

Welcome!

CARE Community Briefing:

**Guidance and Model Policies to
Assist California's Public Libraries**

Thursday, October 15 | 2:00pm - 3:00pm

The presentation will begin shortly. No audio is currently being played.



ACCESSIBILITY

- **Find the menu bar at the bottom of your zoom window**
 - **For presentation resources, please find the “Resources” tab.**
 - You may see different sections such as “Links” and “Documents”.
 - More resources will be added during the presentation.
 - They may also be found at: oag.ca.gov/care/community-briefings.
 - **For closed captioning, select “captions” and turn them on. Translated captions in multiple languages are available.**
- **If you do not see the options above, they may be under “more”**

AGENDA

I. Welcome- *Cat Nou, Office of CARE, Director*

II.Introductory Remarks- *Attorney General Rob Bonta*

III.Presentation: Guidance and Model Policies to Assist California's Public Libraries

- *Newton Knowles, Deputy Attorney General, Civil Rights Enforcement Section*

IV. Questions and Answers

V.Thank You

California Values Act

In enacting SB 54 (2017), the Legislature found and declared:

“Immigrants are valuable and essential members of the California community...” “A relationship of trust between California’s immigrant community and state and local agencies is central to the public safety of the people of California.” “This trust is threatened when state and local agencies are entangled with federal immigration enforcement....”



Overview of Senate Bills 54 and 580



Required the CA Attorney General, by October 1, 2018, to “publish model policies limiting assistance with immigration enforcement to the fullest extent possible consistent with federal and state law...”

See also, SB 580- directs the Attorney General to publish guidance and model policies for state and local agencies relating to interaction with immigration authorities consistent with federal and state law.

Implementation of Senate Bills 54 and 580

- **Where can the guidance and model policies be found?**
 - This and other publications mandated by SB 54 are available under the heading of "Immigration Guides" on the "Publications" page of the Office of the Attorney General's website – <https://oag.ca.gov/publications>.
- **By when will state and local libraries need to adopt the model policies or equivalent policies?**
 - While SB 54 does not have a mandate that requires libraries to adopt the model policies or equivalent policies, SB 580 requires libraries to adopt model policies and guidance. Libraries can satisfy their obligations under SB 580 by adopting the SB 54 libraries model policy and guidance.



Core Principles Informing the Guidance

- First: Library resources should not be used to assist immigration enforcement activities, except as required by state or federal law.
- Second: Libraries should limit or restrict the collection, retention, and disclosure of information that could aid in identifying or apprehending individuals without lawful immigration status, unless required by law or necessary to administer a lawful program.
- Third: Where there is no legal obligation to comply, libraries should require appropriate legal process — a judicial warrant, judicial subpoena, or court order — before complying.
- Fourth: All requests for information should be directed to designated library staff or legal counsel trained to evaluate such requests.
- Fifth: Libraries should document interactions with immigration authorities, including requests for information, attempts to access facilities, and the presentation of legal process.

SB 54 Guidance Overview

- **Section 1:** Establishing Policies Regarding Public Library Access
- **Section 2:** Responding to Requests for Information and/or Data for Immigration Enforcement Purposes, Including Recommendations Regarding Database Governance
- **Section 3:** Responding to Requests for Physical Access to Public Libraries for Immigration Enforcement Purposes
- **Appendices**

Legal Framework

Federal Responsibility for Immigration Law

No Federal Law Requires State or Local Agency Participation

Tenth Amendment

Demands for Information – Types of Requests & Concerns Raised

- Library collection and maintenance of personally identifiable information (PII) Federal government's increasing requests for sensitive data for immigration enforcement
- Requests and demands for the production of data or access to data should always be directed or forwarded to designated personnel.
- Requests and demands for information held by state or local agencies raise serious concerns.
- Disclosure of personal information increases the risk of identity theft and very often violates the law.

Demands for Information– Governing Law

- **General Principles**

- Review all requests and demands against the authority the requestor claims for request.
- Administrative subpoenas are not the equivalent of court issued subpoenas.
- Do not produce more information than is legally required.
- Libraries should have designated personnel or legal counsel evaluate any regulatory data demand, assess whether data can be de-identified or limited, and document the request and response.

- **Privacy Laws May Prohibit or Limit Disclosure of Information**

- The California Constitution's “inalienable right” to privacy limits disclosure of personal information.
- Federal and state statutes also impose limits specific to certain data categories.

Types of Demands Libraries May Receive

Administrative Subpoenas

- Administrative subpoenas are issued by an agency, not a court.
- Administrative subpoenas are not “self-executing.”
- There is a significant body of law on permissible and impermissible uses of administrative subpoenas. (See, e.g., *Peters v. United States* (9th Cir. 1988) 853 F.2d 692)
- Administrative subpoenas should be properly served.
 - Library staff should immediately contact designated staff, a supervisor, and/or legal counsel upon receipt.
- An example of a DHS-issued administrative subpoena (Form I-138) is seen here and has been included in Appendix E of the Guidance.

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

(Title of Proceeding) (File Number, if Applicable)

By the service of this subpoena upon you, **YOU ARE HEREBY SUMMONED AND REQUIRED TO:**

(A) ☐ **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) ☒ **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

Name
Title
Address
Telephone Number

(B) Date

(C) Time ☒ a.m. ☐ p.m.

4. Records required to be produced for inspection

5. Authorized Official

(Signature)
(Printed Name)
(Title)
(Date)

If you have any questions regarding this subpoena, contact the CBP, ICE, or USCIS Official identified in Block 3.

DHS Form I-138 (8/09)

Judicial / Grand Jury Subpoenas

- AO 88B (Rev. 02/14) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action
- # UNITED STATES DISTRICT COURT

for the
- | | | |
|------------------|---|------------------|
| _____ |) | |
| <i>Plaintiff</i> |) | |
| v. |) | Civil Action No. |
| _____ |) | |
| <i>Defendant</i> |) | |
- ## SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION
- To:
- (Name of person to whom this subpoena is directed)
- ☐ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material:
- | | |
|--------|----------------|
| Place: | Date and Time: |
|--------|----------------|
- ☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.
- | | |
|--------|----------------|
| Place: | Date and Time: |
|--------|----------------|
- The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.
- Date: _____
- CLERK OF COURT
- OR
- _____
Signature of Clerk or Deputy Clerk
- _____
Attorney's signature
- The name, address, e-mail address, and telephone number of the attorney representing (name of party) _____, who issues or requests this subpoena, are:

- ### Notice to the person who issues or requests this subpoena
- If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Other Types of Demands Libraries May Receive

- **Court Orders**

- A court order authorizes or requires the actions specified but does not require or authorize actions beyond its terms.
- A party subject to a court order may seek relief from the court.

- **Public Records Act Requests**

- The Public Records Act establishes a general rule of disclosure, providing that public records are open to inspection, subject to statutory exemptions and other legal limitations.

- **PRA Treatment The Same For All**

- Under the Public Records Act, a request made by an immigration authority is evaluated under the same legal framework as a request made by any member of the public. (Gov. Code Section 7920.000 et seq.)

Guidance and Model Policies Regarding Immigration Enforcement Requests for Information

Model Policies

- **General Response Protocols:** Library protocols should apply across library operations and should be designed to ensure consistent, legally compliant responses.
- **Designated Personnel and/or Legal Counsel:** Your library should designate personnel responsible for evaluating and responding to requests for information by immigration authorities.

Guidance and Model Policies Regarding Immigration Enforcement Requests for Information

Model Policies (continued)

- **Collecting and Retaining Information:** Libraries should
 - maintain written policies and procedures for the gathering, handling, and retention of sensitive patron information;
 - provide training to appropriate personnel on policies and procedures;
 - maintain sensitive information, such as a person's personally identifying information or immigration or citizenship status information collected by or disclosed by the patron, only when necessary and only for as long as necessary or otherwise required by law.
- **Responses to Information Requests:** Library policies should establish procedures governing responses based on the type of demand presented.
- **Documentation Requirements:** Libraries should also require comprehensive documentation of all requests for information from immigration authorities.

Access to Library Facilities for Immigration Enforcement – Types of Requests & Concerns Raised

- Immigration officers may seek to enter agency facilities to locate and arrest individuals, question employees or members of the public, or conduct other enforcement activity.
- Request or demands for access may be accompanied by administrative documents, judicial warrants, subpoenas, or no documents at all.
- Immigration enforcement activity in or around public libraries can distract and divert agency personnel, hinder library's public functions, disrupt operations, diminish public trust, adversely impact access, and can generally substantially undermine public safety, health, and welfare.
- Voluntarily granting access to nonpublic areas of library locations will in many instances violate state law.

Access to Library Facilities – Governing Law

- **General Principle**

- A facility being open to the public in some areas does not mean all areas are subject to unrestricted entry by immigration officers.

- **Fourth Amendment, U.S. Constitution**

- Protects against unreasonable searches and seizures
- Applies where there is a reasonable expectation of privacy, which can include nonpublic areas of government facilities.

Access to Library Facilities – Governing Law

- **The Immigrant Worker Protection Act (AB 450)**
 - Except as otherwise required by federal law, an agency “shall not provide voluntary consent” for an immigration enforcement agent to enter any nonpublic area or to access, review, or obtain employee records, without a subpoena or judicial warrant.
 - “Voluntary consent” means a decision made free of duress or coercion.
 - Public versus nonpublic distinction is critical.
 - AB 450’s prohibition applies regardless of how a request is presented (e.g., verbally, with an administrative warrant). It does not apply where the agent has a judicial warrant or for records accessed under a properly noticed I-9 audit.
- **The Workplace Know Your Rights Act (Labor Code section 1550)**
 - Requires employers to distribute a standalone annual written notice of workers' rights, and to allow workers to designate an emergency contact to be notified if the employee is arrested or detained during work hours.

Documents That May Accompany Requests for Physical Access

Notice to Appear

- Issued by ICE, CBP, or USCIS to commence formal removal proceedings against an individual.
- Does not authorize or require library staff to grant access to nonpublic areas.
- Does not authorize or require library personnel to take any action or otherwise grant or cooperate with requests from immigration enforcement authorities
- An example of a Notice to Appear (Form I-862) is seen here and has been included in Appendix G of the Guidance.

U.S. Department of Homeland Security Notice to Appear

In removal proceedings under section 240 of the Immigration and Nationality Act:

Subject ID: _____ FINS: _____ File No: _____
DOB: _____ Event No: _____

In the Matter of: _____

Respondent: _____ currently residing at: _____
(Number, street, city and ZIP code) (Area code and phone number)

☐ 1. You are an arriving alien.
☐ 2. You are an alien present in the United States who has not been admitted or paroled.
☐ 3. You have been admitted to the United States, but are removable for the reasons stated below.

The Department of Homeland Security charges that you:

☐ This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture.
☐ Section 235(b)(1) order was vacated pursuant to: ☐ 8CFR 208.30(f)(2) ☐ 8CFR 235.3(b)(5)(ii)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at:

_____ (Complete Address of Immigration Court, including Room Number, if any)
on _____ at _____ to show why you should not be removed from the United States based on the
(Date) (Time)
charge(s) set forth above. _____ (Signature and Title of Issuing Officer)
Date: _____ (City and State)

See reverse for important information

Form I-862 (Rev. 08/01/07)

Other Types of Documents That May be Presented

Administrative Arrest and Removal Warrants

- Typically issued by immigration enforcement officers with ICE or other agencies within DHS.
- Not issued by a court
- An example of an ICE "Arrest Warrant" (Form I-200) is seen to the left and in Appendix A.
- An example of an ICE "Removal Warrant" (Form I-205) is seen on the right and has been included in Appendix B.

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)

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 _____ (Place of entry) on _____ (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)

ICE Form I-205 (8/07)

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Other Documents That May Be Presented – Judicial Arrest and Search Warrants

- Issued by a court upon a finding of probable cause.
- Bear a magistrate judge or district court judge's signature, identify the issuing court, and typically include a case number and court seal.
- A judicial arrest warrant authorizes officers to arrest the named individual; a judicial search warrant authorizes a search of a specific location, person, or vehicle. Authority is limited to the scope of the warrant.
- *Samples (Federal Search Warrant, Form AO 93, and Federal Arrest Warrant, Form AO 442) have been included in Appendices C and D of the Guidance.*

Model Policies – Access to Facilities and Physical Spaces

- **General Response Protocols**

- When immigration authorities seek access to library locations, personnel should respond in a manner that is consistent with governing law and library policies and procedures.
- Remain calm and professional; request identification and any documents pertaining to the requested access/search and immediately notify designated personnel and/or agency counsel.
- Do not physically interfere with an enforcement authority and should not provide false information, destroy records, or voluntarily assist officers.

- **Designated Personnel or Legal Counsel**

- Each agency should designate agency counsel or personnel with sufficient training to evaluate and respond to requests or attempted intrusions by immigration authorities, and to coordinate the library's response.

Model Policies – Access to Library Locations

- **Distinction Between Public and Nonpublic Areas**

- Clearly define and identify nonpublic areas through signage, access controls, and visitor protocols.

- **Public Areas**

- Do not interfere with immigration authority's access to or presence in areas of a library facility or other location that is open to the general public.

- **Nonpublic Areas**

- Do not permit, grant, or facilitate access to nonpublic areas, **UNLESS** the officer presents a judicial warrant, court order, or a properly noticed I-9 inspection form.
- See the model policies for steps library personnel should take when presented with any of these forms or other forms that do not authorize access.

Model Policies – Requirements Regarding Nonpublic Areas

- **When No Judicial Warrant, Court Order or I-9 Inspection Form Is Presented, Library Personnel Should:**
 - Immediately notify designated personnel or legal counsel that an agent is onsite.
 - Request to copy any documents presented or notate the agent's credentials.
 - Immediately contact security, a supervisor, or legal counsel if the agent attempts to enter a nonpublic area.
 - Avoid becoming confrontational and do not physically interfere with or assist the agent.
 - Decline to provide access to nonpublic areas.

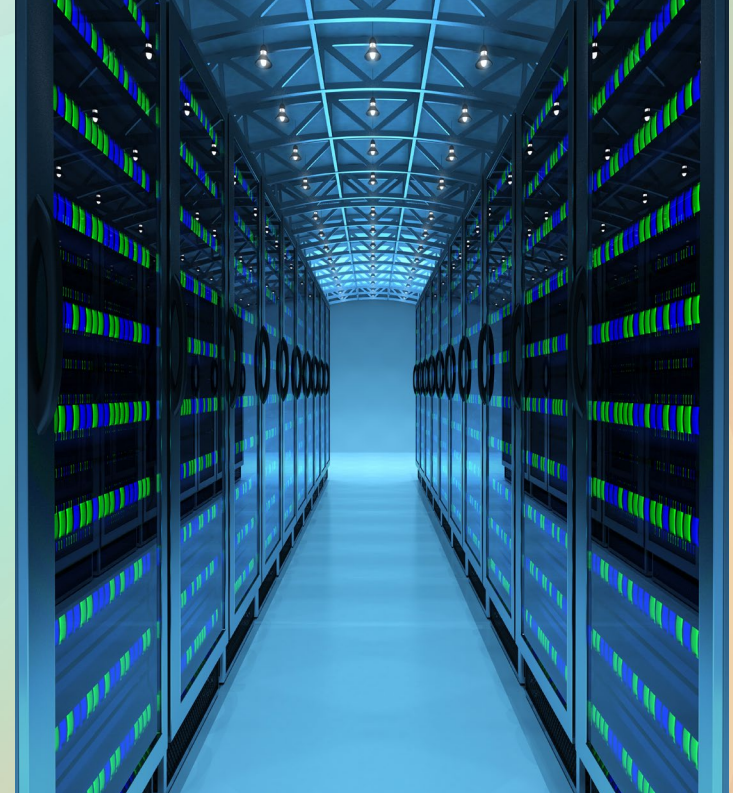
Model Policies – Requirements Regarding Nonpublic Areas

- **When Presented with a Judicial Search or Arrest Warrant, Court Order, or I-9 Inspection Form, Staff Should:**
 - Immediately notify designated personnel or legal counsel that an officer is onsite.
 - Request a copy of the warrant and the officer's credentials; verify the warrant is court-issued, judicially signed, and matches the location at which the officer seeks to execute the warrant; and communicate that access is limited to the warrant's scope.
 - Request that the officer wait while the above is verified, but do not block or impede entry if the agent refuses to wait.
 - Comply as required by law and as dictated by the warrant/court order. Library counsel or other designee can and should facilitate such compliance in a manner that does not afford access to areas not covered by the warrant.
 - Document all interactions with immigration authorities and keep those documents in a centralized location.

Guidance and Recommendations Regarding Library Databases

Minimize Data

- Only collect information necessary for the library's function or legally required for library operations or determinations.
- Limit data collection to the library's needs and purpose; libraries should evaluate each data field to determine whether it is necessary to a legitimate operational objective. Information that is not collected cannot be disclosed.
- Minimize collection of "proxy data" — fields such as place of birth, language indicators, or household composition that, alone or combined, can allow inferences about immigration status.
- Limit retention to what is strictly necessary, with routine deletion or anonymization once data is no longer needed.



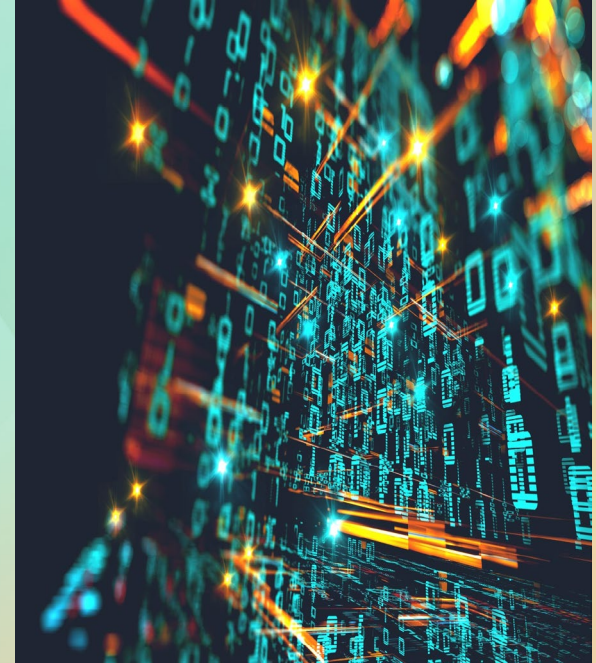
Guidance and Recommendations Regarding Databases

Implement/Adopt Access Controls that

- Make information is available only to personnel who require it for legitimate purposes.
- Include role-based permissions, authentication mechanisms, and monitoring systems that track and record access to sensitive information.

Core Guiding Principles

- Least Privilege — users receive only the minimum access required to perform their duties.
- Need-to-Know — access is restricted to those with a legitimate functional need.
- Separation of Duties — critical tasks are divided among multiple users to reduce misuse.
- Accountability — every user has a unique, attributable ID to catalog access and search history.
- Verify role and identity and require completion of privacy training and supervisor approval before access is granted.



Guidance and Recommendations Regarding Databases

Special Considerations for High-Risk Database Systems

- **Federal Program Data** (e.g., benefits systems): Sharing program data with one federal agency increases the risk that data collected for one purpose becomes accessible for another.
- **Third-Party Vendors**: Vendor arrangements should not expand the availability of data beyond what state and federal law permits; contracts should prohibit unauthorized redisclosure.
- **Bulk or Blanket Data Requests**: These present heightened risk and should receive elevated legal scrutiny before any response.
- **Interagency or Interoperable Databases**: Consider data-sharing agreements or MOUs that limit use and distribution of shared library data.
- **Integration or Usage of Artificial Intelligence**: Libraries using LLMs (Large Language Models), machine learning, or generative AI should have policies governing usage, with regular review of AI query activity.

Training Recommendations Regarding Databases

- **Implement Scenario Based Training**
 - Scenario-based training is a teaching approach where learners engage in simulated or reality-based training. In applying this principle, libraries should center training around the types of databases that they manage, own, or into which they enter patron information.
- **Center Training on the Relevant Legal Frameworks Governing Information Sharing with Immigration Enforcement**
 - Personnel should be trained on the laws discussed in this guidance, including:
 - The meaning of 8 U.S.C. sections 1373 and 1644.
 - The applications of privacy protections including laws that apply to the agency or those it serves.
 - The requirements of the Public Records Act.

Training Recommendations Regarding Databases

- **Training should reinforce the following principles:**
 - A review of the library's internal notice and elevation procedures.
 - The requirement to limit collection to necessary information.
 - The library's access control policy and protocols.
 - The risks associated with retaining unnecessary data.
 - The potential for information to be used beyond its original purpose.
 - The obligation to evaluate requests for information under applicable law.

Recommendations Regarding Database Audit Criteria

- **Audits Should Examine Data Collection Practices**
- **Libraries Should Require Access Logs**
- **Incident Documentation**
- **Implement Monitoring, Reporting, and Corrective Actions**

Additional Resources for Community Members

- **ICE Detainee Locator**

- locator.ice.gov — helps determine if someone has been detained and where, using date of birth and A-Number if available. The site is not updated in real time.

- **Rapid Response Networks**

- Community-based responses (not involving government agencies) to immigration enforcement – offer hotlines for reporting of enforcement activity and connecting individuals to legal assistance and “Know Your Rights” information.

- **Legal Assistance**

- State Bar of California attorney search (calbar.ca.gov), legal aid directories (e.g., [National Immigration Legal Services Directory - Immigration Advocates Network](#)), and California Courts Self-Help Centers.
- **Immigration Court Hotline: 1-800-898-7180, and the EOIR case status website.**
- **Consulate or Embassy of an individual's country of origin may offer additional assistance.**

Resources

- For the full document, please visit:
<https://oag.ca.gov/system/files/media/libraries.pdf>
- To access CA DOJ immigration resources visit:
<https://oag.ca.gov/immigrant/resources>
- To report federal agent misconduct:
 - <https://oag.ca.gov/reportmisconduct>

Upcoming Events:

CARE Community Briefing Series: SB 54 Updated Guidance and Model Policies for Public Institutions

Thursday, 10/29 | 1:30-2:30 PM

CARE Community Briefing: Guidance and Model Policies to Assist California's Labor Agencies

Thursday, 11/12 | 1:30-2:30 PM

CARE Community Briefing: Guidance and Model Policies to Assist California's Colleges and Universities

Register At: oag.ca.gov/care

Subscribe to receive notices on SB 54 Guidance and Model Policies:
oag.ca.gov/subscribe

Contact Us: care@doj.ca.gov