

APPENDIX C

SAMPLE PROTOCOL REGARDING INTERACTIONS WITH IMMIGRATION AGENCIES

[Note: This template is a generic protocol that should be adapted to the particular circumstances of your ministry. Each ministry should consult with an attorney whenever possible to evaluate and provide advice regarding your specific circumstances.]

POLICY

It is the policy of [Ministry] to ensure that our clients are safe and protected when they use our facilities and services. [Ministry] will take steps to the greatest extent possible under the law to protect our clients and their information. [Ministry] will not collect or maintain information about its clients' immigration status or country of origin except when necessary to serve the client appropriately. It is the policy of [Ministry] not to allow agents or employees of U.S. Immigration and Customs Enforcement (ICE) or Customs and Border Protection (CBP) access to our facilities, records, or information unless this is required by law or a valid judicial warrant. The same policies and procedures apply to police officers who are acting with or at the request of ICE/CBP agents to enforce the immigration laws.

PROCEDURES

Procedures regarding access to [Ministry] facilities/buildings:

If any agents or employees from ICE or CBP should attempt to enter [Agency]'s facilities, staff will follow this protocol:

1. Reception staff [*or insert front-line staff title*] will inform ICE/CBP agents that they do NOT have consent to enter the nonpublic areas of the building or facility unless they have a valid judicial warrant.
2. [If applicable because your ministry qualifies as a "sensitive location" under ICE/CBP policy:] Staff should inform ICE/CBP agents that [Ministry] qualifies as a "sensitive location" under ICE/CBP policy. [*Explain why your ministry is a sensitive location*].
3. Staff should inform supervisors [*include information on which supervisor(s) should be contacted and how*] about ICE/CBP presence in [Ministry]'s facility as soon as possible.
4. Staff should advise any clients who are nearby that they have the right to remain silent and do not have to answer any questions posed by immigration agents, but *should not direct* clients not to answer questions.
5. If the ICE/CBP agents claim to have a warrant to enter the facility, staff should ask for a copy of the warrant, inform the agents to wait at a specified location, and contact a supervisor for assistance.
6. Supervisors reviewing warrants should contact legal counsel if possible. Supervisors should review the warrant to ensure that a) it is signed by a judge or magistrate, b) it identifies [Ministry]'s facility as the place to be searched, and c) it has the correct date and has not expired (was issued within the past 14 days). If possible, supervisors should accompany the agents during the search, maintaining a respectful distance, to ensure that the search is confined to those areas identified in the warrant as the places to be searched. Administrative

arrest or removal warrants that are signed by an immigration officer (rather than a judge or magistrate) do *not* grant authority for ICE/CBP to enter nonpublic areas of the facility or building.

7. Besides informing ICE/CBP agents that they do not have consent to enter the facility without a valid judicial warrant, staff should not answer questions posed by the agents without consulting with a supervisor. In particular, staff should not answer questions about whether a particular person (client or staff) is currently in the building or facility, but should state instead that they are not authorized to answer questions.
8. Staff should document the name/contact information of the ICE/CBP agents seeking access to the facility. This can be done by asking for business cards or asking the agents directly.
9. To the extent possible, staff who are not interacting with the ICE/CBP agents should record any interactions with the agents, but they should announce that they are making a recording. Staff should remain a reasonable distance from such incidents so as not to interfere.
10. Staff and clients should know (or be informed) that, at any point during an encounter with immigration agents, they can ask the agents if they are free to go. If the agent says yes, they are of course free to leave. If the agent says the person is not free to go, they should explain that they would like the opportunity to consult with an attorney and otherwise remain silent.
11. Staff should complete a written report of the enforcement action.

PROCEDURES

Procedures regarding immigration agents' request for access to [Ministry] records/files:

If any agents or employees from ICE or CBP should request access to records or documents regarding [Ministry]'s clients or staff, staff will follow this protocol:

1. Staff should inform the ICE/CBP agents that [Ministry]'s policy is not to release information without a client's consent, unless disclosure is required by judicial order or subpoena or otherwise required by law.
2. If ICE/CBP agents claim to have a warrant or subpoena, staff should not release information without consulting with a supervisor. Staff should request a copy of the warrant or subpoena, ask for the agents' contact information, and consult with a supervisor. Whenever possible, the supervisor should consult with an attorney.