



City and County of San Francisco
Edwin M. Lee, Mayor

San Francisco Department of Public Health

Barbara A. Garcia, MPA
Director of Health

San Francisco Department of Public Health

Policy & Procedure Detail*

Policy & Procedure Title: Immigration Status and Interactions with Immigration and Customs Enforcement Agents Policy	
Category: Compliance	
Effective Date: February 1, 2017	Last Reissue/Revision Date: March 9, 2017
DPH Unit of Origin: Office of Compliance and Privacy Affairs	
Policy Contact - Employee Name and Title; and/or DPH Division: Office of Compliance and Privacy Affairs	
Contact Phone Number(s): 855-729-6040	
Distribution: DPH-wide <input checked="" type="checkbox"/>	If not DPH-wide, other distribution:

*All sections in table required.

1. Purpose of Policy

President Trump released executive orders the week of January 22, 2017 on immigration and immigration enforcement. These executive orders have not changed the Department of Public Health's (DPH) mission or San Francisco's Sanctuary City Policy. DPH is dedicated to serving all those in need of care, without regard to immigration or insurance status. San Francisco is healthier when all residents, including undocumented immigrants, access public health programs that prevent the spread of disease.

Under San Francisco's Sanctuary City Ordinance, City agencies and employees are generally prohibited from assisting U.S. Immigration and Customs Enforcement (ICE) in enforcing federal immigration laws. The purpose of this DPH Policy & Procedure Detail is to ensure that all DPH staff members are providing services in alignment with DPH's mission and the Sanctuary City Ordinance, and to provide procedures for staff to use in interactions with federal Immigration and Customs Enforcement (ICE) or with patients, if ICE agents come into a clinic, hospital or other setting on City property.

2. Policy

The mission of DPH is to protect and promote the health of all San Franciscans. To work in alignment with this mission with respect to patients and clients, **DPH staff must:**

- A. Provide services to patients and clients regardless of immigration or documentation status at all DPH facilities.
- B. Comply with San Francisco's Sanctuary City Ordinance (SCO), which prohibits the use of City funds or resources to assist Immigration and Customs Enforcement (ICE) with arrests and/or the gathering or dissemination of information regarding the release status or the personal or confidential information of an individual, unless it is mandated by federal or state law, warrant, or court decision.

The mission of the San Francisco Department of Public Health is to protect and promote the health of all San Franciscans.

We shall ~ Assess and research the health of the community ~ Develop and enforce health policy ~ Prevent disease and injury ~
~ Educate the public and train health care providers ~ Provide quality, comprehensive, culturally-proficient health services ~ Ensure equal access to all ~

- C. Review the San Francisco Department of Human Resources' "Reminder about Sanctuary City Obligations," dated January 19, 2017.
- D. Review the procedures outlined in Section 4 below that provide guidance on how DPH employees should interact with federal immigration authorities. For more information, see the Memorandum from Deputy City Attorney Matthew Lee to Maria Su, entitled "Limits on U.S. Immigration and Customs Enforcement Search Authority," provided as an attachment to this Policy and Procedure.

3. Definitions

Administrative Warrant – A type of authorization issued by an administrative official – which may include an immigration judge - that gives authority to perform a specific act, for example, to arrest an individual. This warrant may state it was issued by an "immigration judge" or "administrative law judge".

Immigration and Customs Enforcement (ICE) – A U.S. federal law enforcement agency under the Department of Homeland Security, responsible for enforcing federal laws governing border control, customs, trade and immigration.

Judicial Warrant – A type of authorization issued by a federal judge or other judicial official that gives authority to perform a specific act, for example, to conduct a search. This type of warrant would state that it was issued by a "District Court Judge," "Magistrate Judge" or "U.S. District Court".

Sanctuary City – As defined by San Francisco's ordinance, a sanctuary city is one that generally prohibits City employees from using City funds or resources to assist Immigration and Customs Enforcement (ICE) in the enforcement of Federal immigration law, unless such assistance is required by federal or state law.

Subpoena – A document issued by a government agency seeking documents or evidence.

4. Procedures

The procedures listed below provide information on different types of inquiries that could occur and appropriate responses.

If these or any other situations involving contact with ICE occur, you must immediately notify your site director/supervisor. The site director/supervisor must immediately contact the Office of the Director of Health at 415-554-2600 and the Chief Integrity Officer at 855-729-6040. They will contact the City Attorney's Office.

Outside of normal business hours, report the situation to the following individuals via email:

- Barbara Garcia, Director of Health, (barbara.garcia@sfdph.org)
- Colleen Chawla, Deputy Director of Health, (colleen.chawla@sfdph.org), and
- Maggie Rykowski, Chief Integrity Officer, (maggie.rykowski@sfdph.org)

If at any time you are unclear about appropriate procedures, have questions, or need advice on handling a specific situation, **contact the Office of the Director of Health at 415-554-2600.**

To increase police and security effectiveness, everyone should be vigilant, take notice of your surroundings, and report suspicious persons and activity immediately by **calling 911**. If at any time you feel unsafe or unsure of a situation, **call 911**.

- A. What should I do if I am at work and I am contacted by an ICE agent?
- Except in limited circumstances where ICE agents have a valid **judicial warrant** (see Question B and Question C below):
 - You are *not* required to cooperate with the agents.
 - You are *not* required to answer ICE agents' questions.
 - You are *not* required to speak with ICE agents at all.
 - You may tell ICE agents that you choose not to speak with them, and then say nothing else.
 - You may tell ICE agents, "Please wait here while I get my supervisor."
 - You must **immediately** notify your site director/supervisor to report the situation. The site director/supervisor must **immediately** notify the Office of the Director of Health.
- B. What should I do if ICE agents seek to search a non-public area or gain access to City records, and tell me they have a warrant that allows them to do so?
- There are two types of warrants ICE agents might have, a **judicial warrant** or an **administrative warrant**.
 - It is very important to know what type of warrant is being issued, then follow the procedure in Question C or Question D below.
 - You may tell ICE agents, "Please wait here while I get my supervisor."
 - You must **immediately** notify your site director/supervisor to report the situation. The site director/supervisor must **immediately** notify the Office of the Director of Health.
 - The Office of the Director of Health, in consultation with the City Attorney's Office, will provide guidance, if necessary, on the type of warrant that is issued.
- C. What should I do if ICE agents show me a **judicial warrant** (the issuer would be "District Judge" or "Magistrate Judge" or "U.S. District Court")?
- This type of warrant is typically used to search property.
 - A valid judicial search warrant allows ICE agents to conduct any search authorized by the warrant.
 - You must comply with the warrant.
 - You may tell ICE agents, "Please wait here while I get my supervisor."
 - You must **immediately** notify your site director/supervisor to report the situation. The site director/supervisor must **immediately** notify the Office of the Director of Health.
- D. What should I do if ICE agents show me an **administrative warrant** (the issuer could be an "immigration judge" or "administrative law judge" and would not be an issuer listed in Question C)?
- In this scenario, ICE agents would explicitly need your consent to enter the area and search anything that they could not have otherwise searched. This includes City records.
 - You do *not* need to tell ICE agents anything about the person they are looking for.
 - You do *not* need to help ICE agents find the person they are looking for.
 - You may inform ICE agents that you will not give them any information.

- You must tell ICE agents that you do not have the authority to consent to their presence on the premises.
 - You must ask ICE agents to leave.
 - You may tell ICE agents, “Please wait here while I get my supervisor.”
 - You must **immediately** notify your site director/supervisor to report the situation. The site director/supervisor must **immediately** notify the Office of the Director of Health.
- E. What should I do if ICE agents ask my permission to enter or search a non-public area **without a warrant**?
- You must *not* give ICE agents access to any non-public area.
 - You must tell ICE agents that you cannot consent to any search.
 - You may tell ICE agents, “Please wait here while I get my supervisor.”
 - You must **immediately** notify your site director/supervisor to report the situation. The site director/supervisor must **immediately** notify the Office of the Director of Health.
- F. What should I do if ICE agents show me a piece of paper and tell me that they have a **subpoena**?
- Most City employees are not authorized to accept subpoenas issued to the City and County of San Francisco, or to decide whether to comply with those subpoenas.
 - You do *not* need to comply with an ICE subpoena on the spot.
 - You *cannot* be punished for refusing to comply with an ICE subpoena.
 - You may tell ICE agents, “Please wait here while I get my supervisor.”
 - You must **immediately** notify your site director/supervisor to report the situation and pass on the subpoena. The site director/supervisor must **immediately** notify the Office of the Director of Health.
- H. What should I do for my patients so they can understand their immigration rights?
- Immigration attorneys can provide patients with accurate advice about immigration status and how they can pursue any legal rights they may have.
 - Patients may contact the San Francisco Human Rights Commission
 - (415)252–2500 • 25 Van Ness Ave., Room 800, San Francisco, CA 94102
 - www.sf-hrc.org

5. References/Attachments

- One-page Quick Reference Guide for this Policy & Procedure Detail
- [Executive Order: Enhancing Public Safety in the Interior of the United States](#) – January 25, 2017
- [Executive Order: Protecting the Nation from Foreign Terrorist Entry into the United States](#) – January 27, 2017
- [San Francisco Sanctuary City Ordinance](#) (Administrative Code Chapter 12H)
- Memorandum: Reminder about Sanctuary City Obligations – January 19, 2017
- Memorandum: Limits on U.S. Immigration and Customs Enforcement Search Authority – January 27, 2017



City and County of San Francisco
Edwin M. Lee, Mayor

San Francisco Department of Public Health

Barbara A. Garcia, MPA
Director of Health

Policy and Procedure Quick Reference Guide

Immigration Status and Interaction with Immigration and Customs Enforcement Agents Policy

1. Policy

DPH staff must:

- A. Provide services to patients and clients regardless of immigration or documentation status,
- B. Comply with San Francisco's Sanctuary City Ordinance, and
- C. Review the procedures outlined below on interaction with federal immigration authorities.

2. Procedures

If any situations involving ICE occur, immediately notify your site director/supervisor. The site director/supervisor must immediately contact the Office of the Director of Health at 415-554-2600 and the Chief Integrity Officer at 855-729-6040. They will contact the City Attorney's Office.

Outside of normal business hours, report the situation via email to:

- Barbara Garcia, Director of Health, (barbara.garcia@sfdph.org)
- Colleen Chawla, Deputy Director of Health, (colleen.chawla@sfdph.org), and
- Maggie Rykowski, Chief Integrity Officer, (maggie.rykowski@sfdph.org)

If you have questions, **contact the Office of the Director of Health at 415-554-2600.**

If at any time you feel unsafe or unsure of a situation or witness suspicious activity, **call 911.**

Key Procedures

- There are two types of warrants ICE agents might have, a **judicial warrant** or an **administrative warrant**. Without a warrant, you must not give ICE agents access to any non-public area.
- If ICE agents have no warrant or an **administrative warrant**:
 - You are *not* required to speak with ICE agents, cooperate with the agents, help agents find the person they are looking for, or answer agents' questions.
 - You may tell ICE agents that you choose not to speak with them, and then say nothing else.
 - You must tell ICE agents that you do not have the authority to consent to their presence and ask them to leave.
 - You may tell ICE agents, "Please wait here while I get my supervisor."
- In limited circumstances where ICE agents have a valid **judicial warrant** (usually to search property):
 - You must comply and allow agents to conduct the search authorized by the warrant.
 - You may tell ICE agents, "Please wait here while I get my supervisor."
- If ICE agents have a **subpoena**:
 - You do not need to comply with an ICE subpoena on the spot.
 - You cannot be punished for refusing to comply with an ICE subpoena.
 - You may tell ICE agents, "Please wait here while I get my supervisor."
- You must **immediately** notify your site director/supervisor to report any situation. The site director/supervisor must **immediately** notify the Office of the Director of Health.
- Patients with questions may contact the San Francisco Human Rights Commission:
 - (415)252-2500 • 25 Van Ness Ave., Room 800 • www.sf-hrc.org

Presidential Documents

Executive Order 13768 of January 25, 2017

Enhancing Public Safety in the Interior of the United States

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Immigration and Nationality Act (INA) (8 U.S.C. 1101 *et seq.*), and in order to ensure the public safety of the American people in communities across the United States as well as to ensure that our Nation's immigration laws are faithfully executed, I hereby declare the policy of the executive branch to be, and order, as follows:

Section 1. Purpose. Interior enforcement of our Nation's immigration laws is critically important to the national security and public safety of the United States. Many aliens who illegally enter the United States and those who overstay or otherwise violate the terms of their visas present a significant threat to national security and public safety. This is particularly so for aliens who engage in criminal conduct in the United States.

Sanctuary jurisdictions across the United States willfully violate Federal law in an attempt to shield aliens from removal from the United States. These jurisdictions have caused immeasurable harm to the American people and to the very fabric of our Republic.

Tens of thousands of removable aliens have been released into communities across the country, solely because their home countries refuse to accept their repatriation. Many of these aliens are criminals who have served time in our Federal, State, and local jails. The presence of such individuals in the United States, and the practices of foreign nations that refuse the repatriation of their nationals, are contrary to the national interest.

Although Federal immigration law provides a framework for Federal-State partnerships in enforcing our immigration laws to ensure the removal of aliens who have no right to be in the United States, the Federal Government has failed to discharge this basic sovereign responsibility. We cannot faithfully execute the immigration laws of the United States if we exempt classes or categories of removable aliens from potential enforcement. The purpose of this order is to direct executive departments and agencies (agencies) to employ all lawful means to enforce the immigration laws of the United States.

Sec. 2. Policy. It is the policy of the executive branch to:

(a) Ensure the faithful execution of the immigration laws of the United States, including the INA, against all removable aliens, consistent with Article II, Section 3 of the United States Constitution and section 3331 of title 5, United States Code;

(b) Make use of all available systems and resources to ensure the efficient and faithful execution of the immigration laws of the United States;

(c) Ensure that jurisdictions that fail to comply with applicable Federal law do not receive Federal funds, except as mandated by law;

(d) Ensure that aliens ordered removed from the United States are promptly removed; and

(e) Support victims, and the families of victims, of crimes committed by removable aliens.

Sec. 3. Definitions. The terms of this order, where applicable, shall have the meaning provided by section 1101 of title 8, United States Code.

Sec. 4. *Enforcement of the Immigration Laws in the Interior of the United States.* In furtherance of the policy described in section 2 of this order, I hereby direct agencies to employ all lawful means to ensure the faithful execution of the immigration laws of the United States against all removable aliens.

Sec. 5. *Enforcement Priorities.* In executing faithfully the immigration laws of the United States, the Secretary of Homeland Security (Secretary) shall prioritize for removal those aliens described by the Congress in sections 212(a)(2), (a)(3), and (a)(6)(C), 235, and 237(a)(2) and (4) of the INA (8 U.S.C. 1182(a)(2), (a)(3), and (a)(6)(C), 1225, and 1227(a)(2) and (4)), as well as removable aliens who:

- (a) Have been convicted of any criminal offense;
- (b) Have been charged with any criminal offense, where such charge has not been resolved;
- (c) Have committed acts that constitute a chargeable criminal offense;
- (d) Have engaged in fraud or willful misrepresentation in connection with any official matter or application before a governmental agency;
- (e) Have abused any program related to receipt of public benefits;
- (f) Are subject to a final order of removal, but who have not complied with their legal obligation to depart the United States; or
- (g) In the judgment of an immigration officer, otherwise pose a risk to public safety or national security.

Sec. 6. *Civil Fines and Penalties.* As soon as practicable, and by no later than one year after the date of this order, the Secretary shall issue guidance and promulgate regulations, where required by law, to ensure the assessment and collection of all fines and penalties that the Secretary is authorized under the law to assess and collect from aliens unlawfully present in the United States and from those who facilitate their presence in the United States.

Sec. 7. *Additional Enforcement and Removal Officers.* The Secretary, through the Director of U.S. Immigration and Customs Enforcement, shall, to the extent permitted by law and subject to the availability of appropriations, take all appropriate action to hire 10,000 additional immigration officers, who shall complete relevant training and be authorized to perform the law enforcement functions described in section 287 of the INA (8 U.S.C. 1357).

Sec. 8. *Federal-State Agreements.* It is the policy of the executive branch to empower State and local law enforcement agencies across the country to perform the functions of an immigration officer in the interior of the United States to the maximum extent permitted by law.

(a) In furtherance of this policy, the Secretary shall immediately take appropriate action to engage with the Governors of the States, as well as local officials, for the purpose of preparing to enter into agreements under section 287(g) of the INA (8 U.S.C. 1357(g)).

(b) To the extent permitted by law and with the consent of State or local officials, as appropriate, the Secretary shall take appropriate action, through agreements under section 287(g) of the INA, or otherwise, to authorize State and local law enforcement officials, as the Secretary determines are qualified and appropriate, to perform the functions of immigration officers in relation to the investigation, apprehension, or detention of aliens in the United States under the direction and the supervision of the Secretary. Such authorization shall be in addition to, rather than in place of, Federal performance of these duties.

(c) To the extent permitted by law, the Secretary may structure each agreement under section 287(g) of the INA in a manner that provides the most effective model for enforcing Federal immigration laws for that jurisdiction.

Sec. 9. *Sanctuary Jurisdictions.* It is the policy of the executive branch to ensure, to the fullest extent of the law, that a State, or a political subdivision of a State, shall comply with 8 U.S.C. 1373.

(a) In furtherance of this policy, the Attorney General and the Secretary, in their discretion and to the extent consistent with law, shall ensure that jurisdictions that willfully refuse to comply with 8 U.S.C. 1373 (sanctuary jurisdictions) are not eligible to receive Federal grants, except as deemed necessary for law enforcement purposes by the Attorney General or the Secretary. The Secretary has the authority to designate, in his discretion and to the extent consistent with law, a jurisdiction as a sanctuary jurisdiction. The Attorney General shall take appropriate enforcement action against any entity that violates 8 U.S.C. 1373, or which has in effect a statute, policy, or practice that prevents or hinders the enforcement of Federal law.

(b) To better inform the public regarding the public safety threats associated with sanctuary jurisdictions, the Secretary shall utilize the Declined Detainer Outcome Report or its equivalent and, on a weekly basis, make public a comprehensive list of criminal actions committed by aliens and any jurisdiction that ignored or otherwise failed to honor any detainers with respect to such aliens.

(c) The Director of the Office of Management and Budget is directed to obtain and provide relevant and responsive information on all Federal grant money that currently is received by any sanctuary jurisdiction.

Sec. 10. *Review of Previous Immigration Actions and Policies.* (a) The Secretary shall immediately take all appropriate action to terminate the Priority Enforcement Program (PEP) described in the memorandum issued by the Secretary on November 20, 2014, and to reinstitute the immigration program known as “Secure Communities” referenced in that memorandum.

(b) The Secretary shall review agency regulations, policies, and procedures for consistency with this order and, if required, publish for notice and comment proposed regulations rescinding or revising any regulations inconsistent with this order and shall consider whether to withdraw or modify any inconsistent policies and procedures, as appropriate and consistent with the law.

(c) To protect our communities and better facilitate the identification, detention, and removal of criminal aliens within constitutional and statutory parameters, the Secretary shall consolidate and revise any applicable forms to more effectively communicate with recipient law enforcement agencies.

Sec. 11. *Department of Justice Prosecutions of Immigration Violators.* The Attorney General and the Secretary shall work together to develop and implement a program that ensures that adequate resources are devoted to the prosecution of criminal immigration offenses in the United States, and to develop cooperative strategies to reduce violent crime and the reach of transnational criminal organizations into the United States.

Sec. 12. *Recalcitrant Countries.* The Secretary of Homeland Security and the Secretary of State shall cooperate to effectively implement the sanctions provided by section 243(d) of the INA (8 U.S.C. 1253(d)), as appropriate. The Secretary of State shall, to the maximum extent permitted by law, ensure that diplomatic efforts and negotiations with foreign states include as a condition precedent the acceptance by those foreign states of their nationals who are subject to removal from the United States.

Sec. 13. *Office for Victims of Crimes Committed by Removable Aliens.* The Secretary shall direct the Director of U.S. Immigration and Customs Enforcement to take all appropriate and lawful action to establish within U.S. Immigration and Customs Enforcement an office to provide proactive, timely, adequate, and professional services to victims of crimes committed by removable aliens and the family members of such victims. This office shall provide quarterly reports studying the effects of the victimization by criminal aliens present in the United States.

Sec. 14. *Privacy Act.* Agencies shall, to the extent consistent with applicable law, ensure that their privacy policies exclude persons who are not United States citizens or lawful permanent residents from the protections of the Privacy Act regarding personally identifiable information.

Sec. 15. *Reporting.* Except as otherwise provided in this order, the Secretary and the Attorney General shall each submit to the President a report on the progress of the directives contained in this order within 90 days of the date of this order and again within 180 days of the date of this order.

Sec. 16. *Transparency.* To promote the transparency and situational awareness of criminal aliens in the United States, the Secretary and the Attorney General are hereby directed to collect relevant data and provide quarterly reports on the following:

(a) the immigration status of all aliens incarcerated under the supervision of the Federal Bureau of Prisons;

(b) the immigration status of all aliens incarcerated as Federal pretrial detainees under the supervision of the United States Marshals Service; and

(c) the immigration status of all convicted aliens incarcerated in State prisons and local detention centers throughout the United States.

Sec. 17. *Personnel Actions.* The Office of Personnel Management shall take appropriate and lawful action to facilitate hiring personnel to implement this order.

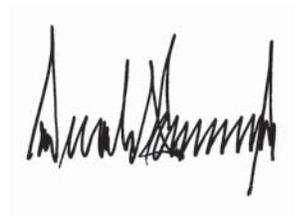
Sec. 18. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

A handwritten signature in black ink, appearing to be "Donald Trump", is located in the upper right quadrant of the page. The signature is stylized and somewhat illegible due to its cursive nature.

THE WHITE HOUSE,
January 25, 2017.

[FR Doc. 2017-02102
Filed 1-27-17; 11:15 am]
Billing code 3295-F7-P

Title 3—

Executive Order 13769 of January 27, 2017

The President

Protecting the Nation From Foreign Terrorist Entry Into the United States

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Immigration and Nationality Act (INA), 8 U.S.C. 1101 *et seq.*, and section 301 of title 3, United States Code, and to protect the American people from terrorist attacks by foreign nationals admitted to the United States, it is hereby ordered as follows:

Section 1. Purpose. The visa-issuance process plays a crucial role in detecting individuals with terrorist ties and stopping them from entering the United States. Perhaps in no instance was that more apparent than the terrorist attacks of September 11, 2001, when State Department policy prevented consular officers from properly scrutinizing the visa applications of several of the 19 foreign nationals who went on to murder nearly 3,000 Americans. And while the visa-issuance process was reviewed and amended after the September 11 attacks to better detect would-be terrorists from receiving visas, these measures did not stop attacks by foreign nationals who were admitted to the United States.

Numerous foreign-born individuals have been convicted or implicated in terrorism-related crimes since September 11, 2001, including foreign nationals who entered the United States after receiving visitor, student, or employment visas, or who entered through the United States refugee resettlement program. Deteriorating conditions in certain countries due to war, strife, disaster, and civil unrest increase the likelihood that terrorists will use any means possible to enter the United States. The United States must be vigilant during the visa-issuance process to ensure that those approved for admission do not intend to harm Americans and that they have no ties to terrorism.

In order to protect Americans, the United States must ensure that those admitted to this country do not bear hostile attitudes toward it and its founding principles. The United States cannot, and should not, admit those who do not support the Constitution, or those who would place violent ideologies over American law. In addition, the United States should not admit those who engage in acts of bigotry or hatred (including “honor” killings, other forms of violence against women, or the persecution of those who practice religions different from their own) or those who would oppress Americans of any race, gender, or sexual orientation.

Sec. 2. Policy. It is the policy of the United States to protect its citizens from foreign nationals who intend to commit terrorist attacks in the United States; and to prevent the admission of foreign nationals who intend to exploit United States immigration laws for malevolent purposes.

Sec. 3. Suspension of Issuance of Visas and Other Immigration Benefits to Nationals of Countries of Particular Concern. (a) The Secretary of Homeland Security, in consultation with the Secretary of State and the Director of National Intelligence, shall immediately conduct a review to determine the information needed from any country to adjudicate any visa, admission, or other benefit under the INA (adjudications) in order to determine that the individual seeking the benefit is who the individual claims to be and is not a security or public-safety threat.

(b) The Secretary of Homeland Security, in consultation with the Secretary of State and the Director of National Intelligence, shall submit to the President

a report on the results of the review described in subsection (a) of this section, including the Secretary of Homeland Security's determination of the information needed for adjudications and a list of countries that do not provide adequate information, within 30 days of the date of this order. The Secretary of Homeland Security shall provide a copy of the report to the Secretary of State and the Director of National Intelligence.

(c) To temporarily reduce investigative burdens on relevant agencies during the review period described in subsection (a) of this section, to ensure the proper review and maximum utilization of available resources for the screening of foreign nationals, and to ensure that adequate standards are established to prevent infiltration by foreign terrorists or criminals, pursuant to section 212(f) of the INA, 8 U.S.C. 1182(f), I hereby proclaim that the immigrant and nonimmigrant entry into the United States of aliens from countries referred to in section 217(a)(12) of the INA, 8 U.S.C. 1187(a)(12), would be detrimental to the interests of the United States, and I hereby suspend entry into the United States, as immigrants and nonimmigrants, of such persons for 90 days from the date of this order (excluding those foreign nationals traveling on diplomatic visas, North Atlantic Treaty Organization visas, C-2 visas for travel to the United Nations, and G-1, G-2, G-3, and G-4 visas).

(d) Immediately upon receipt of the report described in subsection (b) of this section regarding the information needed for adjudications, the Secretary of State shall request all foreign governments that do not supply such information to start providing such information regarding their nationals within 60 days of notification.

(e) After the 60-day period described in subsection (d) of this section expires, the Secretary of Homeland Security, in consultation with the Secretary of State, shall submit to the President a list of countries recommended for inclusion on a Presidential proclamation that would prohibit the entry of foreign nationals (excluding those foreign nationals traveling on diplomatic visas, North Atlantic Treaty Organization visas, C-2 visas for travel to the United Nations, and G-1, G-2, G-3, and G-4 visas) from countries that do not provide the information requested pursuant to subsection (d) of this section until compliance occurs.

(f) At any point after submitting the list described in subsection (e) of this section, the Secretary of State or the Secretary of Homeland Security may submit to the President the names of any additional countries recommended for similar treatment.

(g) Notwithstanding a suspension pursuant to subsection (c) of this section or pursuant to a Presidential proclamation described in subsection (e) of this section, the Secretaries of State and Homeland Security may, on a case-by-case basis, and when in the national interest, issue visas or other immigration benefits to nationals of countries for which visas and benefits are otherwise blocked.

(h) The Secretaries of State and Homeland Security shall submit to the President a joint report on the progress in implementing this order within 30 days of the date of this order, a second report within 60 days of the date of this order, a third report within 90 days of the date of this order, and a fourth report within 120 days of the date of this order.

Sec. 4. *Implementing Uniform Screening Standards for All Immigration Programs.* (a) The Secretary of State, the Secretary of Homeland Security, the Director of National Intelligence, and the Director of the Federal Bureau of Investigation shall implement a program, as part of the adjudication process for immigration benefits, to identify individuals seeking to enter the United States on a fraudulent basis with the intent to cause harm, or who are at risk of causing harm subsequent to their admission. This program will include the development of a uniform screening standard and procedure, such as in-person interviews; a database of identity documents proffered by applicants to ensure that duplicate documents are not

used by multiple applicants; amended application forms that include questions aimed at identifying fraudulent answers and malicious intent; a mechanism to ensure that the applicant is who the applicant claims to be; a process to evaluate the applicant's likelihood of becoming a positively contributing member of society and the applicant's ability to make contributions to the national interest; and a mechanism to assess whether or not the applicant has the intent to commit criminal or terrorist acts after entering the United States.

(b) The Secretary of Homeland Security, in conjunction with the Secretary of State, the Director of National Intelligence, and the Director of the Federal Bureau of Investigation, shall submit to the President an initial report on the progress of this directive within 60 days of the date of this order, a second report within 100 days of the date of this order, and a third report within 200 days of the date of this order.

Sec. 5. *Realignment of the U.S. Refugee Admissions Program for Fiscal Year 2017.* (a) The Secretary of State shall suspend the U.S. Refugee Admissions Program (USRAP) for 120 days. During the 120-day period, the Secretary of State, in conjunction with the Secretary of Homeland Security and in consultation with the Director of National Intelligence, shall review the USRAP application and adjudication process to determine what additional procedures should be taken to ensure that those approved for refugee admission do not pose a threat to the security and welfare of the United States, and shall implement such additional procedures. Refugee applicants who are already in the USRAP process may be admitted upon the initiation and completion of these revised procedures. Upon the date that is 120 days after the date of this order, the Secretary of State shall resume USRAP admissions only for nationals of countries for which the Secretary of State, the Secretary of Homeland Security, and the Director of National Intelligence have jointly determined that such additional procedures are adequate to ensure the security and welfare of the United States.

(b) Upon the resumption of USRAP admissions, the Secretary of State, in consultation with the Secretary of Homeland Security, is further directed to make changes, to the extent permitted by law, to prioritize refugee claims made by individuals on the basis of religious-based persecution, provided that the religion of the individual is a minority religion in the individual's country of nationality. Where necessary and appropriate, the Secretaries of State and Homeland Security shall recommend legislation to the President that would assist with such prioritization.

(c) Pursuant to section 212(f) of the INA, 8 U.S.C. 1182(f), I hereby proclaim that the entry of nationals of Syria as refugees is detrimental to the interests of the United States and thus suspend any such entry until such time as I have determined that sufficient changes have been made to the USRAP to ensure that admission of Syrian refugees is consistent with the national interest.

(d) Pursuant to section 212(f) of the INA, 8 U.S.C. 1182(f), I hereby proclaim that the entry of more than 50,000 refugees in fiscal year 2017 would be detrimental to the interests of the United States, and thus suspend any such entry until such time as I determine that additional admissions would be in the national interest.

(e) Notwithstanding the temporary suspension imposed pursuant to subsection (a) of this section, the Secretaries of State and Homeland Security may jointly determine to admit individuals to the United States as refugees on a case-by-case basis, in their discretion, but only so long as they determine that the admission of such individuals as refugees is in the national interest—including when the person is a religious minority in his country of nationality facing religious persecution, when admitting the person would enable the United States to conform its conduct to a preexisting international agreement, or when the person is already in transit and denying admission would cause undue hardship—and it would not pose a risk to the security or welfare of the United States.

(f) The Secretary of State shall submit to the President an initial report on the progress of the directive in subsection (b) of this section regarding prioritization of claims made by individuals on the basis of religious-based persecution within 100 days of the date of this order and shall submit a second report within 200 days of the date of this order.

(g) It is the policy of the executive branch that, to the extent permitted by law and as practicable, State and local jurisdictions be granted a role in the process of determining the placement or settlement in their jurisdictions of aliens eligible to be admitted to the United States as refugees. To that end, the Secretary of Homeland Security shall examine existing law to determine the extent to which, consistent with applicable law, State and local jurisdictions may have greater involvement in the process of determining the placement or resettlement of refugees in their jurisdictions, and shall devise a proposal to lawfully promote such involvement.

Sec. 6. *Rescission of Exercise of Authority Relating to the Terrorism Grounds of Inadmissibility.* The Secretaries of State and Homeland Security shall, in consultation with the Attorney General, consider rescinding the exercises of authority in section 212 of the INA, 8 U.S.C. 1182, relating to the terrorism grounds of inadmissibility, as well as any related implementing memoranda.

Sec. 7. *Expedited Completion of the Biometric Entry-Exit Tracking System.*

(a) The Secretary of Homeland Security shall expedite the completion and implementation of a biometric entry-exit tracking system for all travelers to the United States, as recommended by the National Commission on Terrorist Attacks Upon the United States.

(b) The Secretary of Homeland Security shall submit to the President periodic reports on the progress of the directive contained in subsection (a) of this section. The initial report shall be submitted within 100 days of the date of this order, a second report shall be submitted within 200 days of the date of this order, and a third report shall be submitted within 365 days of the date of this order. Further, the Secretary shall submit a report every 180 days thereafter until the system is fully deployed and operational.

Sec. 8. *Visa Interview Security.* (a) The Secretary of State shall immediately suspend the Visa Interview Waiver Program and ensure compliance with section 222 of the INA, 8 U.S.C. 1202, which requires that all individuals seeking a nonimmigrant visa undergo an in-person interview, subject to specific statutory exceptions.

(b) To the extent permitted by law and subject to the availability of appropriations, the Secretary of State shall immediately expand the Consular Fellows Program, including by substantially increasing the number of Fellows, lengthening or making permanent the period of service, and making language training at the Foreign Service Institute available to Fellows for assignment to posts outside of their area of core linguistic ability, to ensure that non-immigrant visa-interview wait times are not unduly affected.

Sec. 9. *Visa Validity Reciprocity.* The Secretary of State shall review all nonimmigrant visa reciprocity agreements to ensure that they are, with respect to each visa classification, truly reciprocal insofar as practicable with respect to validity period and fees, as required by sections 221(c) and 281 of the INA, 8 U.S.C. 1201(c) and 1351, and other treatment. If a country does not treat United States nationals seeking nonimmigrant visas in a reciprocal manner, the Secretary of State shall adjust the visa validity period, fee schedule, or other treatment to match the treatment of United States nationals by the foreign country, to the extent practicable.

Sec. 10. *Transparency and Data Collection.* (a) To be more transparent with the American people, and to more effectively implement policies and practices that serve the national interest, the Secretary of Homeland Security, in consultation with the Attorney General, shall, consistent with applicable law and national security, collect and make publicly available within 180 days, and every 180 days thereafter:

(i) information regarding the number of foreign nationals in the United States who have been charged with terrorism-related offenses while in the United States; convicted of terrorism-related offenses while in the United States; or removed from the United States based on terrorism-related activity, affiliation, or material support to a terrorism-related organization, or any other national security reasons since the date of this order or the last reporting period, whichever is later;

(ii) information regarding the number of foreign nationals in the United States who have been radicalized after entry into the United States and engaged in terrorism-related acts, or who have provided material support to terrorism-related organizations in countries that pose a threat to the United States, since the date of this order or the last reporting period, whichever is later; and

(iii) information regarding the number and types of acts of gender-based violence against women, including honor killings, in the United States by foreign nationals, since the date of this order or the last reporting period, whichever is later; and

(iv) any other information relevant to public safety and security as determined by the Secretary of Homeland Security and the Attorney General, including information on the immigration status of foreign nationals charged with major offenses.

(b) The Secretary of State shall, within one year of the date of this order, provide a report on the estimated long-term costs of the USRAP at the Federal, State, and local levels.

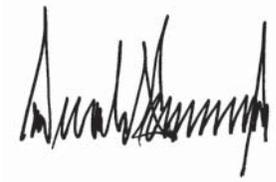
Sec. 11. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.



THE WHITE HOUSE,
January 27, 2017.

CHAPTER 12H: IMMIGRATION STATUS

- Sec. 12H.1. City and County of Refuge.
- Sec. 12H.2. Use of City Funds Prohibited.
- Sec. 12H.2-1. Chapter Provisions Inapplicable

SEC. 12H.1. CITY AND COUNTY OF REFUGE.

It is hereby affirmed that the City and County of San Francisco is a City and County of Refuge.

(Added by Ord. 375-89, App. 10/24/89)

SEC. 12H.2. USE OF CITY FUNDS PROHIBITED.

No department, agency, commission, officer or employee of the City and County of San Francisco shall use any City funds or resources to assist in the enforcement of Federal immigration law or to gather or disseminate information regarding the immigration status of individuals in the City and County of San Francisco unless such assistance is required by Federal or State statute, regulation or court decision. The prohibition set forth in this Chapter shall include, but shall not be limited to:

- (a) Assisting or cooperating, in one's official capacity, with any investigation, detention, or arrest procedures, public or clandestine, conducted by the Federal agency charged with enforcement of the Federal immigration law and relating to alleged violations of the civil provisions of the Federal immigration law.
- (b) Assisting or cooperating, in one's official capacity, with any investigation, surveillance or gathering of information conducted by foreign governments, except for cooperation related to an alleged violation of City and County, State or Federal criminal laws.
- (c) Requesting information about, or disseminating information regarding, the immigration status of any individual, or conditioning the provision of services or benefits by the City and County of San Francisco upon immigration status, except as required by Federal or State statute or regulation, City and County public assistance criteria, or court decision.
- (d) Including on any application, questionnaire or interview form used in relation to benefits, services or opportunities provided by the City and County of San Francisco any question regarding immigration status other than those required by Federal or State statute, regulation or court decision. Any such questions existing or being used by the City and County at the time this Chapter is adopted shall be deleted within sixty days of the adoption of this Chapter.

(Added by Ord. 375-89, App. 10/24/89; Ord. 228-09, File No. 091032, App. 10-28-2009)

SEC. 12H.2-1. CHAPTER PROVISIONS INAPPLICABLE TO PERSONS CONVICTED OF CERTAIN CRIMES.

Nothing in this Chapter shall prohibit, or be construed as prohibiting, a Law Enforcement Officer from identifying and reporting any adult pursuant to State or Federal law or regulation who is in custody after

being booked for the alleged commission of a felony and is suspected of violating the civil provisions of the immigration laws. In addition, nothing in this Chapter shall prohibit, or be construed as prohibiting, a Law Enforcement Officer from identifying and reporting any juvenile who is suspected of violating the civil provisions of the immigration laws if: (1) the San Francisco District Attorney files a petition in the juvenile court alleging that the minor is a person within the description of Section 602(a) of the California Welfare and Institutions Code and the juvenile court sustains a felony charge based upon the petition; (2) the San Francisco Superior Court makes a finding of probable cause after the District Attorney directly files felony criminal charges against the minor in adult criminal court; or (3) the San Francisco Superior Court determines that the minor is unfit to be tried in juvenile court, the minor is certified to adult criminal court, and the Superior Court makes a finding of probable cause in adult criminal court.

Nothing in this Chapter shall preclude any City and County department, agency, commission, officer or employee from (a) reporting information to the Federal agency charged with enforcement of the Federal immigration law regarding an individual who has been booked at any county jail facility, and who has previously been convicted of a felony committed in violation of the laws of the State of California, which is still considered a felony under State law; (b) cooperating with a request from the Federal agency charged with enforcement of the Federal immigration law for information regarding an individual who has been convicted of a felony committed in violation of the laws of the State of California, which is still considered a felony under State law; or (c) reporting information as required by Federal or State statute, regulation or court decision, regarding an individual who has been convicted of a felony committed in violation of the laws of the State of California, which is still considered a felony under State law. For purposes of this Section, an individual has been "convicted" of a felony when: (a) there has been a conviction by a court of competent jurisdiction; and (b) all direct appeal rights have been exhausted or waived; or (c) the appeal period has lapsed.

However, no officer, employee or law enforcement agency of the City and County of San Francisco shall stop, question, arrest or detain any individual solely because of the individual's national origin or immigration status. In addition, in deciding whether to report an individual to the Federal agency charged with enforcement of the Federal immigration law under the circumstances described in this Section, an officer, employee or law enforcement agency of the City and County of San Francisco shall not discriminate among individuals on the basis of their ability to speak English or perceived or actual national origin.

This Section shall not apply in cases where an individual is arrested and/or convicted for failing to obey a lawful order of a Police Officer during a public assembly or for failing to disperse after a Police Officer has declared an assembly to be unlawful and has ordered dispersal.

Nothing herein shall be construed or implemented so as to discourage any person, regardless of immigration status, from reporting criminal activity to law enforcement agencies.

(Added by Ord. 282-92, App. 9/4/92; amended by Ord. 238-93, App. 8/4/93; Ord. 228-09, File No. 091032, App. 10-28-2009)

SEC. 12H.3. CLERK OF BOARD TO TRANSMIT COPIES OF THIS CHAPTER; INFORMING CITY EMPLOYEES.

The Clerk of the Board of Supervisors shall send copies of this Chapter, including any future amendments thereto that may be made, to every department, agency and commission of the City and County of San Francisco, to California's United States Senators, and to the California Congressional delegation, the Commissioner of the Federal agency charged with enforcement of the Federal immigration law, the United States Attorney General, and the Secretary of State and the President of the United States. Each appointing officer of the City and County of San Francisco shall inform all employees under her or his jurisdiction of the prohibitions in this ordinance, the duty of all of her or his employees to comply with the prohibitions in this ordinance, and that employees who fail to comply with the prohibitions of the ordinance shall be subject to appropriate disciplinary action. Each City and County employee shall be given a written directive with instructions for implementing the provisions of this Chapter.

SEC. 12H.4. ENFORCEMENT.

The Human Rights Commission shall review the compliance of the City and County departments, agencies, commissions and employees with the mandates of this ordinance in particular instances in which there is question of noncompliance or when a complaint alleging noncompliance has been lodged.

(Added by Ord. 375-89, App. 10/24/89)

SEC. 12H.5. CITY UNDERTAKING LIMITED TO PROMOTION OF GENERAL WELFARE.

In undertaking the adoption and enforcement of this Chapter, the City is assuming an undertaking only to promote the general welfare. This Chapter is not intended to create any new rights for breach of which the City is liable in money damages to any person who claims that such breach proximately caused injury. This section shall not be construed to limit or proscribe any other existing rights or remedies possessed by such person.

(Added by Ord. 375-89, App. 10/24/89)

SEC. 12H.6. SEVERABILITY.

If any part of this ordinance, or the application thereof, is held to be invalid, the remainder of this ordinance shall not be affected thereby, and this ordinance shall otherwise continue in full force and effect. To this end, the provisions of this ordinance, and each of them, are severable.

(Added by Ord. 375-89, App. 10/24/89)

CHAPTER 12I: [RESERVED]

Sec. 12I.1.

(Added by Ord. 391-90, App. 12/6/90; amended by Ord. 409-97, App. 10/31/97; Ord. 38-01, File No. 010010, App. 3/16/2001; repealed by Ord. 171-03. File No. 030422, App. 7/3/2003)

Sec. 12I.2.

(Added by Ord. 391-90, App. 12/6/90; amended by Ord. 278-96, App. 7/3/96; Ord. 409-97, App. 10/31/97; Ord. 38-01, File No. 010010, App. 3/16/2001; repealed by Ord. 171-03. File No. 030422, App. 7/3/2003)

Sec. 12I.3.

(Added by Ord. 391-90, App. 12/6/90; amended by Ord. 409-97, App. 10/31/97; Ord. 38-01, File No. 010010, App. 3/16/2001; repealed by Ord. 171-03. File No. 030422, App. 7/3/2003)

Sec. 12I.4.

(Added by Ord. 391-90, App. 12/6/90; amended by Ord. 409-97, App. 10/31/97; Ord. 38-01, File No. 010010, App. 3/16/2001; repealed by Ord. 171-03. File No. 030422, App. 7/3/2003)

Sec. 12I.5.

(Added by Ord. 391-90, App. 12/6/90; amended by Ord. 304-92, App. 9/29/92; Ord. 409-97, App. 10/31/97; Ord. 38-01, File No. 010010, App. 3/16/2001; repealed by Ord. 171-03. File No. 030422, App. 7/3/2003)

Sec. 12I.6.

(Added by Ord. 391-90, App. 12/6/90; amended by Ord. 409-97, App. 10/31/97; Ord. 38-01, File No. 010010, App. 3/16/2001; repealed by Ord. 171-03. File No. 030422, App. 7/3/2003)

Sec. 12I.7.

(Added by Ord. 391-90, App. 12/6/90; amended by Ord. 38-01, File No. 010010, App. 3/16/2001; repealed by Ord. 171-03. File No. 030422, App. 7/3/2003)

Sec. 12I.8.

(Added by Ord. 391-90, App. 12/6/90; amended by Ord. 409-97, App. 10/31/97; Ord. 38-01, File No. 010010, App. 3/16/2001; repealed by Ord. 171-03. File No. 030422, App. 7/3/2003)

Sec. 12I.10.

(Added by Ord. 391-90, App. 12/6/90; amended by Ord. 38-01, File No. 010010, App. 3/16/2001; repealed by Ord. 171-03. File No. 030422, App. 7/3/2003)

Sec. 12I.11.

(Added by Ord. 391-90, App. 12/6/90; amended by Ord. 38-01, File No. 010010, App. 3/16/2001; repealed by Ord. 171-03. File No. 030422, App. 7/3/2003)

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Edwin M. Lee
Mayor

Micki Callahan
Human Resources Director

MEMORANDUM

Date: Jan. 19, 2017
To: All City and County of San Francisco Employees
From: Micki Callahan
 Human Resources Director
Subject: Reminder about Sanctuary City Obligations

This memo is being issued to remind City and County of San Francisco (City) departments and employees of their duties under the San Francisco Charter and Administrative Code. All people seeking or receiving City services must be treated with equal dignity, respect for human rights, and due process under the law, regardless of immigration status. This includes informing them of their rights and access to services, as well as giving out general and/or translated information on services and programs that is timely, accurate and complete.

Departments must ensure that their rules, regulations, and protocols adhere to San Francisco's sanctuary city laws, codified at Chapters 12H and 12I of the Administrative Code. Although federal law states that a "local government entity or official may not prohibit, or 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" (8 U.S.C. § 1373), Chapters 12H and 12I impose other types of restrictions, which are consistent with federal law and are summarized below.

Department employees acting in their official capacities may not use City funds or resources to:

- a) Assist or cooperate with any investigation, detention, or arrest procedures, public or clandestine, conducted by federal immigration authorities (ICE) and relating to alleged violations of the civil provisions of federal immigration law.
- b) Request or give out information regarding the release status or personal information of any individual, except as permitted under Administrative Code Section 12I.3.
- c) Condition the receipt of City services or benefits on immigration status, except as required by federal or state statute or regulation, public assistance criteria, or court decision.
- d) Include any question regarding immigration status (other than those required by federal or state statute, regulation, or court decision) on any application, questionnaire, or interview form used in relation to benefits, services, or opportunities provided by the City.
- e) Detain an individual on the basis of a civil immigration detainer after that individual becomes eligible for release from custody. (See Administrative Code § 12I.3(a).)
- f) Respond to a federal immigration officer's request for notification of an individual's release, unless the individual meets specified criteria listed in Administrative Code section 12I.3(c).

It's important to make sure all City employees are aware of these rules. Departments may include education on the City's sanctuary city laws in regular employee trainings and orientations based on templates that will be established by the Office of Civic Engagement and Immigrant Affairs (OCEIA).

Departments are reminded to include education on Administrative Code Chapters 12H and 12I in regular community outreach.

This memorandum is provided as a general summary of the City's sanctuary city laws and is not a substitute for legal advice. State and federal law may impose additional obligations. If you have any questions about how to apply the City's sanctuary city laws to a particular situation, please contact your manager or the Deputy City Attorney assigned to your department.



DENNIS J. HERRERA
City Attorney

MATTHEW LEE
Deputy City Attorney

Direct Dial: (415) 554-4677
Email: matthew.s.lee@sfgov.org

MEMORANDUM

TO: Maria Su, Executive Director
Department of Children, Youth & Their Families

FROM: Matthew Lee *ML*
Deputy City Attorney

DATE: January 27, 2017

RE: Limits on U.S. Immigration and Customs Enforcement Search Authority

In this memorandum, we respond to your request for written public guidance regarding legal limits on the authority of U.S. Immigration and Customs Enforcement (ICE) agents to request information or conduct searches in San Francisco, including on City property. City employees should immediately call the City Attorney's Office if ICE agents contact employees while they are performing their official duties, or if employees become aware that ICE agents are seeking to access City records or to come onto City property. Individuals and organizations that are funded by the City but are not part of City government should ensure that they comply with their agreements with the City, and should rely on their own counsel for legal advice.

Under the City's Sanctuary Ordinance, City agencies and employees are generally prohibited from assisting ICE in enforcing federal immigration laws. The purpose of this policy is to ensure that all residents trust City government, cooperate with City institutions, and participate in City programs that promote the public welfare. For example, the City needs crime victims and witnesses to cooperate with its police department, to make San Francisco's streets safe. The City needs parents to send their children to school, to keep San Francisco's economy strong. And the City needs people to seek medical care, to prevent the spread of disease. For these reasons, and others like them, the City needs all City residents to know they can access City services without fear of federal immigration consequences.

The City's Sanctuary Ordinance policies do not mean that federal immigration enforcement cannot happen in San Francisco. Instead, the policies provide specific restrictions on how City agencies and employees may interact with federal immigration authorities. Consistent with those policies and federal law, which does not allow the federal government to coerce local governments into performing immigration enforcement, we offer this guidance about City interaction with ICE agents on City property.

- **Whenever you encounter ICE agents:**
 - Except in the limited circumstances below where ICE agents have a valid subpoena or warrant, you are *not* required to cooperate with the agents.
 - You are *not* required to show ICE agents identification of any kind, including documents that prove citizenship or immigration status.
 - You are *not* required to answer ICE agents' questions.
 - You are *not* required to speak with ICE agents at all.

MEMORANDUM

TO: Maria Su, Executive Director
Department of Children, Youth & Their Families
DATE: January 27, 2017
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RE: Limits on U.S. Immigration and Customs Enforcement Search Authority

- If you choose *not* to speak with ICE agents, you may tell ICE agents that you choose not to speak with them, and then say nothing else.
- As previously mentioned, City employees should immediately call the City Attorney's Office if ICE agents contact employees while they are performing their official duties, or if employees become aware that ICE agents are seeking access to City records or other City property.
- **If ICE agents have no warrant:**
 - ICE agents may ask for your permission to enter a non-public area or conduct some other kind of search, even if they do not have a warrant giving them the right to do so. But you do not need to give ICE agents permission to enter a non-public area, or conduct any other kind of search.
 - City employees acting in their official capacities should tell ICE that they cannot consent to any search of City property without first consulting the City Attorney's Office.
- **If ICE agents have a document they call a warrant:**
 - ICE agents may show you a piece of paper and tell you that they have a warrant.
 - But ICE uses the word "warrant" to refer to different kinds of legal documents.
 - Sometimes ICE uses warrants issued by federal judges.
 - Sometimes ICE uses warrants issued by administrative officials.
 - Each kind of warrant has different legal consequences.
 - City employees presented with a warrant during the course of their official duties should immediately call the City Attorney's Office.
 - ICE agents may also present a document called a "subpoena." This guidance addresses subpoenas separately.
- **Was the warrant issued by a federal judge, or was it issued by an administrative official?**
 - Was the warrant issued by someone called a "District Judge" or "Magistrate Judge"? Was the warrant issued by a court called a "U.S. District Court"? If so, the warrant was issued by a federal judge.
 - Was the warrant issued by *anyone other than* a "District Judge" or "Magistrate Judge"? Was the warrant issued by an institution called *anything other than* a "U.S. District Court"? If so, the warrant was issued by an administrative official.
 - "Immigration judges" and "administrative law judges" are **NOT** federal judges. They are administrative officials.

MEMORANDUM

TO: Maria Su, Executive Director
Department of Children, Youth & Their Families
DATE: January 27, 2017
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RE: Limits on U.S. Immigration and Customs Enforcement Search Authority

- City employees should consult the City Attorney's Office in determining whether a warrant was issued by a federal judge or an administrative official.
- **If ICE agents have a warrant issued by an administrative official:**
 - ICE typically uses this kind of warrant to arrest the specific person named in the warrant.
 - An administrative official's arrest warrant does not allow ICE agents to enter any area that they could not have otherwise entered.
 - An administrative official's arrest warrant does not allow ICE agents to search anything that they could not have otherwise searched. This includes City records.
 - You do *not* need to tell ICE agents anything about the person they are looking for.
 - You do *not* need to help ICE agents find the person they are looking for.
 - You may inform ICE agents that you will not give them any information.
 - You may tell ICE agents that you do not consent to their presence on the premises.
 - You may ask ICE agents to leave.
- **If ICE agents have a warrant issued by a federal judge:**
 - ICE typically uses this kind of warrant to search property.
 - A valid judicial search warrant allows ICE agents to conduct any search authorized by the warrant.
 - If the warrant is invalid, or there are other problems with the search, it may be possible to challenge the search later.
- **If ICE agents have a document called a subpoena:**
 - A subpoena is a document that asks you to produce documents or other evidence. ICE has the power to issue subpoenas.
 - But you do *not* need to comply with an ICE subpoena on the spot.
 - If you are served with an ICE subpoena, you will have an opportunity to challenge the subpoena before a federal judge in U.S. District Court.
 - Again, "immigration judges" and "administrative law judges" are **NOT** federal judges. They are administrative officials.
 - A subpoena issued by an "immigration judge" or "administrative law judge" was **NOT** issued by a federal judge and does not require immediate compliance.

MEMORANDUM

TO: Maria Su, Executive Director
Department of Children, Youth & Their Families
DATE: January 27, 2017
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RE: Limits on U.S. Immigration and Customs Enforcement Search Authority

- You cannot be punished for refusing to comply with an ICE subpoena until after you have had the opportunity to challenge it before a federal judge in U.S. District Court.
- **If ICE agents try to serve a subpoena on the City:**
 - Most City employees are not authorized to accept subpoenas issued to the City and County of San Francisco, or to decide whether to comply with those subpoenas.
 - City employees presented with subpoenas should immediately call the City Attorney's Office.