

WORKING WITH IMMIGRANT COMMUNITIES NOW

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Who We Are

National Immigration Law Center (NILC)

- Our mission is to defend & advance the rights & opportunities of low-income immigrants and their family members.
- We combine policy advocacy, litigation and strategic communications to protect immigrants' rights under immigration law and in the workplace and to advance their access to advance access to health care, education and economic opportunity.



Disclaimers

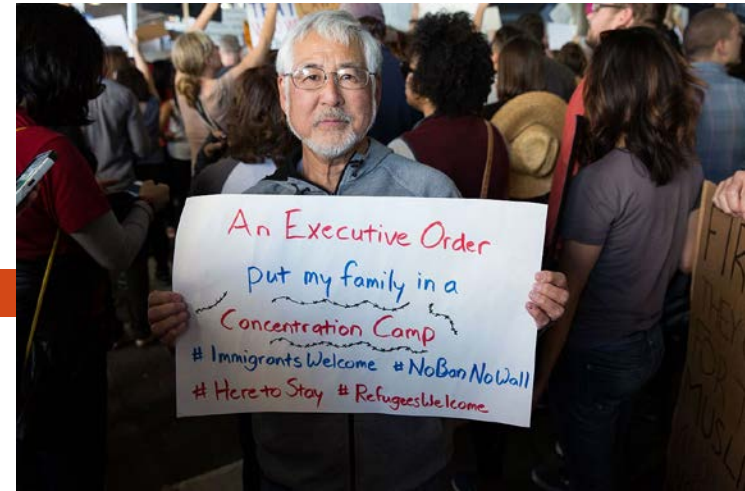
- ❑ Things are changing fast!
- ❑ There are still a lot of unknowns.
- ❑ We are sharing the information we have at this time.
- ❑ We are providing general information and not legal advice. Consult with an attorney who can advise your organization.

The Current Environment

- Since assuming office, the Trump administration has used Executive Orders – including leaked orders that have not been signed – to terrorize immigrant communities



Executive Orders



What is an Executive Order (EO)?

- An official statement from the President about how the agencies he or she oversees are to use their resources
- An EO has the 'full force of law' when issued pursuant to authority granted to the President by Congress or the Constitution
- An EO Cannot contradict or override laws or the Constitution

Can an EO be reversed?

- Can be reversed by the courts for conflict with law or Constitution
- Can be overridden by subsequent Congressional actions

Muslim Bans

Muslim Ban & Muslim Ban 2.0 – **Stayed**

- Suspends for at least 90 days entry of individuals from 6 majority Muslim countries: Syria, Libya, Somalia, Iran, Sudan & Yemen
 - ▣ subject to categorical exceptions, including LPRs
 - ▣ Allows for case-by-case exceptions
- Suspends admission of refugees from all countries for 120 days

> not stayed:

- ▣ Reduces refugee admissions for FY 17 to 50,000



Order on “Border Security”

Requires (in part):

- the construction of a wall on the Southern border
 - Expands government & privately-run detention facilities near the border
 - Expands the use of detention of persons awaiting adjudication of immigration cases
 - Adds 5,000 more border patrol agents
- **Congress must appropriate funds**



Interior Enforcement Order



Creates new **enforcement priorities**:

- entered US w/o documents
 - have an order of removal
 - charged with a criminal offense or committed acts that constitute a chargeable offense
 - who have abused any program related to receipt of public benefits
 - **knowingly defrauded** the government or a public benefit system
- Not being a priority does not protect a person
- Does not apply to DACA recipients (per DHS Q&A)
exception for people with an order of Removal

Interior Enforcement Order

Federal-State agreements: Expands the 287(g) program, which allows ICE to enter into agreements that **deputize local law enforcement to act as immigration agents**

Sanctuary Cities: jurisdictions that **willfully** refuse to comply with certain information sharing requirements are ineligible to receive federal grants

- Applies to **state and local governments** and agents only

Hire 10,000 new Border Patrol Agents

➤ Subject to Congressional appropriation



Leaked Order: Public Benefits

- ❑ On January 25th, Vox leaked the text of several Executive Orders
- ❑ One EO, **which has not been signed**, would affect lawfully present immigrants' use of public benefits and US Citizens and LPRs' ability to sponsor their family members
- ❑ Concerns about the EO are already having an impact on immigrant communities
- ❑ Remember:
 - It has not been signed
 - It might never be signed
 - If it is, it could be different
- ❑



Background – Public Charge

- A person is a public charge if they are dependent on the government for basic subsistence (costs of daily living)
- A public charge assessment is made when a person applies to enter the US from abroad or applies to adjust their status to become a lawful permanent resident (LPR)
- Whether a person will become a public charge is based on an assessment of all relevant factors, including their age, resources, health, education, income, skills and prior employment
- Current policy and guidance provide that only two types of benefits – cash assistance for income maintenance and institutionalization for long-term care at government expense – are considered in a public charge determination

Leaked Order: Public Charge

Benefits considered in a public charge determination could include all public benefits “for which eligibility or amount is determined in any way on the basis of income, resources or financial need”

- could affect people’s ability to enter the country or become an LPR

Unknowns:

- how expansive in practice?
- application to state/local-funded benefits?





Leaked Order: Sponsor Liability

- Family-based immigrants are required to have a sponsor, who signs an “affidavit of support” on their behalf.
 - ▣ The affidavit of support stays in effect until the person becomes a citizen, has credit for 40 quarters of work in the US or leaves the country
 - ▣ The affidavit of support authorizes the government to pursue reimbursement from the sponsor if the immigrant uses certain federal benefits while it is in effect - “Sponsor liability”
 - In practice, government agencies have not pursued sponsors
- The leaked order expands the benefits subject to sponsor liability to all public benefits “for which eligibility or amount is determined in any way on the basis of income, resources or financial need”



Leaked Order: CTC

- ❑ The **Child Tax Credit** (CTC) is currently available to mixed-status families, including families in which the taxpayer files with an Individual Taxpayer Identification Number (ITIN)
- ❑ The leaked order would limit the availability of the CTC to households in which both the child(ren) and taxpayer had Social Security Numbers
- **Remember, the order has not been signed!**

Messages for Consumers – Public Charge

- The public charge statute requires immigration officials to look at all factors. No single factor, including use of benefits, is conclusive
 - ▣ The statute cannot be changed by EO
- Public charge is only assessed when a person tries to enter the country or become an LPR
 - ▣ Not considered when a person applies for naturalization
- Some immigrants are exempt from public charge, including: refugees, asylees, T-visa holder, U-visa holder, VAWA self-petitioners, SIJS, certain parolees

Messages for Consumers - Benefits

- ❑ Laws and policies related to the use of benefits have not changed
- ❑ Federal and state laws that protect the privacy of people who apply for health and public benefit programs have not changed – and cannot be changed by EO
- ❑ You are not required to provide your SSN or immigration status unless you are applying for benefits for yourself
- ❑ But: Never misrepresent any information on a benefits application!

Document! Send stories to:
publiccharge@nilc.org



Creating Safe Spaces

ICE and CBP Sensitive Locations Policy

Sensitive locations policy not reversed

- Enforcement at 'sensitive locations' allowed only under exigent circumstances or with prior supervisory approval:
 - schools
 - **hospitals (clarified to cover all health facilities)**
 - churches and other institutions of worship
 - the site of a funeral, wedding, or other public religious ceremony; and
 - a site during the occurrence of a public demonstration, such as a march, rally or parade.
- Courts not included

ICE and CBP Sensitive Locations Policy

What constitutes an exigent circumstance?

- the enforcement action involves a **national security or terrorism** matter;
- there is an imminent **risk of death, violence, or physical harm** to any person or property;
- the enforcement action involves the immediate arrest or pursuit of a **dangerous felon, terrorist suspect, or any other individual(s) that present an imminent danger** to public safety; or
- there is an imminent risk of **destruction of evidence** material to an ongoing criminal case.



Document!



Immigration enforcement
near sensitive locations?

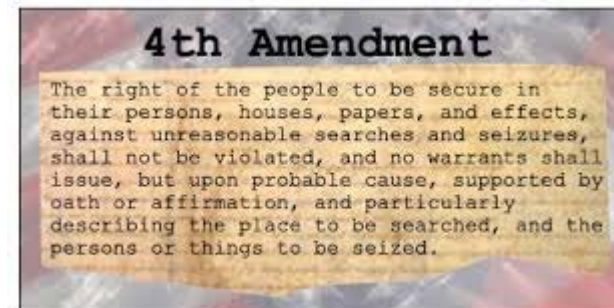
Let us know!

Email Avidah Moussavian:
Moussavian@nilc.org

Constitutional protection

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- The 4th Amendment provides constitutional protection against *unreasonable* search and seizure
- What's unreasonable?
 - ▣ Searches in areas in which one has a *reasonable expectation of privacy*
 - without **consent** or a warrant
 - Privacy interest must be one that would be generally recognized by the community
- No reasonable expectation of privacy in public space
 - ▣ law enforcement can enter, look at anything 'in plain view'
 - ▣ Can question persons present
 - they have a right to remain silent





Maximizing Fourth Amendment protections: Health Clinic Example

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1. Establish a written policy designating areas of the clinic as private
 - Ex: waiting room is public, all areas beyond waiting room are private
 - Ex: only patients and people accompanying them are permitted to enter the clinic
2. Establish policies limiting the materials brought into any public areas of the clinic
3. Provide posters, know your rights cards and other educational materials advising patients of their rights in interactions with ICE and law enforcement



Maximizing Fourth Amendment protections

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4. Designate one or two specific staff members as responsible for handling interactions with law enforcement.

- ▣ Train them to evaluate the sufficiency of a warrant:

- Is it signed by a judge or magistrate?
- Does it state the address of the premises to be searched?
- Is it being executed during the designated time, if any

- ▣ Train them to observe law enforcement and to object if their actions exceed those authorized by the warrant

- ▣ Train other staff to refer law enforcement to them and to refuse to answer law enforcement questions without their authorization

- ▣ 5. Establish a relationship with an immigration lawyer

Local policies

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Communities can advocate for systems-level policies and expressions of support:

- Los Angeles County's Director of Health Services has put out a message to patients
- San Francisco Department of Public Health created a post-election webpage and You're Safe Here! flyer in multiple languages
- New York City Health + Hospitals has published a powerful message to immigrant consumers

Information for Consumers

Information for Consumers

□ Everyone has Certain Basic Rights

- English, Spanish, Chinese, Arabic, Korean
- You have the right to remain silent. You may refuse to speak to immigration officers
- Carry a know-your-rights card and show it if an immigration officer stops you
- Do not open your door unless an ICE agent shows you a warrant (ask them to slide it under the door)
 - If they have a warrant for a specific person, that person should come out.
 - You can refuse to consent to let them enter your house
- You have a right to talk to a lawyer.
- **Before you sign anything, talk to a lawyer.**



Information for Consumers

KNOW YOUR RIGHTS!

If you are stopped by immigration or the police:

- ✓ Hand this card to the officer, and remain silent.
- ✓ The card explains that you are exercising your right to refuse to answer any questions until you have talked with a lawyer.

To: Immigration or Other Officer

Right now I am choosing to exercise my legal rights.

- I will remain **silent**, and I refuse to answer your questions.
- If I am detained, I have the right to contact an attorney **immediately**.
- I refuse to sign anything without advice from an attorney.

Thank you.

What can I do if...

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- If ICE or CBP come to my house?
 - ▣ Do **NOT** open the door!
- Behind the closed door:
 - ▣ Ask the officers to identify themselves
 - “Who are you with?” or “What agency do you work for?”
- In Los Angeles:
 - ▣ LAPD officials have an ID card that says “LAPD” and has their photo. If you are concerned that ICE is pretending to be LAPD, ask to see the officer’s ID card to prove they are LAPD



Ask to see a warrant

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- Ask for a **warrant**. Ask them to slip it under the door.
- Look for YOUR name, YOUR address, current date, and a signature from a **judge**.
- If the warrant is issued by a court and authorizes a search of your house, you should let the officers in.
- If it is issued by ICE, **you have the right to NOT let the officers in.**

Sample warrants - judicial

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AO 93 (Rev. 12/09) Search and Seizure Warrant

UNITED STATES DISTRICT COURT

for the
Eastern District of California

In the Matter of the Search of
(Briefly describe the property to be searched
or identify the person by name and address)

540 Oak Avenue
Davis, California 95616

Case No.

SEARCH AND SEIZURE WARRANT

To: Any authorized law enforcement officer

2:11-SW-0161 EFB

An application by a federal law enforcement officer or an attorney for the government requests the search
of the following person or property located in the EASTERN District of CALIFORNIA
(Identify the person or describe the property to be searched and give its location):

SEE ATTACHMENT A, ATTACHED HERETO AND INCORPORATED BY REFERENCE

The person or property to be searched, described above, is believed to conceal (Identify the person or describe the
property to be seized):

SEE ATTACHMENT B, ATTACHED HERETO AND INCORPORATED BY REFERENCE

I find that the affidavit(s), or any recorded testimony, establish probable cause to search and seize the person or
property.

YOU ARE COMMANDED to execute this warrant on or before

5-9-2011

(not to exceed 14 days)

☐ in the daytime 6:00 a.m. to 10 p.m. ☐ at any time in the day or night as I find reasonable cause has been
established.

Unless delayed notice is authorized below, you must give a copy of the warrant and a receipt for the property
taken to the person from whom, or from whose premises, the property was taken, or leave the copy and receipt at the
place where the property was taken.

The officer executing this warrant, or an officer present during the execution of the warrant, must prepare an
inventory as required by law and promptly return this warrant and inventory to United States Magistrate Judge

(name)

☐ I find that immediate notification may have an adverse result listed in 18 U.S.C. § 2705 (except for delay
of trial), and authorize the officer executing this warrant to delay notice to the person who, or whose property, will be
searched or seized (check the appropriate box) ☐ for _____ days (not to exceed 30).

☐ Until, the facts justifying the later specific date of _____.

Date and time issued: 4-25-2011
9:10:00 AM


Judge's signature

City and state: SACRAMENTO, CALIFORNIA

EDMUND F. BRENNAN, U.S. MAGISTRATE JUDGE

Printed name and title

Information for Consumers

Create a safety plan.

- ❑ Memorize the phone number of a friend, family member, or attorney that you can call if you are arrested.
- ❑ If you take care of children or other people, make a plan to have them taken care of if you are detained.
- ❑ Keep important documents such as birth certificates and immigration documents in a safe place where a friend or family member can access them if necessary.
- ❑ Make sure your loved ones know how to find you if you are detained by ICE. They can use ICE's online [detainee locator](#) to find an adult who is in immigration custody. Or they can [call the local ICE office](#). Make sure they have your alien registration number written down, if you have one.
- ❑ You can call the Executive Office for Immigration Review (EOIR) hotline number at 240-314-1500 or 1-800-898-7180 (toll-free) 24 hours a day, 7 days a week to get information on your case's status.

For more information: www.nilc.org

