

Implementation Guidance

Executive Order 170.1 - State Policy Concerning Immigrant Access to State Services and Buildings

Background

Executive Order 170.1 addresses the circumstances under which federal immigration enforcement agents may conduct civil enforcement activity in state facilities. The Order came as a result of increased reports of civil enforcement activity at New York State locations which violate federal and state law and raise serious public safety concerns.

The Order provides that civil immigration arrests may only be conducted in state facilities when accompanied by a judicial warrant. The term arrests include all enforcement activity related to an arrest, including, but not limited to, searches and interrogations.

Requirements

1. Identification and Notification. Federal immigration authorities must identify themselves to execute a civil arrest or conduct any related civil enforcement activity. Authorities that do not identify themselves or provide notice of an intent to engage in civil enforcement activity should be asked to leave the premises immediately upon detection.

The state agency is a private property owner and may set the terms and conditions of access to state facilities and the conduct of individuals therein.

2. Warrant Presentation. Federal immigration authorities must present a valid judicial warrant signed by a federal district court or magistrate judge prior to engaging in any enforcement activity, including interrogations and searches of persons or property. Such activity is limited to the individual(s) named in the warrant and may only occur after a designated supervisor has determined that the federal immigration agent(s) has satisfactorily complied with the identification, notice, and warrant presentation requirements of the Executive Order.

Federal immigration agents who refuse to comply with the identification, notice, or warrant presentation requirements outlined herein should be treated as unlawful trespassers.

Protocol

When a federal immigration authority presents at a state facility:

1. Contact the designated supervisor at the facility. The designated supervisor should engage with the federal immigration authority.
2. Request identification and confirm identity. The individual should present a picture identification clearly identifying the person as an employee of the federal Department of Homeland Security.
3. Request a copy of the federal judicial warrant authorizing the search or arrest. The individual should present a valid federal judicial warrant prior to entry into any state facility.
4. Contact agency designee. Provide the agency designee(s) with a copy of the judicial warrant for review.
5. Contact Executive Chamber. Provide the Chamber designee(s) with a copy of the judicial warrant for review.
6. Once the validity of the warrant has been verified, the facility designated supervisor may permit the federal immigration authority to access the facility.

If an individual is observed engaging in enforcement activity and did not identify himself or provide notice of an intent to engage in enforcement activity, request that such individual cease in such activity immediately, provide identification, and produce a judicial warrant.

If any individual presenting as a federal immigration authority refuses to comply with the identification, notice, or warrant presentation requirements, contact the New York State Police.