



CHURCH & MINISTRY  
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# **Immigration Executive Orders and the Impact on Churches**

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# Impact of New Immigration Executive Orders on a Church's Autonomy and Religious Liberties

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During his first week in office, President Trump signed several executive orders related to immigration. His administration has simultaneously rescinded prior, and issued new, enforcement guidance. Churches and ministries seek clarity on any constitutional rights impacted by President Trump's actions as well as best practices for navigating potential enforcement activities on church or ministry property.

This resource (1) summarizes the relevant executive orders that discuss immigration and how they impact the church (2) discusses any constitutional considerations for churches, and (3) provides practical guidance for churches in response.

***This resource is purely for educational purposes and not intended as legal advice.***

**Note:** During the preparation of this resource, several Quaker congregations filed a lawsuit in federal court in Maryland against the Department of Homeland Security asserting religious liberty concerns about potential arrests in houses of worship. See below in Current Legal Action for more information.



# 01.

Executive  
Orders Discussing Immigration



Most of President Trump’s executive orders do not directly impact churches. Likely, only “ **Protecting the American People Against Invasion**” and its related enforcement guidelines are relevant. This order responds to an increase in unlawful immigration over the last four years and articulates the administration’s intent to enforce immigration laws going forward. To that end, the order rescinded “all memoranda, guidance, or other policies” based on prior executive orders under the Biden administration.

This rescission included a Biden administration memo released on October 27, 2021, entitled, **Guidelines for Enforcement Actions in or Near Protected Areas**. The guidance identified houses of worship and places of religious study as “protected areas.” It directed officers to abstain from enforcement activities “to the fullest extent possible.” But it still acknowledged circumstances that necessitate enforcement in those areas. It then provided a non-exhaustive list of such circumstances. Absent an exigency, it instructed officers to seek leadership’s approval prior to enforcement activity in or near a protected area.

President Trump issued new guidance in its place. His memo excluded specific designations of protected areas and any detailed list of considerations. Instead, it acknowledged that “officers frequently apply enforcement discretion to balance a variety of interests, including the degree to which any law enforcement action occurs in a sensitive location.” Avoiding “bright line rules,” it requires use of “that discretion along with a healthy dose of common sense.” But it does not otherwise discuss enforcement at areas designated as “protected” under previous guidance. Hence, the real significance of this policy change, if any, will come from any new enforcement efforts, which remain to be seen.



# 02

● The  
Rights of Churches





The interplay of the government's authority to enforce laws and the church's rights of autonomy and free exercise, present nuanced theological and constitutional questions. The church often ministers to and worships alongside individuals with complicated personal histories. Relatedly, the United States Constitution preserves the autonomy of ministries and churches to conduct activities in the exercise of religious beliefs, devotions, and obligations. This not only includes the celebration of ceremonial worship services, but may involve ministering to the poor, the criminal, the immigrant, and homeless. And yet the government requires latitude to adequately and effectively enforce laws to protect national security and promote the general welfare.

When balancing a church's rights against the government's interest in enforcing immigration laws, courts will likely look to two provisions of the U.S. Constitution: the Fourth Amendment and the First Amendment. The Fourth Amendment prohibits unreasonable searches and seizures, while the First Amendment along with the Religious Freedom Restoration Act, prohibits governmental action abridging the free exercise of religion. It also preserves a zone of autonomy for religious organizations, preventing unwarranted interference by governmental authorities within ecclesiastical affairs. And it further protects the church's associational rights.

Ultimately, the balancing of a church's theological commitments and constitutional interests against the government's enforcement efforts may result in some church activities receiving protection.

But that balancing of these rights and governmental interests can involve fact-intensive analyses.

The Fourth Amendment prohibits unreasonable searches and seizures. And churches have the same rights as other owners of private property. This means government actors, absent the possession of a warrant, should not enter church property when the church has a reasonable expectation of privacy. But whether or not the church has a reasonable expectation of privacy depends on the particular circumstances. Did it lock the doors? Try to limit or prevent entry? Likely, a worship service open to the general public will not meet that standard. But a private church event, limited to particular persons, probably does.

The First Amendment and the Religious Freedom Restoration Act prohibit government action that substantially burdens the free exercise of religion or unconstitutionally disrupts an assembly. Once more, whether a particular enforcement activity *substantially* burdens the exercise of religion hinges on the circumstances. What specifically happened? At what point in the worship service? How was it carried out? Was the law enforcement activity done maliciously? Was law enforcement constantly monitoring the church property and church activities, such that the church experienced a material diminution in participation? The specific facts shape the analysis.

**If you are dealing with a specific enforcement event or activity, you may contact an ADF attorney to discuss further.**

# 03.

Legal Actions

● Current





On January 27, 2025, five Quaker congregations filed suit in federal court challenging the Trump administration's executive order. The Quakers rely on a variety of arguments under the Religious Freedom Restoration Act, the First Amendment, and the Administrative Procedure Act.

First, the Quakers argue that Trump's executive order violates the Religious Freedom Restoration Act. They allege that the Department of Homeland Security, in permitting immigration enforcement operations at houses of worship, deters parishioners from attending services. The Quakers also argue that the executive order would violate their free exercise rights by reducing the number and diversity of worshippers.

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Based on Quaker religious traditions, which believe God might speak through any person present at the gathering, this inhibits the meeting's ability to receive messages from God. Relatedly, the Quakers also argue that the executive order violates their First Amendment rights of expressive association. They claim the executive order, and fear of government surveillance, will unconstitutionally chill attendance and participation.

The outcome of this lawsuit remains uncertain. The Quakers are seeking a temporary restraining order and preliminary injunction. The initial success of their claims, and whether potential success will survive an appeal, remains to be seen.



# 04.

Guidelines

● Practical



Churches should consider developing a plan to peaceably engage and navigate potential law enforcement activities at church property. Although the likelihood and potential frequency of immigration enforcement during worship services seems low, it remains possible.

For example, churches might educate security teams, deacons, or other designated individuals to calmly approach officials in the following manner:

1. Ask for the names of the officers and the reason for their visit;
2. Politely ask law enforcement if they have a warrant; if they do not, politely request the basis for entering the church;
3. If law enforcement does have a warrant, consider asking more specific questions about its scope and purpose. Is it to enter a particular space? Or to arrest a particular person they believe to be present at that time?
4. Irrespective of the existence of a warrant, describe to officers the importance of the church's worship service, and the church's conviction that praise and thanksgiving during this time involves an important religious duty owed to God;
5. Explain any other activities at the church, which the church does not want to see interrupted;
6. In light of those considerations, request that the officials avoid entering the church property during the worship service and instead wait until afterward, if possible.

If the government's conduct crosses certain lines, it may be possible to assert a valid legal claim. This includes if the government attempts to actively surveil church services that result in diminution of participation, disrupt church services without a justifiable reason, otherwise enter church services with apparent malice, or request information about members or volunteers. But those possibilities aside, the government may be able to enter church property to enforce its immigration laws under certain circumstances. Peaceable cooperation may permit a church to minimize disruption and preserve the sanctity of worship services and other related religious activities.

In addition to these practical guidelines for engaging law enforcement, churches can also explore other avenues for serving impacted members of their congregation or ministry community. For example, if the church belongs to a tradition with a global footprint, churches might utilize it to coordinate care for deported individuals and/or families.



# 05.

Asked Questions

● Frequently



**Did the Trump administration create a policy, or state an intention, to target churches for immigration enforcement actions?**

No. The Trump administration has not conveyed an intention to target churches for immigration enforcement. The Administration rescinded a memorandum that designated houses of worship as “protected areas.” This occurred amidst a large-scale rescission of all memoranda and guidance related to immigration issued by the prior administration. The new memorandum issued in its place excludes the same designations and details. Instead, it encourages the use of “discretion” and “common sense” when balancing a variety of interests, including the degree to which an area is a “sensitive location,” when enforcing immigration laws.

**Are officers prohibited from entering churches to perform law enforcement activities in all circumstances?**

No. Existing law does not *per se* prohibit law enforcement from entering churches. But law enforcement activities may be conducted in an *unconstitutional manner*, depending on the particular facts and circumstances.

**Do law enforcement need a warrant to enter church property?**

It depends. If the church is generally open to the public, and not manifesting any intention to maintain privacy, law enforcement can likely enter. However, if the church is hosting a private event and limiting attendance to particular people, or otherwise attempting to limit or prevent entry (e.g., locked doors), law enforcement should have a warrant prior to entry.

Regardless, it is reasonable to ask about the existence and scope of a warrant. Is it to a particular place for a particular purpose? Or to arrest a particular person? Moreover, law enforcement activity must still be conducted in a *constitutional manner*, i.e. without malice, and appropriately accounting for the burden placed on the exercise of religious activity imposed by those police activities in light of the needs of public safety and welfare.

**If law enforcement is constantly surveilling church property, and it is diminishing participation in church activities, can a church do something about it?**

If ongoing surveillance is impacting church participation, it may be violating First Amendment rights. This depends on the nature, extent, and full impact of the surveillance, as well as law enforcement’s reasons for doing so. If you have specific questions or concerns, you can contact an ADF attorney.

**Can ICE enter the church during worship services or other religious activities to enforce immigration laws?**

Potentially. The constitutionality of enforcement activities during church services involves a fact-intensive analysis. The method, manner, and impact of the enforcement activities, as well as the circumstances giving rise to the governmental action at that time, all impact the analysis. Government actors should not be unnecessarily upending worship events, or maliciously and callously raiding churches in pursuit of *potentially* unlawfully present persons. But there may be circumstances that justify enforcement activity at a church.



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