

## Healthcare as Sanctuary: resources to help keep patients safer from ICE

This document outlines important points from the Healthcare as Sanctuary presentation, presented to the Preterm Birth Initiative Collaboratory on September 24, 2020. Important policies, action items, relevant research, and guidelines for clinician response in an ICE raid are detailed below. We hope that this resource will both support and incite efforts in upholding our responsibility to keep patients who are undocumented safer within our clinics and communities.

### **Resources and Organizations**

Everyone Belongs Here: CA-specific toolkit for making healthcare settings welcoming, safer, and inclusive of immigrants and refugees

- <https://www.everyonebelongshere.net>

Know Your Rights: Red Cards

- <https://www.ilrc.org/red-cards>

Rapid Response Hotlines

- resource for us as clinicians and community members to report ICE activity. Rapid Response dispatches legal support, interpretation services and plays a part in disseminating accurate information to communities to reduce fear due to false alarms. Find your local Rapid Response Network at <https://ccij.sfbar.org/california-rapid-response-networks/>

Health Care Providers and Immigration Enforcement

- <https://www.nilc.org/issues/immigration-enforcement/healthcare-provider-and-patients-rights-imm-enf/>

US immigration and foreign policy's creation of contemporary migration patterns

- “Harvest of Empire” -- documentary based on the book by Juan González of Democracy Now
- “Fleeing a hell the US helped create: why Central Americans journey north”

<https://www.theguardian.com/us-news/2018/dec/19/central-america-migrants-us-foreign-policy>

- “American policy is responsible for the migrant caravan”

<https://www.washingtonpost.com/outlook/2018/10/29/american-policy-is-responsible-migrant-caravan>

Carecen

<https://carecensf.org/>

CIYJA

<https://ciyja.org/>

Clínica Martín-Baró

<https://clinicamb.blogspot.com/>

Central Valley Immigrant Integration Collaborative

<https://cviic.org/>

Campeinx Womb Project through Maria Ramos

Sacramento Family Unity Education and Legal Network

<https://www.sacfuelnetwork.org/>

PODER

<https://www.podersf.org/>

Services Immigrant Rights and Education Network

<http://www.siren-bayarea.org/>

Centro Legal de la Raza

<https://www.centrolegal.org/>

Mi Jente

<https://mijente.net/>

Do No Harm Coalition

<https://www.donoharmcoalition.org/>

## 2020 Election

- Educate friends and family about the ways in which our vote is needed to start dismantling the structures that oppress the undocumented and other migrants, this is not just about removing Trump but about interrogating how we are complicit in the creation of agencies like ICE which has downstream impacts that will be around for a long time.
- Political events fall within a broader movement of xenophobia and fascism

HOLD LEADERS ACCOUNTABLE TO PRIORITIZING IMMIGRANT RIGHTS

### Register to Vote

<https://www.sos.ca.gov/elections/myvote-democracy-work-project/daw-qr-code/>

Donate to orgs that will flip swing states and districts blue (acknowledging that both parties are problematic vis a vis immigrant rights)

<https://flippable.org/our-targets/>

## IF YOU ARE APPROACHED BY ICE IN A HOSPITAL SETTING: example response adapted from SFDPH policy

- Know who to contact and how to contact them: Who is the designated official in your setting who will interface directly with ICE? ie administrator, nurse manager, etc.
- 1) If you are approached by an ICE agent seeking entry into a non-public area of the building, please say: **“I am not authorized to consent to your entry into non-public areas. Let me consult \_\_\_\_\_. Do you have a warrant? May I show \_\_\_\_\_ a copy of the warrant?”**
  - 2) If you are approached by law enforcement asking questions about a particular individual, you should get advice from a supervisor or department manager about what information you are legally authorized to provide. You should say: **“I am going to talk to the \_\_\_\_\_ about your request.”**
  - 3) While you are waiting for the designated official, please know the following:
    - You are not required to cooperate with ICE 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 you choose not to speak with them, and then say nothing else

# Administrative vs. Judicial Warrant

Judicial warrant must list:  
- Date and Time  
- Address  
- What and where they can search  
- Must be signed by a judge

The image displays three sample forms side-by-side, illustrating the differences between administrative and judicial warrants. The first two forms are administrative warrants from the U.S. Department of Homeland Security, while the third is a judicial arrest warrant from the United States District Court. A large red 'SAMPLE' watermark is overlaid across the forms. A red-bordered box highlights the requirements for a judicial warrant, such as listing the date and time, address, and search details, and being signed by a judge.

- Administrative warrants are not legally binding
- Judicial warrants must list date and time, correct name (correct spelling) if name is listed, address, what and where can be searched, judge's signature
- Hold to the narrowest scope

## PUBLIC CHARGE

- Protecting Immigrant Families:  
<https://protectingimmigrantfamilies.org/wp-content/uploads/2019/09/Getting-the-Help-You-Need-Updated-September-2019-ENGLISH.pdf>
- National Immigrant Rights Coalition:  
<https://www.nilc.org/issues/economic-support/lets-talk-about-public-charge-pif/>
- California Primary Care Association:  
[https://www.cpa.org/cpa/CPCA/CPCA/HEALTH\\_CENTER\\_RESOURCES/PUBLIC\\_CHARGE.aspx](https://www.cpa.org/cpa/CPCA/CPCA/HEALTH_CENTER_RESOURCES/PUBLIC_CHARGE.aspx)
- CA DSS Public Charge Legal Aid Contact List:  
<https://www.cdss.ca.gov/Benefits-Services/More-Services/Immigration-Services/Immigration-Services-Contractors/Public-Charge-Contact-List>



## PUBLIC CHARGE: GETTING THE HELP YOU NEED UPDATED SEPTEMBER 2019

### WHAT IS PUBLIC CHARGE?

"Public charge" or the "public charge test" is used by immigration officials to decide whether a person can enter the U.S. or get a green card (lawful permanent resident or "LPR" status). In this test, officials look at all of a person's circumstances, including income, employment, health, education or skills, family situation and whether a sponsor signed a contract ("affidavit of support") promising to support the person. Officials can also look at whether a person has used certain benefit programs (in the past, only cash assistance and long-term care were counted).

### CHANGES TO PUBLIC CHARGE

The government is changing how it makes public charge decisions. Immigration officials will look more closely at factors like health, age, income, skills (including English language skills), and use of more public programs, including:

- Supplemental Nutrition Assistance Program (SNAP, "EBT" or "Food Stamps")
- Federal Public Housing and Section 8 assistance
- Medicaid (except for emergency services, children under 21 years, pregnant women, and new mothers)
- Cash assistance programs (like SSI, TANF, General Assistance)

\*\*\*Services that are not listed above will not be counted in the new public charge test. This includes WIC, CHIP, school lunches, food banks, shelters, and many more - these programs are safe to get if you are eligible.

### 4th Amendment: protections against unreasonable search and seizure

- "At the time of the search, was it the person's subjective, actual expectation that the place or

things searched were private, and was that expectation objectively reasonable, i.e., would it be generally recognized by society”

- Without a warrant ICE cannot enter and place where people have the subjective or objective expectation of privacy, public spaces do not require a warrant or verbal consent.
- **Intervention:** make spaces private!
  - Designate spaces such as waiting rooms as “private” so only staff, patients, and those accompanying them may be on the premises
  - This can be done by simply posting a sign in the clinic that states a private designation or by having a written clinic policy

Plain View: states that anything in plain view may be visually inspected by an ICE officer but an officer may not move an object that is in plain view to expose more of what is underneath it. “Plain view” also applies to conversations i.e. anything that is “audible to the unassisted ear, even if the conversation is coming from a private space”

- For example, in a public waiting room, any paperwork that is visible from the visitors side of the reception desk could be inspected
- **Intervention:** Ensure that private patient documentation is not visible from “public” spaces, always protect patient privacy on written documentation and verbal communication

Disclosure: HIPAA prohibits use or disclosure of patient information without consent except when required by law.

- Disclosure is NOT required by law after a request by ICE or law enforcement.
- **Intervention:** Remember that compliance with law enforcement agent *requesting* information (without a warrant or subpoena) is forbidden by HIPAA. A demand by law enforcement is NOT the same as a requirement by law.
- All subpoenas can be contested in court before complying
- Because of the risk of records being subpoenaed or a valid warrant being used, DO NOT DOCUMENT IMMIGRATION STATUS IN PATIENT CHARTS!
  - We can get creative in our documentation of *impacts* of documentation status (trauma, specific health impacts) and link appropriately with services without risking our documentation negatively affecting immigration proceedings

Right to Remain Silent

- **Intervention:** remind one another and our patients that we all maintain the right to remain silent

**REMEMBER:**

- ICE did not exist before 2003. But ICE is not the first institution of criminalization, surveillance, detention and deportation of immigrants.
- We know that ICE lies and response in dangerous and frightening situations is difficult.
  - practice how you and your clinic team will respond with drills and review specific roles of each team member.
- This is an INTERSECTIONAL issue
  - People holding multiple marginalized identities are at the greatest risk of harm
    - Undocumented immigrants, families with small children, formerly undocumented people, people whose communities have been undocumented, members of targeted racial, ethnic groups, transgender and non binary people
- If you live in a Sanctuary City, all employees of the city (DPH employees) are not allowed to

comply with ICE unless there is a legal warrant

**Relevant research** highlighting the impact of ICE-led, white supremacist terrorism on targeted communities:

Chu DM, Aagaard J, Levitt R, et al. Cohort analysis of immigrant rhetoric on timely and regular access of prenatal care. *Obstet Gynecol.* 2019;133(1):117-128.

Gemmill, A., Catalano, R., Casey, J. A., Karasek, D., Alcalá, H. E., Elser, H., & Torres, J. M. (2019). Association of Preterm Births Among US Latina Women With the 2016 Presidential Election. *JAMA network open*, 2(7), e197084-e197084.

Heckert, C. (2020). The Bureaucratic Violence of the Health Care System for Pregnant Immigrants on the United States-Mexico Border. *Human Organization*, 79(1), 33-42.

Krieger, N., Huynh, M., Li, W., Waterman, P. D., & Van Wye, G. (2018). Severe sociopolitical stressors and preterm births in New York City: 1 September 2015 to 31 August 2017. *J Epidemiol Community Health*, 72(12), 1147-1152.

Lauderdale, D. S., Wen, M., Jacobs, E. A., & Kandula, N. R. (2006). Immigrant perceptions of discrimination in health care: the California Health Interview Survey 2003. *Medical care*, 914-920.

Lopez, W. D., Kruger, D. J., Delva, J., Llanes, M., Ledón, C., Waller, A., Harner, M., Martinez, R., Sanders, L., Harner, M., & Israel, B. (2017). Health implications of an immigration raid: findings from a Latino community in the Midwestern United States. *Journal of immigrant and minority health*, 19(3), 702-708.

Martinez, O., Wu, E., Sandfort, T., Dodge, B., Carballo-Diequez, A., Pinto, R., ... & Chavez-Baray, S. (2015). Evaluating the impact of immigration policies on health status among undocumented immigrants: a systematic review. *Journal of Immigrant and Minority Health*, 17(3), 947-970.

Maldonado, C. Z., Rodriguez, R. M., Torres, J. R., Flores, Y. S., & Lovato, L. M. (2013). Fear of discovery among Latino immigrants presenting to the emergency department. *Academic emergency medicine*, 20(2), 155-161.

Novak NL, Geronimus AT, Martinez-Cardoso AM. Change in birth outcomes among infants born to Latina mothers after a major immigration raid. *Int J Epidemiol.* 2017;46(3):839-849.

Rhodes, S. D., Mann, L., Simán, F. M., Song, E., Alonzo, J., Downs, M., Lawlor, E., Martinez, O., Sun, C.J., O'Brien, M.C., & Reboussin, B. A. (2015). The impact of local immigration enforcement policies on the health of immigrant Hispanics/Latinos in the United States. *American Journal of Public Health*, 105(2), 329-337.

Torche F, Sirois C. Restrictive immigration law and birth outcomes of immigrant women. *Am J Epidemiol.* 2019;188(1):24-33.

Toomey, R. B., Umaña-Taylor, A. J., Williams, D. R., Harvey-Mendoza, E., Jahromi, L. B., & Updegraff, K. A. (2014). Impact of Arizona's SB 1070 immigration law on utilization of health care and

public assistance among Mexican-origin adolescent mothers and their mother figures. *American journal of public health*, 104(S1), S28-S34.

Rhodes, S. D., Mann, L., Simán, F. M., Song, E., Alonzo, J., Downs, M., Lawlor, E., Martinez, O., Sun, C.J., O'Brien, M.C., & Reboussin, B. A. (2015). The impact of local immigration enforcement policies on the health of immigrant Hispanics/Latinos in the United States. *American Journal of Public Health*, 105(2), 329-337.

Vargas, E. D., & Ybarra, V. D. (2017). US citizen children of undocumented parents: the link between state immigration policy and the health of Latino children. *Journal of immigrant and minority health*, 19(4), 913-920.

**Prepared by:**

Caranina Palomino, RN, CNM candidate 2020  
caranina.palomino@ucsf.edu

Karen Lopez-Acero, RN, CNM candidate 2020  
karen.lopez-acero@ucsf.edu

Meagan Morse, RN, CNM candidate 2020  
meagan.morse@ucsf.edu

Ana Delgado, CNM  
ana.delgado@ucsf.edu