



City and County of San Francisco
London N. Breed
Mayor

San Francisco Department of Public Health

Grant Colfax, MD
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: October 1, 2020
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

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 ~

confidential information of an individual, unless it is mandated by federal or state law, warrant, or court decision.

- 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 Office of Compliance and Privacy Affairs 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:

- Grant Colfax, Director of Health, (grant.colfax@sfdph.org), and
- Naveena Bobba, Deputy Director of Health, (naveena.bobba@sfdph.org), and
- Maggie Rykowski, Chief Integrity Officer and Director of Compliance and Privacy Affairs, (maggie.rykowski@sfdph.org)

You can also contact the San Francisco 24-hour Rapid Response hotline at 415-200-1548 to report any ICE activity.

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
London N. Breed
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San Francisco Department of Public Health

Grant Colfax, MD
Director of Health

Quick Guide

Immigration Status and Interaction with Immigration and Customs Enforcement Agents

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

- A. **If any situations involving 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. They will contact the City Attorney's Office.**

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

- Grant Colfax, Director of Health, (grant.colfax@sfdph.org), and
- Naveena Bobba, Deputy Director of Health, (naveena.bobba@sfdph.org), and
- Maggie Rykowski, Chief Integrity Officer and Director of Compliance and Privacy Affairs, (maggie.rykowski@sfdph.org)

You can also contact the San Francisco 24-hour Rapid Response hotline at 415-200-1548 to report any ICE activity.

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.**

- B. There are two types of warrants ICE agents might have, a **judicial warrant** or an **administrative warrant**. **ICE must have a judicial warrant to gain entry.** Without a judicial warrant (signed by a judge) 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."

- C. 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."

Recently, there have been media reports about the possibility of increased U.S. Immigration and Customs Enforcement (ICE) activity in San Francisco. City officials will be closely monitoring the situation and we will continue to offer services for all immigrants in the city, through the Office of Civic Engagement and Immigrant Affairs.

San Francisco is proud to be a sanctuary city and our elected officials have consistently reaffirmed support for immigrants living here. Under DPH policy (see attached) and San Francisco's Sanctuary City Ordinance, city agencies and employees are generally prohibited from assisting ICE in enforcing federal immigration laws. Should there be any incidents with ICE agents, notify your site director or supervisor, and follow the steps outlined in the attached protocol.

As a reminder, if any situations involving contact with ICE officials occur at any of our DPH facilities, here is a general framework for interacting with ICE personnel:

Situation: If you are approached by an ICE agent seeking entry into a DPH facility:

Response: "I will not interfere with your activities, but I am not authorized to consent to your entry into this facility. Let me consult my supervisor. Do you have a warrant? May I show my supervisor a copy of the warrant?"

Situation: If you are approached by an ICE agent asking questions about a particular individual, you are entitled to get advice from a supervisor or department manager about what information you are legally required to provide. If you would like to talk to a supervisor before answering, you may say:

Response: "I am going to talk to my supervisor about your request."

If at any time you are unclear about appropriate procedures, have questions, or need advice on handling a specific situation, please refer to the attached Quick Sheet and DPH policy.

We are responsible for the health of all San Franciscans, regardless of immigration status. We want to do all we can to ensure our facilities remain places of healing and refuge for our patients. Working together, we can achieve that.

[Print](#)

San Francisco Administrative Code

CHAPTER 12H: IMMIGRATION STATUS

- Sec. 12H.1. City and County of Refuge.
- Sec. 12H.2. Use of City Funds Prohibited.
- Sec. 12H.3. Clerk of Board to Transmit Copies of this Chapter; Informing City Employees.
- Sec. 12H.4. Enforcement.
- Sec. 12H.5. City Undertaking Limited to Promotion of General Welfare.
- Sec. 12H.6. Severability.

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 release status of individuals or any other such personal information as defined in Chapter 12I 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 12H 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, except as permitted under Administrative Code Section 12I.3.
- (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, in one's official capacity, regarding the release status of any individual or any other such personal information as defined in Chapter 12I, except as permitted under Administrative Code Section 12I.3, 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; amended by Ord. 228-09, File No. 091032, App. 10-28-2009; Ord. [96-16](#), File No. 160022, App. 6/17/2016, Eff. 7/17/2016)

SEC. 12H.2-1. [REPEALED.]

(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; repealed by Ord. [96-16](#), File No. 160022, App. 6/17/2016, Eff. 7/17/2016)

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.

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

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)



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.

One South Van Ness Avenue, 4th Floor, San Francisco, CA 94103-5413 • (415) 557-4800 • www.sfgov.org/dhr

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

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Deputy City Attorney

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MEMORANDUM

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

FROM: Matthew Lee [H.i](#)
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
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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.

MEMORANDU

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

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