




California Values Act Guidance for Domestic Violence Programs and Advocates



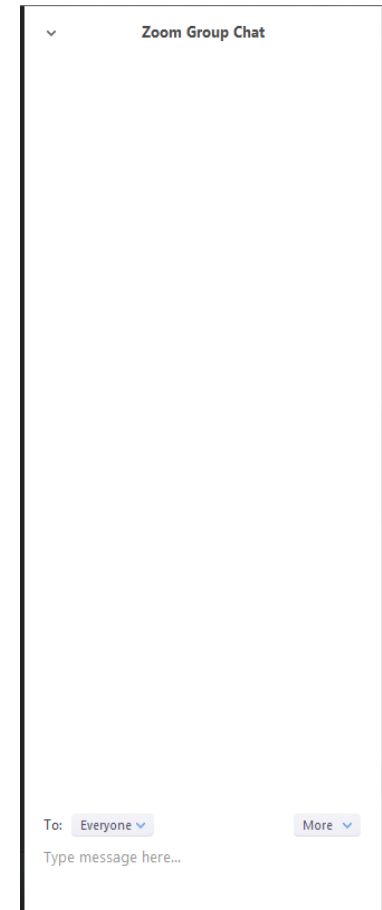
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Technical Difficulties

- Audio Difficulties:
 - Hang up the phone and call back using your initial call in information
- Zoom Program Malfunction
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Audience Logistics

- List of Attendees that have logged into the webinar
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- Chat Box
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Who We Are

- Founded in 2012, first ever non-profit organization in CA dedicated to providing legal representation and support to domestic violence survivors at the appellate level
- Partner with pro bono attorneys from top law firms and corporate legal teams to provide free, high-quality legal representation to low- and moderate-income survivors
- Provide technical assistance to attorneys, domestic violence advocates, and self-represented litigants on domestic violence issues arising in civil cases

Objectives

- The purpose of the California Values Act (SB 54)
- Model policies or equivalent policies shelters are encouraged to adopt
- Model policies or equivalent policies courts must adopt

What is the California Values Act?

- SB 54 became effective on Jan. 1, 2018
- Prohibits state and local law enforcement agencies from using money or personnel to investigate, interrogate, detain, detect, or arrest persons for immigration enforcement purposes
- Prohibits state and local law enforcement from participating in joint efforts with immigration enforcement authorities to investigate, detain, or arrest individuals for immigration law violations

What is the California Values Act?

- Required the Attorney General to publish model policies limiting assistance with immigration enforcement for use by “organizations and entities that provide services related to physical or mental health and wellness, education, or access to justice”

Purpose of the AG's Model Policies

- Overall purpose of the model policies is to provide guidance on:
 - ▣ how to respond to immigration enforcement
 - ▣ in a way that complies with the new law limiting state and local participation in immigration enforcement

Purpose of the AG's Model Policies

- Public schools, libraries, health facilities, and courts are *required* to implement the model policies, or equivalent policies
- All other organizations and entities that provide services related to physical or mental health and wellness, education, or access to justice, are *encouraged* to adopt the model policies

Immigration Enforcement

- ❑ Immigration Enforcement Authorities
- ❑ Recognizing Warrants, Subpoenas, and Court Orders

Immigration Enforcement Authorities

- Department of Homeland Security (DHS)
 - ▣ Umbrella Organization
- United States Citizenship and Immigration Services (USCIS)
 - ▣ Issues documents
- Immigration and Customs Enforcement (ICE)
 - ▣ Detains individuals within the borders
- Customs and Border Protection (CBP)
 - ▣ Patrols the border and determines who can and cannot enter ports of entry and borders.

Documents Used for Immigration Enforcement

- Warrants, subpoenas, and court orders may be used for immigration enforcement
- Some give the officer greater authority to enter and search the shelter than others
- May respond differently according to the type of warrant

ICE Administrative “Arrest Warrant”

U.S. DEPARTMENT OF HOMELAND SECURITY **Warrant for Arrest of Alien**

File No. _____

Date: _____

To: Any immigration officer authorized pursuant to sections 236 and 287 of the Immigration and Nationality Act and part 287 of title 8, Code of Federal Regulations, to serve warrants of arrest for immigration violations

I have determined that there is probable cause to believe that _____ is removable from the United States. This determination is based upon:

- the execution of a charging document to initiate removal proceedings against the subject;
- the pendency of ongoing removal proceedings against the subject;
- the failure to establish admissibility subsequent to deferred inspection;
- biometric confirmation of the subject's identity and a records check of federal databases that affirmatively indicate, by themselves or in addition to other reliable information, that the subject either lacks immigration status or notwithstanding such status is removable under U.S. immigration law; and/or
- statements made voluntarily by the subject to an immigration officer and/or other reliable evidence that affirmatively indicate the subject either lacks immigration status or notwithstanding such status is removable under U.S. immigration law.

YOU ARE COMMANDED to arrest and take into custody for removal proceedings under the Immigration and Nationality Act, the above-named alien.

(Signature of Authorized Immigration Officer)

(Printed Name and Title of Authorized Immigration Officer)

Certificate of Service

I hereby certify that the Warrant for Arrest of Alien was served by me at _____ (Location)

on _____ (Name of Alien) on _____ (Date of Service), and the contents of this notice were read to him or her in the _____ (Language) language.

Name and Signature of Officer

Name or Number of Interpreter (if applicable)

Form I-200 (Rev. 09/16)

See CA Attorney General,
Promoting Safe and Secure Shelters
for All, Appendix B

ICE Administrative “Removal Warrant”

DEPARTMENT OF HOMELAND SECURITY
U.S. Immigration and Customs Enforcement
WARRANT OF REMOVAL/DEPORTATION

File No: _____
Date: _____

To any immigration officer of the United States Department of Homeland Security:

(Full name of alien)

who entered the United States at _____ on _____
(Place of entry) (Date of entry)

is subject to removal/deportation from the United States, based upon a final order by:

- an immigration judge in exclusion, deportation, or removal proceedings
- a designated official
- the Board of Immigration Appeals
- a United States District or Magistrate Court Judge

and pursuant to the following provisions of the Immigration and Nationality Act:

I, the undersigned officer of the United States, by virtue of the power and authority vested in the Secretary of Homeland Security under the laws of the United States and by his or her direction, command you to take into custody and remove from the United States the above-named alien, pursuant to law, at the expense of:

(Signature of immigration officer)

(Title of immigration officer)

(Date and office location)

See CA Attorney General,
Promoting Safe and Secure Shelters
for All, Appendix C

ICE Administrative “Warrant”

- Most typical type of warrant used by ICE
- Arrest warrant authorizes ICE officer to arrest a person suspected of violating immigration laws
- Removal warrant authorizes ICE officer to arrest and deport a person suspected of violating immigration laws
- Can be issued by any authorized ICE officer

Notice to Appear (NTA)

U.S. Department of Homeland Security		Notice to Appear	
In removal proceedings under section 240 of the Immigration and Nationality Act			
		File No:	_____
In the Matter of:			
Respondent: _____		currently residing at:	
<small>(Number, street, city, state and ZIP code)</small>		<small>(Area code and phone number)</small>	
<input type="checkbox"/> 1. You are an arriving alien.			
<input type="checkbox"/> 2. You are an alien present in the United States who has not been admitted or paroled.			
<input type="checkbox"/> 3. You have been admitted to the United States, but are deportable for the reasons stated below:			
The Department of Homeland Security alleges that you:			
SAMPLE			
On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:			
<input type="checkbox"/> This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution.			
<input type="checkbox"/> Section 235(b)(1) order was vacated pursuant to: <input type="checkbox"/> 8 CFR208.30(f)(2) <input type="checkbox"/> 8CFR235.3(b)(5)(iv)			
YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at: _____			
<small>(Complete Address of Immigration Court, including Room Number, if any)</small>			
on _____	at _____	to show why you should not be removed from the United States based on the	
<small>(Date)</small>	<small>(Time)</small>	charge(s) set forth above.	
		_____ <small>(Signature and Title of Issuing Officer)</small>	
Date: _____	_____ <small>(City and State)</small>		
See reverse for important information			
<small>Form I-862 (Rev. 08/01/07)</small>			

See CA Attorney General,
Promoting Safe and Secure Shelters
for All, Appendix D

Notice to Appear (NTA)

- Charging document issued by ICE, CBP, or USCIS
- Commences formal removal proceedings
- Contains allegations of a person's immigration status
- Notifies individual of court date before an immigration judge

Federal Search and Seizure Warrant

AO 93 (Rev. 11/13) Search and Seizure Warrant

UNITED STATES DISTRICT COURT
for the

In the Matter of the Search of _____)
(Briefly describe the property to be searched)
or identify the person by name and address)) Case No. _____
)
)
)
)

SEARCH AND SEIZURE WARRANT

To: Any authorized law enforcement officer

An application by a federal law enforcement officer or an attorney for the government requests the search of the following person or property located in the _____ District of _____
(Identify the person or describe the property to be searched and give its location):

I find that the affidavit(s), or any recorded testimony, establish probable cause to search and seize the person or property described above, and that such search will reveal (Identify the person or describe the property to be seized):

YOU ARE COMMANDED to execute this warrant on or before _____ (not to exceed 14 days)
 in the daytime 6:00 a.m. to 10:00 p.m. at any time in the day or night because good cause has been established.

Unless delayed notice is authorized below, you must give a copy of the warrant and a receipt for the property taken to the person from whom, or from whose premises, the property was taken, or leave the copy and receipt at the place where the property was taken.

The officer executing this warrant, or an officer present during the execution of the warrant, must prepare an inventory as required by law and promptly return this warrant and inventory to _____
(United States Magistrate Judge)

Pursuant to 18 U.S.C. § 3103a(b), I find that immediate notification may have an adverse result listed in 18 U.S.C. § 2705 (except for delay of trial), and authorize the officer executing this warrant to delay notice to the person who, or whose property, will be searched or seized (check the appropriate box)
 for _____ days (not to exceed 30) until, the facts justifying, the later specific date of _____


Date and time issued: _____ Judge's signature _____
City and state: _____ Printed name and title _____

See CA Attorney General,
Promoting Safe and Secure
Shelters for All, Appendix E

Federal Court Warrant

- Issued by district judge or magistrate judge of a U.S. District Court
- Two kinds:
 - ▣ Federal search and seizure warrant
 - ▣ Federal arrest warrant
- Prompt compliance generally required

Administrative Subpoena

1. To (Name, Address, City, State, Zip Code)		DEPARTMENT OF HOMELAND SECURITY IMMIGRATION ENFORCEMENT SUBPOENA to Appear and/or Produce Records 8 U.S.C. § 1225(d), 8 C.F.R. § 287.4	
Subpoena Number _____			
2. In Reference To _____ <small>(Title of Proceeding) (File Number, if Applicable)</small>			
By the service of this subpoena upon you, YOU ARE HEREBY SUMMONED AND REQUIRED TO:			
(A) <input type="checkbox"/> APPEAR before the U.S. Customs and Border Protection (CBP), U.S. Immigration and Customs Enforcement (ICE), or U.S. Citizenship and Immigration Services (USCIS) Official named in Block 3 at the place, date, and time specified, to testify and give information relating to the matter indicated in Block 2.			
(B) <input checked="" type="checkbox"/> PRODUCE the records (books, papers, or other documents) indicated in Block 4, to the CBP, ICE, or USCIS Official named in Block 3 at the place, date, and time specified.			
Your testimony and/or production of the indicated records is required in connection with an investigation or inquiry relating to the enforcement of U.S. immigration laws. Failure to comply with this subpoena may subject you to an order of contempt by a federal District Court, as provided by 8 U.S.C. § 1225(d)(4)(B).			
3. (A) CBP, ICE or USCIS Official before whom you are required to appear		(B) Date	
Name _____		_____	
Title _____		(C) Time <input checked="" type="checkbox"/> a.m. <input type="checkbox"/> p.m.	
Address _____		_____	
Telephone Number _____		_____	
4. Records required to be produced for inspection _____			
		5. Authorized Official	
<p>If you have any questions regarding this subpoena, contact the CBP, ICE, or USCIS Official identified in Block 3.</p>		_____ (Signature)	
		_____ (Printed Name)	
		_____ (Title)	
		_____ (Date)	

DHS Form I-138 (6/09)

See CA Attorney General,
Promoting Safe and Secure Shelters
for All, Appendix G

Administrative Subpoena

- Issued by an immigration enforcement officer – may be titled “Department of Homeland Security Immigration Enforcement Subpoena”
- Requests production of documents or other evidence
- Will contain
 - ▣ File number
 - ▣ Subpoena number
 - ▣ Mailing address to send the requested information
 - ▣ Applicable regulations
 - ▣ Request for information
 - ▣ Signature of agent

Federal Judicial Subpoena

- Requests that you turn over or “produce” documents or evidence
- Will identify a federal court and the name of judge or magistrate issuing the subpoena
- May require an agency employee to bring the documents or evidence to a specific time and location

Court Order

- Orders may vary, however, it will:
 - Identify the issuing court
 - Identify a judge or magistrate
 - Be signed by a judge or magistrate
- Should be reviewed with legal counsel before responding accordingly

Key Points from Guide for Shelters

- ❑ Governing Laws Underlying Model Policies
- ❑ Key Model Policies
- ❑ What It Means for Your Shelter

Governing Laws Underlying Model Policies

- Protection from discrimination
 - ▣ Guaranteed due process and equal protection
 - ▣ Fair Housing Act (FHA)
 - ▣ Title II of Civil Rights Act
 - ▣ Title VI of Civil Rights Act
 - ▣ Fair Employment and Housing Act (FEHA)

Governing Laws Underlying Model Policies

- Privacy laws
 - Health Insurance Portability and Accountability Act (HIPAA)
 - Protections for minors

Governing Laws Underlying Model Policies

- Confidentiality laws
 - ▣ Violence Against Women Act (VAWA)
 - ▣ Victims of Crime Act (VOCA)
 - ▣ Family Violence Prevention and Services Act (FVPSA)
 - ▣ Victims of Trafficking and Violence Prevention Act (VTVPA)
 - ▣ Immigrant Victims of Crime Equity Act

Governing Laws Underlying Model Policies

- Protection from searches
 - ▣ Fourth Amendment protection from unreasonable search and seizure
 - ▣ ICE “Sensitive Locations” memo
 - <https://www.ice.gov/doclib/ero-outreach/pdf/10029.2-policy.pdf>
 - ▣ VAWA Confidentiality Guidance
 - https://www.dhs.gov/sites/default/files/publications/implementation-of-section-%201367-%20information-provisions-instruction-002-02-001_0.pdf
 - ▣ Immigrant Workers Protection Act

Highlights of the Model Policies for Collecting, Retaining, and Disclosing Shelter Client Information

- Avoid seeking immigration status information
- If operationally feasible, allow shelter clients to use pseudonyms
- Maintain policies and procedures in writing for collecting and handling personal information
- Communicate the policies to shelter clients
- Establish policies prohibiting release of information unless supported by valid written authority

Highlights of the Model Policies for Collecting, Retaining, and Disclosing Shelter Client Information

- If immigration enforcement arrives at the shelter and requests information:
 - ▣ Ask for officer's name and badge. Document it.
 - ▣ Ask for officer's written authority to request information. Make a copy.
 - ▣ Clearly state that shelter is required to maintain confidentiality of shelter clients under VAWA, FVPSA, VOCA, and the VTVPA.
 - ▣ Immediately consult with program administrator or supervisor before responding to requests for information.

Highlights of the Model Policies for Monitoring and Receiving Visitors into Shelter Facilities

- All visitors must register with shelter staff
- Determine areas where shelter clients have a reasonable expectation of privacy
- Shelters may post “Notice of Private Residential Area” at entrances where there is a reasonable expectation of privacy
- Designate administrator(s) to serve as liaisons on immigration enforcement related issues

Highlights of the Model Policies for Monitoring and Receiving Visitors into Shelter Facilities

- If an officer arrives at the shelter for the purpose of immigration enforcement other than requesting information:
 - ▣ Ask for officer's name and badge. Document it.
 - ▣ Ask for officer's purpose of visit. Document it.
 - ▣ Ask for written authority. Check that it is valid. Make copies.
 - ▣ Decline to answer the officer's questions.
 - ▣ State that shelter does NOT consent to the officer's search.
 - ▣ Without expressing consent, respond to the documentation.

Highlights of the Model Policies for Responding to Immigration Enforcement at Shelters

- Types of documentation:
 - ICE administrative warrant
 - Immediate compliance NOT required
 - Notice to Appear
 - Not directed at shelter
 - Need not respond
 - Federal judicial warrant
 - Prompt compliance is generally required
 - Subpoena for production of documents
 - Immediate compliance NOT required

Highlights of the Model Policies for Responding to Immigration Enforcement at Shelters

□ Continued:

- ▣ If the officer orders immediate access to the shelter facilities, do not refuse or physically block the officer's entry.
- ▣ Document the officer's actions in detail for later reporting.

Highlights of the Model Policies for Immigration Enforcement Against Minors

- Inform officer minor may not be interviewed without parent or guardian's consent
- Inform minor's parent or guardian of officer's intent to interview minor
- Immediately notify the minor's parent or guardian if an officer gains access to minor for immigration enforcement

What does this guidance mean for your shelter?

- Possibly, not very much
 - ▣ Your shelter should already have many of these policies in place because of requirements under VAWA, FVPSA, VOCA, and other governing laws
 - ▣ Equivalent policies are sufficient
 - ▣ Important to communicate the policies

What does this guidance mean for your shelter?

- Continue to help your clients be prepared
 - ▣ Family preparedness plan
 - ▣ Know your rights trainings
 - ▣ Update emergency contacts
 - ▣ Legal aid organizations
 - ▣ ICE Detainee Locator

What should you do if ICE comes to your shelter?

- An officer who says they are enforcing immigration law comes to the shelter. What do you do?
 - ▣ (A) Consent to a search and let them in without asking any questions.
 - ▣ (B) Ask the officer for their name, badge number, phone number, reason for coming to the shelter and a warrant or any other documents allowing them to search the shelter. Do not consent.
 - ▣ (C) Physically block the officer's entry into the shelter.
 - ▣ (D) Provide the officer with access to an area inside the shelter while you check with the shelter's director about next steps.

What should you do if ICE comes to your shelter?

- An individual asks for personal information about a shelter client or the client's family members for immigration related purposes. What should you do?
 - ▣ (A) Give them all of the requested information including their name, date of birth, place of birth, and immigration status.
 - ▣ (B) Given them all of the requested information except for immigration status.
 - ▣ (C) Provide access to an area inside the shelter while you check the warrant or other documentation and determine next steps.
 - ▣ (D) Ask for officer's name and badge. Ask for a warrant or order signed by a judge. Check the type of documentation and respond accordingly.

Key Points from Guide for Courts

- ❑ Governing Laws Underlying Model Policies
- ❑ Key Model Policies
- ❑ What It Means for Survivors at Courts

Governing Laws Underlying Model Policies

- DHS policies
 - ▣ Court is a “sensitive location” for enforcement against certain victims and witnesses of crime
- Judges have the right to establish order in courtroom
- Immigrant Worker Protection Act
 - ▣ No voluntary consent to enter nonpublic area, subject to exceptions
- Confidentiality of juvenile proceedings and records

Governing Laws Underlying Model Policies

- VAWA
- Immigrant Victims of Crime Equity Act
- CA Evidence Code sections 351.2, 351.3, 351.4 limiting admission of immigration status

Highlights of the Model Policies for Protecting Access to Justice

- Generally, not required to disclose immigration information, unless required by law
- Should not inquire about immigration status, unless required
- Reduce frequency of appearances, where feasible and permitted under state law
- Permit remote appearances

Highlight of the Model Policies for Protecting Children

- Presumption that immigration enforcement does not have a “direct and legitimate interest in individual dependency proceedings nor in the work of the court”
- Arrest of minors at juvenile court for immigration enforcement prohibited, unless immediate risk to public safety and protection

Highlights of the Model Policies Protecting Immigrant Crime Victims

- Require all hearing officers to complete U Nonimmigrant Status Certifications for immigrant crime victims
- Prohibit hearing officers from disclosing immigration status information of the person requesting U-Visa certification
 - ▣ Except to comply with federal law
 - ▣ Except if authorized by crime victim

Highlights of the Model Policies on Training Court Staff on Responding to Immigration Enforcement Activity

- Identify nonpublic locations with court facilities
- Train staff on recognizing different types of warrants, subpoenas, and court orders and appropriate response
- Court personnel are prohibited from assisting in immigration enforcement actions

Highlights of the Model Policies for Responding to Requests for Access to Court Facilities for Immigration Enforcement Purposes

- Notify the court executive officer or presiding judge of any requests by immigration enforcement to access nonpublic areas or to review nonpublic court documents
- Advise officer court executive officer or presiding judge must be notified before responding
- Ask for officer's name and credentials. Document it.

Highlights, cont.

- Ask for officer's purpose for being at court. Document response.
- Ask for documentation of authority to access nonpublic areas or request information
- If officer orders entry, do not physically block entry
- State that the court does not consent to entry

Highlights, cont.

- Without expressing consent, review the documentation provided:
 - ▣ ICE administrative warrant
 - Immediate compliance NOT required
 - ▣ Notice to Appear
 - Not directed at court
 - Need not respond
 - ▣ Federal judicial warrant
 - Prompt compliance is generally required
 - ▣ Subpoena for production of documents
 - Immediate compliance NOT required

Highlights, cont.

- Document the officer's actions in detail for later reporting
- Court personnel must report any immigration enforcement action occurring at court to the court executive officer or presiding judge

Highlights of the Model Policies Regarding the Collection and Dissemination of Personal Information

- Unless necessary to perform official duties or required by law, court personnel shall not:
 - Ask for immigration status information
 - Provide release date information, unless:
 - Valid judicial warrant, subpoena, court order
 - Criminal history meets specific criteria
 - Information is publicly available

Highlights of the Model Policies Regarding the Collection and Dissemination of Personal Information

- Unless necessary to perform official duties or required by law, court personnel shall not:
 - Provide personal information, unless
 - Valid judicial warrant, subpoena, or court order
 - Information is publicly available
 - Collect personal information, except as required by law or official duties
 - Share juvenile case file, unless authorized

What It Means for Survivors at Courts

- Courts are generally a sensitive location for survivors
- Court personnel are prohibited from assisting in immigration enforcement
- Restrictions exist that limit the disclosure of immigration status in court
- Protections under VAWA

More Information

□ For more information and the full model policies, visit:

□ <https://oag.ca.gov/publications#immigration>

Thank You!



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