistance of legal counsel.

Municipalities may want to advise staff not to physically interfere with the actions of immigration officials or any law enforcement officers. If presented with a warrant or other court document by immigration or other law enforcement officials, a designated staff member at an organization should review whether the document:

- (1) is a valid judicial warrant;
- (2) is signed by a judge or magistrate judge;
- (3) states the address of the premises to be searched;
- (4) if indicated, is sought to be executed during the time specified on the warrant.

ICE Administrative Removal Warrants (Form I-200) or Arrest Warrants (Form I-205)

authorize ICE officers to arrest a person suspected of violating the immigration laws. These are not warrants within the meaning of the Fourth Amendment to the U.S. Constitution, are not signed by a judge or magistrate judge and are not based on a showing of probable cause of a criminal offense. These warrants **do not** require municipalities or other organizations to grant ICE officers access to non-public areas.

Federal Arrest Warrants (Form AO 442) or Search and Seizure Warrants (Form AO 93)

are issued by a federal court judge or magistrate judge based on a finding of probable cause and authorize the search and seizure of property in a specified location or the arrest of a person named in the warrant, including in non-public areas. Prompt compliance with these warrants is usually required. If feasible, an organization should review the document and consult with legal counsel.

4. How to comply with open government and public records law?

A municipality should collect and maintain only as much immigration or citizenship information as may be necessary for services or regulatory compliance purposes. Once a record is created or received, it must be retained in accordance with the [Municipal Records Retention Schedule](#). A municipality should consult its organization's policies and procedures regarding the collection and release of an individual's information.

The Open Meeting Law requires that meetings of public bodies be open to any individual who wishes to attend. Public bodies cannot require that attendees identify themselves in order to gain access to a public meeting or demonstrate that they have business before the body or a particular interest in the proceedings. A public body may not remove a person from an open session meeting of the public body unless the person disrupts the meeting after warning from the chair. Therefore, the Open Meeting Law does not allow public bodies to prohibit categories of individuals, including law enforcement agencies like ICE, from attending meetings of public bodies.

The Open Meeting Law does not require that public bodies offer an opportunity for public comment during their meetings. Public comment is at the discretion of the chair, unless there is another law or rule requiring public comment in particular situations. Some public bodies have a practice of requiring participants in public comment to identify themselves by full name and home address as a condition of speaking at a meeting. Although such a practice is not prohibited by the Open Meeting Law, the Attorney General discourages requiring meeting attendees to provide full identifying information.

5. Are municipal employees legally required to provide assistance to ICE?

No. Municipal employees, including members of local law enforcement agencies, cannot be compelled by the federal government to carry out federal civil immigration enforcement. Any voluntary cooperation with ICE by municipal employees and local law enforcement must comply with state and local legal limitations. For more information on these limitations, see [Attorney](#)

[General Guidance: KNOW YOUR RIGHTS: ICE Enforcement, A Guide for Immigrants, Families, and Communities.](#)

6. What legal rights or restrictions do bystanders of ICE enforcement actions have?

Bystanders have a right to observe and record ICE agents from a reasonable distance in public places. *See Glik v. Cunniffe*, 655 F.3d 78 (1st Cir. 2011). This right is protected by the First Amendment and does not violate the Massachusetts Wiretap Act. *See Project Veritas Action Fund v. Rollins*, 982 F.3d 813 (1st Cir. 2020) (secret recordings do not violate the First Amendment); *Curtatone v. Barstool Sports, Inc.*, 487 Mass. 655 (2021) (openly recording does not violate the Massachusetts Wiretap Act). If any law enforcement officer seizes a bystander's phone, they need a judicial warrant to gain access to the device or the recording.

Although bystanders are allowed to watch or record, they are required to stay at a safe distance so as not to interfere with an ICE operation. Interfering might include the following actions, which could result in criminal charges:

- Pushing or otherwise physically touching an officer;
- Blocking officers; or
- Hiding the person ICE is trying to arrest.

Bottom Line: Bystanders can watch. Bystanders can record. But bystanders legally cannot obstruct, impede, or assault an ICE agent.

RESOURCES AND LEGAL HELP

There are numerous resources for individuals seeking an attorney to represent themselves or a loved one in immigration proceedings:

- The American Immigration Lawyers Association's [online directory](#);
- The Massachusetts [Legal Resource Finder](#);
- The National Immigration Project of the National Lawyers Guild's "Find an Attorney" website;
- The Department of Justice's [list of pro bono legal service providers by state](#); and
- Immigration Law Help's [directory of nonprofit legal help](#) by zip code and detention facility.

A person detained by ICE can be found through [ICE's Online Detainee Locator System](#).

Any complaints to the AGO can be made to its Civil Rights Division by visiting <https://www.mass.gov/how-to/file-a-civil-rights-complaint>, emailing civilrights@mass.gov, or calling (617) 963-2917.