

Enforcement and Removal Operations

FAQ on Sensitive Locations and Courthouse Arrests

ERO

These frequently asked questions address ICE's sensitive locations policy and courthouse arrests.

Sensitive Locations

Does ICE's policy sensitive locations policy remain in effect?

Yes. ICE has previously issued and implemented a policy concerning enforcement actions at sensitive locations. These FAQs are intended to clarify what types of locations are covered by those policies.

How does ICE decide where a specific enforcement action will take place? What factors are considered when making such a decision?

Determinations regarding the manner and location of arrests are made on a case-by-case basis, taking into consideration all aspects of the situation, including the target's criminal history, safety considerations, the viability of the leads on the individual's whereabouts, and the nature of the prospective arrest location.

What does ICE policy require for enforcement actions to be carried out at sensitive locations?

Pursuant to ICE policy, enforcement actions are not to occur at or be focused on sensitive locations such as schools, places of worship, unless;

1. exigent circumstances exist;
2. other law enforcement actions have led officers to a sensitive location, or
3. prior approval is obtained from a designated supervisory official.

The policy is intended to guide ICE officers and agents' actions when enforcing federal law at or focused on sensitive locations, to enhance the public understanding and trust, and to

ensure that people seeking to participate in activities or utilize services provided at any sensitive location are free to do so, without fear or hesitation.

What does ICE mean by the term “sensitive location”?

Locations treated as sensitive locations under ICE policy would include, but are not be limited to:

- Schools, such as known and licensed daycares, pre-schools and other early learning programs; primary schools; secondary schools; post-secondary schools up to and including colleges and universities; as well as scholastic or education-related activities or events, and school bus stops that are marked and/or known to the officer, during periods when school children are present at the stop;
- Medical treatment and health care facilities, such as hospitals, doctors’ offices, accredited health clinics, and emergent or urgent care facilities;
- Places of worship, such as churches, synagogues, mosques, and temples;
- Religious or civil ceremonies or observances, such as funerals and weddings; and
- During a public demonstration, such as a march, rally, or parade.

What is considered an enforcement action as it relates to sensitive locations?

Enforcement actions covered by this policy are apprehensions, arrests, interviews, or searches, and for purposes of immigration enforcement only, surveillance. Actions not covered by this policy include activities such as obtaining records, documents, and similar materials from officials or employees, providing notice to officials or employees, serving subpoenas, engaging in Student and Exchange Visitor Program (SEVP) compliance and certification visits, guarding or securing detainees, or participating in official functions or community meetings.

Are sensitive locations located along the international border also protected?

The sensitive locations policy does not apply to operations that are conducted within the immediate vicinity of the international border, including the functional equivalent of the border. However, when situations arise that call for enforcement actions at or near a sensitive location within the immediate vicinity of the international border, including its

functional equivalent, agents and officers are expected to exercise sound judgment and common sense while taking appropriate action, consistent with the goals of this policy.

Examples of operations within the immediate vicinity of the border are, but are not limited to, searches at ports of entry, activities undertaken where there is reasonable certainty that an individual just crossed the border, circumstances where ICE has maintained surveillance of a subject since crossing the border, and circumstances where ICE is operating in a location that is geographically further from the border but separated from the border by rugged and remote terrain.

Will enforcement actions ever occur at sensitive locations?

Enforcement actions may occur at sensitive locations in limited circumstances, but will generally be avoided. ICE officers and agents may conduct an enforcement action at a sensitive location if there are exigent circumstances, if other law enforcement actions have led officers to a sensitive location, or with prior approval from an appropriate supervisory official.

When may an enforcement action be carried out at a sensitive location without prior approval?

ICE officers and agents may carry out an enforcement action at a sensitive location without prior approval from a supervisor in exigent circumstances related to national security, terrorism, or public safety, or where there is an imminent risk of destruction of evidence material to an ongoing criminal case. When proceeding with an enforcement action under exigent circumstances, officers and agents must conduct themselves as discreetly as possible, consistent with officer and public safety, and make every effort to limit the time at or focused on the sensitive location.

Are court houses considered a sensitive location and covered by the sensitive locations policy?

No. ICE does not view courthouses as a sensitive location.

Where should I report an ICE enforcement action that I believe may be inconsistent with these policies?

<https://www.ice.gov/ero/enforcement/sensitive-loc>

There are a number of locations where an individual may lodge a complaint about a particular ICE enforcement action that may have taken place in violation of the sensitive locations policy. You may find information about these locations, and information about how to file a complaint, on the DHS or ICE websites. You may contact ICE Enforcement and Removal Operations (ERO) through the Detention Reporting and Information Line at (888) 351-4024 or through the ERO information email address at ERO.INFO@ice.dhs.gov, also available at <https://www.ice.gov/webform/ero-contact-form>. The Civil Liberties Division of the ICE Office of Diversity and Civil Rights may be contacted at (202) 732-0092 or ICE.Civil.Liberties@ice.dhs.gov.

Court House Arrests

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Why has ICE issued a policy on enforcement actions inside

courthouses?

U.S. Immigration and Customs Enforcement has for some time had established practices in place related to civil immigration enforcement inside courthouses. However, the increasing unwillingness of some jurisdictions to cooperate with ICE in the safe and orderly transfer of targeted aliens inside their prisons and jails has necessitated additional at-large arrests, and ICE felt it was appropriate to more formally codify its practices in a policy directive that its law enforcement professionals and external stakeholders can consult when needed. It is important that such arrests, including those taking place inside courthouses, continue to be undertaken with the same level of professionalism and respect that ICE officers and agents are committed to exhibiting every day.

Why does ICE feel it's necessary to conduct enforcement

inside a courthouse?

Federal, state, and local law enforcement officials routinely engage in enforcement activity in courthouses throughout the country, as many individuals appearing in courthouses are wanted for unrelated criminal or civil violations. ICE's enforcement activities in these same courthouses are wholly consistent with longstanding law enforcement practices nationwide. Courthouse arrests are often necessitated by the unwillingness of jurisdictions to cooperate with ICE in the transfer of custody of aliens from their prisons and jails. Further, many of the aliens ICE is targeting have taken affirmative measures to avoid detection by ICE officers. Individuals entering courthouses are typically screened by law enforcement personnel to search for weapons and other contraband. Accordingly, civil immigration enforcement actions taken inside courthouses can reduce safety risks to the public, targeted alien(s), and ICE officers and agents.

Will all aliens be subject to arrest inside courthouses?

ICE will not make civil immigration arrests inside courthouses indiscriminately. ICE civil immigration enforcement actions inside courthouses include actions against specific, targeted aliens with criminal convictions, gang members, national security or public safety threats, aliens who have been ordered removed from the United States but have failed to depart (fugitives), and aliens who have re-entered the country illegally after being removed, when ICE officers or agents have information that leads them to believe the targeted aliens are present at that specific location. Other aliens encountered during a civil

immigration enforcement action inside a courthouse, such as family members or friends accompanying the target alien to court appearances or serving as a witness in a proceeding, will not be subject to civil immigration enforcement action, absent special circumstances, such as when the individual poses a threat to public safety or interferes with ICE's enforcement actions.

Is there any place in a courthouse where enforcement will not

occur?

ICE officers and agents will generally avoid enforcement actions in courthouses, or areas within courthouses, that are dedicated to non-criminal (e.g., family court, small claims court) proceedings. In those instances in which an enforcement action in such locations is operationally necessary, the approval of the respective Field Office Director (FOD), Special Agent in Charge (SAC), or his or her designee is required.

Is it legal to arrest suspected immigration violators at a

courthouse?

Yes. The arrest of persons in a public place based upon probable cause is legally permissible. ICE officers and agents are expressly authorized by statute to make arrests of aliens where probable cause exists to believe that such aliens are removable from the United States.

Why does ICE make arrests at courthouses? Are these

planned ahead of time?

ICE, like other federal, state, and local law enforcement agencies, makes arrests at courthouses to ensure the laws within the agency's jurisdiction are enforced in a safe and efficient manner. ICE arrests at courthouses are the result of targeted enforcement actions against specific aliens. As with all planned enforcement actions, ICE officers exercise sound judgment when enforcing federal law and make substantial efforts to avoid unnecessarily alarming the public. Consistent with officer and public safety, ICE officers also make every effort to limit the time spent at the planned place of arrest.

Why do courthouse arrests seem to be occurring more frequently?

In years past, most individuals arrested at a courthouse would have been turned over to ICE by local authorities upon their release from a prison or jail based on an ICE detainer. When criminal custody transfers occur inside the secure confines of a jail or prison, it is far safer for everyone involved, including officers and the person being arrested. Now that some law enforcement agencies no longer honor ICE detainers or limit ICE's access to their detention facilities, these aliens, many of whom have serious criminal histories, are released to the street, threatening public safety. Because courthouse visitors are typically screened upon entry to search for weapons and other contraband, the safety risks for the arresting officers, the arrestee, and members of the community are substantially diminished. In such instances, ICE officers and agents make every effort to take the person into custody in a secure area, out of public view, but this is not always possible. Further, when these arrests do occur, ICE makes every effort to ensure that the arrest occurs after the matter for which the alien was appearing in court has concluded.

Are there other advantages to arresting criminals and fugitives at a courthouse?

Yes, when ICE officers and agents have to go out into the community to proactively locate these aliens, regardless of the precautions taken, it puts personnel and potentially innocent bystanders at risk. Moreover, tracking down priority targets is highly resource-intensive. It is not uncommon for criminal aliens and fugitives to utilize multiple aliases, provide authorities with false addresses, and be working illegally with fraudulent documentation or "off the books." Absent a viable residential address or place of employment, a courthouse may afford the most likely opportunity to locate a target and take him or her into custody.