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](https://www.everyonebelongshere.net)

Know Your Rights: Red Cards

● [https://www.ilrc.org/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/](https://ccij.sfbar.org/california-rapid-response-networks/)

Health Care Providers and Immigration Enforcement


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”

Carecen
  [https://carecensf.org/](https://carecensf.org/)

CIYJA
  [https://ciyja.org/](https://ciyja.org/)

Clínica Martín-Baró
  [https://clinicamb.blogspot.com/](https://clinicamb.blogspot.com/)

Central Valley Immigrant Integration Collaborative
  [https://cviec.org/](https://cviec.org/)

Campesinx Womb Project through Maria Ramos

Sacramento Family Unity Education and Legal Network
  [https://www.sacfuelnetwork.org/](https://www.sacfuelnetwork.org/)

PODER
  [https://www.podersf.org/](https://www.podersf.org/)

Services Immigrant Rights and Education Network
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](image.png)
● 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:

● National Immigrant Rights Coalition:

● California Primary Care Association:
  https://www.cpca.org/cpca/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

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 HIPPA. 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:


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


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