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FAQs: Sensitive Locations and Courthouse Arrests

Sensitive Locations

➊ Does ICE's sensitive locations policy remain in effect?

Yes. ICE has previously issued and implemented a policy concerning enforcement actions at sensitive locations. These FAQs are intended to clarify what types of locations are covered by those policies.

➋ How does ICE decide where a specific enforcement action will take place? What factors are considered when making such a decision?

Determinations regarding the manner and location of arrests are made on a case-by-case basis, taking into consideration all aspects of the situation, including the target's criminal history, safety considerations, the viability of the leads on the individual's whereabouts, and the nature of the prospective arrest location.

➌ What does ICE policy require for enforcement actions to be carried out at sensitive locations?

Pursuant to ICE policy, enforcement actions are not to occur at or be focused on sensitive locations such as schools, places of worship, unless; exigent circumstances exist; other law enforcement actions have led officers to a sensitive location, or prior approval is obtained from a designated supervisory official. The policy is intended to guide ICE officers' and agents' actions when enforcing federal law at or focused on sensitive locations, to enhance public understanding and trust, and to ensure that people seeking to participate in activities or utilize services provided at any sensitive location are free to do so, without fear or hesitation.

➊ What does ICE mean by the term "sensitive location"?

Locations treated as sensitive locations under ICE policy would include, but are not be limited to:

- Medical treatment and health care facilities, such as hospitals, doctors' offices, accredited health clinics, and emergent or urgent care facilities;
- COVID vaccination locations;
- Schools, such as known and licensed daycares, pre-schools and other early learning programs; primary schools; secondary schools; post-secondary schools up to and including colleges and universities; as well as scholastic or education-related activities or events, and school bus stops that are marked and/or known to the officer, during periods when school children are present at the stop;
- Places of worship, such as churches, synagogues, mosques, and temples;
- Religious or civil ceremonies or observances, such as funerals and weddings; and
- During a public demonstration, such as a march, rally, or parade.

➋ What is considered an enforcement action as it relates to sensitive locations?

Enforcement actions covered by this policy are apprehensions, arrests, interviews, or searches, and for purposes of immigration enforcement only, surveillance. Actions not covered by this policy include activities such as obtaining records, documents, and similar materials from officials or employees, providing notice to officials or employees, serving subpoenas, engaging in Student and Exchange Visitor Program (SEVP) compliance and certification visits, guarding or securing detainees, or participating in official functions or community meetings.

➌ Are sensitive locations located along the international border also protected?

The sensitive locations policy does not apply to operations that are conducted within the immediate vicinity of the international border, including the functional equivalent of the border. However, when situations arise that call for enforcement actions at or near a sensitive location within the immediate vicinity of the international border, including its functional equivalent, agents and officers are expected to exercise sound judgment and common sense while taking appropriate action, consistent with the goals of this policy.

Examples of operations within the immediate vicinity of the border are, but are not limited to, searches at ports of entry, activities undertaken where there is reasonable certainty that an individual just crossed the border, circumstances where ICE has maintained surveillance of a subject since crossing the border, and circumstances where ICE is operating in a location that is geographically further from the border but separated from the border by rugged and remote terrain.

● Will enforcement actions ever occur at sensitive locations?

Enforcement actions may occur at sensitive locations in limited circumstances but will generally be avoided. ICE officers and agents may conduct an enforcement action at a sensitive location if there are exigent circumstances, if other law enforcement actions have led officers to a sensitive location, or with prior approval from an appropriate supervisory official.

● When may an enforcement action be carried out at a sensitive location without prior approval?

ICE officers and agents may carry out an enforcement action at a sensitive location without prior approval from a supervisor in exigent circumstances related to national security, terrorism, or public safety, or where there is an imminent risk of destruction of evidence material to an ongoing criminal case. When proceeding with an enforcement action under exigent circumstances, officers and agents must conduct themselves as discreetly as possible, consistent with officer and public safety, and make every effort to limit the time at or focused on the sensitive location.

● Where should I report an ICE enforcement action that I believe may be inconsistent with these policies?

There are a number of locations where an individual may lodge a complaint about a particular ICE enforcement action that may have taken place in violation of the sensitive locations policy. You may find information about these locations, and information about how to file a complaint, on the DHS or ICE websites. You may contact ICE Enforcement and Removal Operations (ERO) through the Detention Reporting and Information Line at (888) 351-4024 or through the ERO information email address at ERO.INFO@ice.dhs.gov, also available at <https://www.ice.gov/webform/ero-contact-form>.

The Civil Liberties Division of the ICE Office of Diversity and Civil Rights may be contacted at (202) 732-0092 or ICE.Civil.Liberties@ice.dhs.gov.

Courthouse Arrests

● Why has ICE issued a policy on civil immigration enforcement inside courthouses?

AILA Doc. No. 18013142. (Posted 5/10/21)

To uphold the rule of law, ICE must ensure that this country's courthouse doors are open to all people, regardless of their citizenship. There are many reasons why an individual, regardless of citizenship or immigration status, might want or need to visit a courthouse, including but not limited to participating in child custody determinations, obtaining a protective order, serving as a witness, participating in a lawsuit to protect constitutional or legal rights, and paying a fine.

Targeted civil immigration enforcement operations in or near courthouses are sometimes necessary and appropriate. This includes enforcement actions involving, for example, noncitizens who are engaged in or are suspected of terrorism or otherwise pose a danger to national security or who pose an imminent threat to public safety.

● Why did DHS issue interim policy? When will a final policy on courthouse enforcement be issued?

It is a DHS priority to release a final policy as soon as possible. Pursuant to the January 20, 2021, memorandum by Acting Secretary David Pekoske titled "Review of and Interim Revision to Civil Immigration Enforcement and Removal Policies and Priorities," DHS is currently conducting a full review of its immigration enforcement policies and priorities. When additional guidance is issued, the Department and its components will review the interim policy, along with the ICE sensitive locations policies, to release updated guidance.

● When will ICE personnel conduct courthouse enforcement?

A civil immigration enforcement action in or near courthouses will be executed only in the limited circumstance when: (1) it involves a national security threat; (2) there is an imminent risk of death, violence, or physical harm to any person; (3) it involves pursuit of an individual who poses a threat to public safety; or (4) there is an imminent risk of destruction of evidence material to a criminal case.

Civil immigration enforcement action may be taken against an individual who poses a threat to public safety when a safe alternative location for such action does not exist or would be too difficult to achieve and the action has been approved in advance by a Field Office Director, Special Agent in Charge.

ICE may continue to conduct criminal immigration enforcement actions in or near courthouses.

In addition, the policy does not apply to arrests that occur in jails connected to courthouses where the individual arrested is being released from the custody of state, local, or federal law enforcement partners at the conclusion of any criminal sentence. This policy does not preclude arrests conducted at ICE facilities regardless of their location.

● When civil immigration enforcement in or near a courthouse does occur, will there be any additional limitations?

To the fullest extent possible, civil immigration enforcement action in a courthouse will be taken in a non-public area, outside of public view, be conducted in collaboration with courthouse security personnel, utilize the courthouse's non-public entrances and exits, and be conducted at the conclusion of the judicial proceeding that brought the individual to the courthouse.

Additionally, all civil immigration enforcement actions planned or carried out in or near a courthouse must be documented in a searchable and validated electronic system of records. Monthly reports will be provided to the DHS Secretary and, upon request, to the DHS Office for Civil Rights and Civil Liberties.

➊ What is a civil immigration enforcement action?

Civil immigration enforcement actions include civil apprehensions, service of subpoenas, searches, seizures, interviews, and surveillance. Actions not covered by this policy include activities such as collecting records from court offices or participation in community meetings held in the courthouse.

➋ How will ICE determine if someone poses a threat to public safety?

In determining whether someone poses a threat to public safety, ICE personnel will follow the interim guidance issued by ICE Acting Director Tae Johnson on February 18, 2021, titled, "Interim Guidance: Civil Immigration Enforcement and Removal Priorities."

➌ What does it mean to be "near" a courthouse?

"Near" the courthouse means in the close vicinity of the courthouse, including the entrance and exit of a courthouse, and in adjoining or related areas such as an adjacent parking lot or transportation point (such as a bus stop right outside a courthouse). It does not include adjacent buildings or houses that are not part of the courthouse or otherwise are not used for court-related business.

➍ What is a "safe alternative location"?

A "safe alternative location for such action" means one that is safe for ICE personnel, the subject of the enforcement action, and the public.

● Will ICE employees be trained on this policy?

Each Field Office Director and Special Agent in Charge, must ensure that all employees under his or her supervision are trained annually on this policy and that such training is documented and reviewed by agency counsel.

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