



Superintendents,

The following is information from our FMCUSA attorney regarding immigration/ICE and sanctuary spaces. If you have legal questions, please contact our paralegal, Geni Gonzalez, at geni.gonzalez@fmcusa.org. She can answer general questions or refer you to a recommended attorney for specific counsel.

If you anticipate the possibility of an ICE visit, we encourage you to seek legal counsel before an incident occurs rather than after the fact as it would potentially be less costly to your church.

“Previously, the Trump administration revoked earlier executive orders related to so-called ‘**Sanctuary Spaces.**’ Schools, churches and hospitals were off-limits for immigration officials, but that is no longer the case.

“This is an important nuance, because a church sanctuary is generally a *private* space in the public accommodation sense, but *public* in the sense that it is accessible to the general public. A locked door, then, is the difference between whether a judicial warrant for search and seizure is required, or whether an ICE officer can enter the space without a warrant. Further, ICE officers may conduct a 'knock-and-talk' to seek information or consent to enter a facility. This procedure involves knocking on the door and speaking with occupants without coercion. However, they may not enter non-public areas without consent or a warrant.

“There are also differences between **judicial and administrative warrants.** A judicial warrant is one where probable cause exists and has been vetted by a judge. Administrative warrants issued by ICE are not equivalent to judicial warrants. They are signed by ICE officials, not neutral magistrates, and do not authorize entry into private dwellings or non-public areas of facilities. Such warrants are limited to detaining individuals and do not override Fourth Amendment protections. [See 8 USCS § 1357, § 36.18 Dwellings; see also Rios v. Jenkins, 390 F. Supp. 3d 714 (2019)]

“Therefore, a church should **designate ‘open’ spaces vs. ‘private’ spaces.** An *open* space would be one that would be open to entry to anyone; a *private* space would be one that would be locked. Note: none of the actions above would preclude ICE or other immigration officers from simply waiting for a church service to end.

“Further, while it is prudent to document ICE or other law enforcement actions in the event of a search, arrest or a seizure, **impeding** the law enforcement officials should be avoided because of the risk of egregious harm. Actions can be taken after the fact in the event that law enforcement broke the law in entering the property, causing harm, or otherwise destroying property. Questions do not have to be answered by anyone in the congregation, though an individual can engage if desired to provide information.

“Church leaders should **avoid providing information** to individuals related to fleeing, evading or otherwise escaping law enforcement, because it could lead to federal charges against the church leader related to attempting to remain unlawfully within the United States and/or aiding in the evasion of lawful capture.”

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