

IMMIGRATION ENFORCEMENT: Know Your Patients' and Your Rights



Recent reports of Border Patrol raids in southern California cities have caused immigrant communities to fear leaving their homes, even for needed medical services. This paper provides advice to community clinics and their clients about how to prepare for, and respond to, a raid by Border Patrol agents.

The Border Patrol's ability to enforce the immigration law is limited by the protection against *unreasonable search and seizure* provided by the Fourth Amendment to the U.S. Constitution. Whether a search is reasonable under the Fourth Amendment depends on whether you have a *reasonable expectation of privacy* in the area to be searched. As a result, your patients may be more exposed in areas of your clinic that are open to the general public than in areas that are private.

Immigration agents may enter into a public area of your clinic, without a warrant or your consent, to question people they believe to be undocumented. In order to enter into a private area (not open to the general public), the agents must have a warrant or consent from an authorized person.

Recommendations:

- ✓ Establish a written policy identifying areas of the clinic as not open to the general public. For example, your waiting room may be open to the public, but individuals must be invited to enter into examining rooms, offices and records areas. Alternatively, the waiting room may be open only to patients and persons accompanying them, while the public must remain in areas outside the building.
- ✓ Provide posters and educational materials advising patients that they have the right to refuse to answer questions from immigration agents and to ask that a lawyer be present if they are questioned. Also advise patients never to run from immigration officials—since this can cause them to be arrested.
- ✓ Establish a relationship with a lawyer, such as a board member who is an attorney, who can be available if an agent comes into the clinic.
- ✓ Designate a specific person or persons as responsible for handling contacts with law enforcement officials. Train all other staff to inform immigration or other law enforcement officials that only the designated individuals are authorized to review a



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- warrant or to consent to their entry into private areas, and to decline to answer any questions.
- ✓ If immigration agents ask permission or attempt to enter a private area, the designated person should state explicitly that he/she does not consent to entry without a warrant. If the agents indicate that they will get a warrant, contact a lawyer and try to have that person present for the search.
 - ✓ When presented with a warrant, the designated law enforcement contacts should review the warrant for validity. A warrant is not valid unless it is signed by a judge and states the address of the specific premises to be searched. If the immigration agents have a valid warrant, they can enter into the private areas and question anyone present. Remind all patients and other persons present that they have the right not to answer any questions.
 - ✓ Have staff role-play their responses to an immigration raid on the clinic, so they are prepared to respond confidently to a stressful situation.