



## **Guidance for Churches in a Changing Immigration Landscape**

On January 20, 2025 the Acting U.S. Secretary of Homeland Security, Benjamine Huffman, issued a directive which rescinds prior guidelines for Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP) to avoid making arrests in sensitive areas. In 2011, then Secretary of Homeland Security, Janet Napolitano, issued the guidelines to CBP instructing them to avoid engaging in enforcement operations in and near “sensitive community areas” including schools, hospitals, and houses of worship. Those guidelines mirrored those already in place by ICE at the time. Additional guidelines were given in 2021, to expand the list of “protected areas” where enforcement operations should be avoided “to the fullest extent possible.” The recent action from Secretary Huffman marks the first time since 2011 that ICE and CBP have not been restricted when making arrests in or near houses of worship. As a result, many church leaders and church members have questions surrounding immigration enforcement at churches.

### **Churches are Not Sanctuaries from Arrest**

A common misconception is that law enforcement officials do not have authority to make an arrest inside a house of worship. Even under the now rescinded Homeland Security guidelines, ICE and CPB were only advised to avoid arrests in sensitive/protected areas, “to the fullest extent possible.” The guidelines explicitly stated that “there might be limited circumstances under which an enforcement action needs to be taken in or near a protected area” and provided examples of scenarios where an arrest in a protected area would be justified. While churches are not legally considered religious sanctuaries, law enforcement generally avoid making arrests during worship services if an individual suspected of criminal activity can be apprehended elsewhere.

### **Church Grounds are Private Property**

Though churches invite and welcome the general public to attend worship services and events, their buildings and grounds are privately owned property just like a residence or business. Generally, a law enforcement officer must either have a valid search or arrest warrant or the consent of the owner before entering private property for a search or seizure. Law enforcement officers in “hot pursuit” of a fleeing suspect may enter a church without a warrant. While these circumstances infrequently apply in the church context, there have been instances where law enforcement have pursued and arrested a suspected criminal (e.g. a shoplifter at a nearby store) inside a church without the need for a warrant. This hot pursuit exception to the warrant requirement for enforcement actions in churches rarely applies in the context of arresting individuals whose only crime is being unlawfully present in the country.



### **Church Compliance with Valid Warrants**

In order for a warrant to be considered effective, it must be signed by a judge (sometimes referred to as magistrates). A signature by a law enforcement officer or another member of the executive branch is not sufficient. Churches and church leaders that do not comply with an arrest or search warrant may be subject to criminal penalties for obstructing or hindering law enforcement from executing a lawful search.

### **Churches are Not Under an Obligation to Investigate or Report**

Churches are not agents of the government. Church leaders and staff do not have a legal obligation to inquire or investigate about the immigration status of any individual attending a church event or being served by the church. If a church leader or staff member learns that an individual is not lawfully present in the United States, he or she is not legally obligated to report that information. Churches do have a legal obligation to verify the identity and employment authorization of an individual prior to employing that person.

### **Allowing Individuals who are Unlawfully Present in the United States to Attend Church Worship Services and Events is Not “Harboring”**

Title 8, U.S.C. 1324(a)(1)(A)(iii) makes it a criminal offense for any person who “knowing or in reckless disregard of the fact that an alien has come to, entered, or remains in the United States in violation of law, conceals, harbors, or shields from detection, or attempts to conceal, harbor, or shield from detection, such alien in any place, including any building or any means of transportation.” The mere presence of an undocumented alien in a church building is not a violation of the law. The church would have to be actively hiding (concealing, harboring, or shielding) the individual from the detection of law enforcement to be guilty of a crime. Churches should not fear repercussions for continuing to welcome all people, regardless of immigration status, to attend church worship services and events in a manner that is open and transparent.

ICE and CPB no longer have guidelines directing them to avoid making arrests in sensitive or protected areas. Despite this, law enforcement officers are unlikely to make arrests during worship services unless the officers are in hot pursuit of an individual who seeks shelter in the church. ICE and CPB are more likely to arrest individuals who are not lawfully residing in the United States if those individuals are living in the church, rarely leave the building, or cannot easily be apprehended elsewhere.

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