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Know Your Rights: Observing & Recording Immigration Enforcement Actions in Public

DISCLAIMER This guidance is intended to promote safety, reduce risk, and support lawful conduct during observation activities; however, even full compliance with the law does not eliminate the risk of detention or force. Observers should prioritize safety and understand that legal remedies, if available, are often pursued after the fact. This document is for educational purposes only and does not constitute legal advice.

Overview The right to observe and record government activity in public is a cornerstone of democracy and essential to preserving a free society. Our Founding Fathers recognized that public awareness of government actions is essential to self-governance and the protection of liberty, and they enshrined this principle in the First Amendment by guaranteeing freedoms of speech, press, assembly, and the right to petition the government.

Your Right to Record You have a First Amendment right to record immigration and law enforcement activity in public spaces, including immigration courts, so long as you do not impede or interfere with their duties, are abiding by the local court rules inside the courtroom, and are abiding by the law. This includes streets, sidewalks, parks, public spaces in buildings, and all areas where you are allowed to be present.

What You Can Do:

- Observe, photograph or record immigration and law enforcement activity in public spaces from a safe distance
- Document, communicate and disseminate information about government activity
- Livestream or back up the footage if possible

What You Should Avoid:

- Do not physically interfere with agents or obstruct their movement
- Do not block the path of agents or their vehicles
- Do not enter restricted areas or private property without permission
- Do not violate local court rules regarding use of technology and recording restrictions
- Avoid confrontation; assert your rights calmly and clearly

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Critical Safety Warning About Legal Observers in Vehicles: For legal observers (or for ordinary bystanders), vehicles can be the single greatest source of escalation during enforcement encounters. Courts and law enforcement treat vehicles as potentially deadly weapons, even when no harm is intended. The intent of the driver does not control the encounter; officer perception of risk does. Courts have repeatedly upheld officer claims that a moving, or even idling, vehicle posed a threat. This means conduct that would be lawful on foot can be reframed as threatening when done from a vehicle.

What You Should Avoid in a Vehicle: Government officials have repeatedly characterized vehicles as deadly weapons when observers or community members conduct lawful observations from vehicles. Even minimal movement can be framed as assault or impeding under federal law. As a result:

- Do not drive into restricted areas
- Do not fail to pull over in a timely and safe manner in response to activation of patrol lights
- Do not inch forward or reposition without instruction
- Do not block lanes, driveways, or sidewalks or impede law enforcement
- Do not violate any vehicle safety or traffic laws

- **Lawful Authority to Order You Out of a Vehicle:**
  - Officers have the lawful authority to order drivers and passengers out of a vehicle during a stop for officer safety, even absent suspicion of criminal activity.
  - YOU MUST EXIT THE VEHICLE IF REQUEST IS MADE. Refusal or delaying compliance can be interpreted as resistance, obstruction and escalation justifying arrest or force.
  - Remain calm and silent unless responding to instructions.
  - Any legal challenges to unlawful orders can occur after the encounter in court, not during it.

How to Prevent Arrest While Observing or Recording:

- **Stay in public spaces** like sidewalks, parks, and public spaces in buildings, where you have a legal right to be.
- **Observe on foot whenever possible** given the fact that lawful observation can be reframed as interference or threatening when conducted from a vehicle.
- **Keep your distance**: Stay at least 10–15 feet away from enforcement activity. Use zoom if necessary.

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- **Remain calm and silent**: Do not yell or antagonize agents. Narrate only if it helps document clearly. Maintain a respectful and professional demeanor, even if the actions taken are unjust.
- **Don't interfere**: Never impede, block, touch, or obstruct agents, their vehicles, or equipment.
- **Secure your footage**: Use apps that back up recordings to the cloud or stream live (e.g., Dropbox, Signal, Mobile Justice).
- **Protect privacy**: Avoid identifying impacted individuals unless you have consent.

Important Reminders:

- Always prioritize safety first; legal challenges can come later.
- Enable location sharing and expected return time with an emergency contact.
- Avoid observing alone if possible.
- Carry government-issued identification and keep it readily accessible.
- Disable biometric phone unlock and do not consent to a search or seizure of your phone or camera.
- You are not required to delete any footage you legally captured.
- Always invoke your right to remain silent and ask for a lawyer.

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Federal Statutes Sometimes Cited in Arrests or Requests to Stop Recording (Correctly or Improperly):

1. **18 U.S.C. § 111** – Assaulting, Resisting, or Impeding Federal Officers
   - *Misuse:* Claimed if you are close or speaking loudly while filming.
   - *Defense:* Stay at a distance and do not physically interfere. Make clear you are only observing, not impeding or obstructing, and are only exercising your protected rights.
2. **18 U.S.C. § 372 –** Conspiracy to Impede or Injure Officer
   - *Misuse:* Misapplied against two or more organizers or observers or community defense efforts recording or responding to immigration enforcement as a conspiracy to impede federal officers
   - *Defense: Peacefully* recording or observing in groups is not threatening or intimidating nor designed to prevent officers from doing their jobs. Do not block the path of law enforcement. Make clear you are exercising your protected rights and not interfering.
3. **18 U.S.C. § 1505 or § 1512** – Obstruction of Justice
   - *Misuse:* Alleged if officials claim your presence disrupts or delays action.
   - *Defense:* Record passively from a safe distance and say clearly: "I am not interfering. I am observing from a public place."
4. **40 U.S.C. § 1315** – Protection of Federal Property
   - *Misuse:* Used if recording near or on federal property like ICE facilities.
   - *Defense:* Film only from public rights of way unless you have permission to be on federal grounds.
5. **8 U.S.C. § 1324** – Harboring or Aiding Unauthorized Immigrants
   - *Misuse:* Misapplied if filming is seen as warning or aiding escape.
   - *Defense:* Simply observing or filming is not harboring. Do not instruct others to flee or obstruct.
6. **18 U.S.C. § 1382** – Entering Military Property Without Permission
   - *Could Apply:* If filming on or near ICE facilities based on shared federal land.
   - *Defense:* Know where you are. Do not enter posted or fenced federal/military areas.
7. **6 C.F.R. § 139.35 -** Prohibited Conduct on Federal Property (or in areas outside Federal property) That Affect, Threaten, or Endanger Federal property or persons
   - *Misuse:* Misapplied if alleged that observing or filming of officers is harassing, intimidating or disruptive or if blocking access to federal property
   - *Defense:* Stay clam, maintain a respectful, non-confrontational tone and keep a distance from federal property

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Federal Statutes Sometimes Cited in Arrests or Requests to Stop Recording (Correctly or Improperly):

8. **18 U.S.C. § 2331(5)** – Provides definition of “Domestic Terrorism” (not an actual federal crime)
    - *Misuse:* Even though individuals cannot be charged with domestic terrorism at the federal level, observers that have been accused of “following” and “harassing” ICE officers have been alleged to have engaged in acts of “domestic terrorism”
    - *Defense:* Observing or filming ICE officers in public to document their actions is legal and protected. Doing this is not domestic terrorism because it involves no violence, threats, or intimidation.