

FACT SHEET FOR NATIVE-SERVING NONPROFITS



NATIVE AMERICAN
RIGHTS FUND

REGARDING POLICE AND IMMIGRATION

Native Americans are citizens of the United States. Although Immigration and Customs Enforcement (ICE) has no jurisdiction over citizens on immigration matters, ICE has targeted Tribal citizens and descendants.

This fact sheet is designed to help Native-serving nonprofits prepare to protect their clients and prevent unlawful detentions as well as violations of their and their clients' Fourth Amendment right against unreasonable search and seizure.

1. POLICE AND ICE CAN ENTER PUBLIC AREAS WITHOUT PERMISSION, BUT POLICE AND ICE CAN'T ENTER PRIVATE AREAS IN YOUR NONPROFIT WITHOUT A JUDICIAL WARRANT or your permission. Although ICE agents may present an administrative warrant, that is not the same as a judicial warrant and does not permit ICE to enter private areas without permission. A valid judicial warrant is signed by a judge and specifically describes the area ICE is permitted to search.

2. YOU HAVE THE POWER TO DESIGNATE PUBLIC AND PRIVATE AREAS of your nonprofit or business. Generally, a public area is somewhere where members of the general public may come and go freely. Public spaces are those where people do not have an expectation of privacy, and private places are where people do have an expectation of privacy.

This expectation of privacy can be because of how the space is used (e.g., private homes, sleeping quarters, bathrooms, medical examination rooms, or places where sensitive personal information is stored or shared).

You can also create private areas through the use of locked doors, opaque window dressings, and clear signage. Signs might include language such as "Private Property," "Entry by Appointment Only," "Patients and Staff Only," or "No Entry Without Authorization."

3. YOU CAN AND SHOULD ENFORCE YOUR SIGNS AND PRIVATE SPACES. While setting expectations by marking a space as private is helpful, it may not be sufficient. Consistent behavior and policy should support the designation of the private area. For example, if a nonprofit marks an area as "No Entry Without Authorization," the nonprofit should enforce that policy against everyone equally. If the posted policy is actually enforced, the area is more likely to be recognized and treated as private than if the policy is not always enforced. Staff behavior should match the posted signage.

4. **POLICIES CAN PROTECT YOUR PRIVATE SPACES** by empowering your employees to deny entry to police and ICE agents without a judicial warrant. By setting a policy that specifies who is empowered to allow access to your building and to whom access is allowed, you can establish clear rules that protect everyone's Fourth Amendment rights. Staff may be instructed that they do not have authority to grant access to a building or private area, allowing them to explain to police or ICE agents, "I can't give you permission to enter. You must speak with my employer."

ALSO:

If you are preparing your staff and facility to respond if police or ICE agents seek to enter your buildings, it may be useful to designate a person who is prepared and empowered to engage with police or ICE agents at the minimum level, so that other staff know who to contact.

Staff are not required to answer questions about their coworkers or their clients.

If the police or an ICE agent seek access to a private space, staff members are allowed to ask for that agent's badge number and to inspect the required judicial warrant, to ensure it is valid.