



*Homeland Security Investigations  
Office of the Executive Associate  
Director*

**U.S. Department of Homeland Security**  
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Washington, D.C. 20536

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MEMORANDUM FOR: Special Agents in Charge  
Assistant Directors  
Deputy Assistant Directors  
Attachés

FROM: Executive Associate Director  
Homeland Security Investigations

Digitally signed by Steve K.  
Francis  
Date: 2022.03.04 17:02:52  
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SUBJECT: Guidelines for Enforcement Actions In or Near Protected Areas

On October 27, 2021, the Secretary of Homeland Security issued [Guidelines](#) for Enforcement Actions In or Near Protected Areas. These Guidelines state that, “to the fullest extent possible, we should not take an enforcement action in or near a location that would restrain people’s access to essential services or engagement in essential activities.” This memorandum provides information to implement the Secretary’s Guidelines for Homeland Security Investigations (HSI). As listed in the Guidelines, enforcement actions include, but are not limited to, arrests, civil apprehensions, searches, inspections, seizures, service of charging documents or subpoenas, interviews, and surveillance conducted solely in furtherance of administrative immigration enforcement. The Secretary’s Guidelines does not apply to matters in which enforcement activity is not contemplated. As just one example, it does not apply to an Agent’s or Officer’s participation in an official function or community meeting.

Examples of protected areas provided in the Guidelines include, but are not limited to, the following:

- A school, such as a pre-school, primary or secondary school, vocational or trade school, or college or university.
- A medical or mental healthcare facility, such as a hospital, doctor’s office, health clinic, vaccination or testing site, urgent care center, site that serves pregnant individuals, or community health center.
- A place of worship or religious study, whether in a structure dedicated to activities of faith (such as a church or religious school) or a temporary facility or location where such activities are taking place.
- A place where children gather, such as a playground, recreation center, childcare center, before- or after-school care center, foster care facility, group home for children, or school bus stop.

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- A social services establishment, such as a crisis center, domestic violence shelter, victims services center, child advocacy center, supervised visitation center, family justice center, community-based organization, facility that serves disabled persons, homeless shelter, drug or alcohol counseling and treatment facility, or food bank or pantry or other establishment distributing food or other essentials of life to people in need.
- A place where disaster or emergency response and relief is being provided, such as along evacuation routes, where shelter or emergency supplies, food, or water are being distributed, or registration for disaster-related assistance or family reunification is underway.
- A place where a funeral, graveside ceremony, rosary, wedding, or other religious or civil ceremonies or observances are likely to occur.
- A place where there is an ongoing parade, demonstration, or rally.

#### *Exceptions*

The Secretary's Guidelines state that the list of examples it provides is not a complete list, and that Special Agents must consider what impact a detention or an arrest would have on an individual's access to the protected area itself. The foundational principle of the Secretary's Guidelines is that, to the fullest extent possible, Department of Homeland Security law enforcement officers should not take an enforcement action in or near a protected area. Nevertheless, the Secretary's Guidelines recognizes that there might be limited circumstances under which an enforcement action needs to be taken in or near a protected area. The following are some examples of such limited circumstances.

Exceptions include, but are not limited to:

- The enforcement action involves a national security threat.
- There is an imminent risk of death, violence, or physical harm to a person.
- The enforcement action involves the hot pursuit of an individual who poses a public safety threat.
- The enforcement action involves the hot pursuit of a personally observed border-crosser.
- There is an imminent risk that evidence material to a criminal case will be destroyed.
- A safe alternative location does not exist.

#### *Approval of Enforcement Actions in or Near Protected Areas*

The Assistant Director, Domestic Operations, or designee, is the approving official for enforcement actions *in* protected areas submitted by HSI Special Agents, via their chain of command.

Special Agents in Charge, or their designees, are the approving officials for enforcement actions *near* protected areas submitted to them by HSI Special Agents in their area of responsibility.

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For enforcement actions *in* a protected area, HSI Special Agents must seek prior approval via a memorandum to the Assistant Director, Domestic Operations, or designee. For enforcement actions *near* a protected area, HSI Special Agents must seek prior approval via a memorandum to their Special Agent in Charge or designee.

With respect to determining what *near* a protected area means, the Secretary's Guidelines state that "There is no bright-line definition of what constitutes 'near'." A variety of factors can be informative, such as proximity to the protected area, visibility from the protected area, and people's behavioral patterns in and around the protected area. The determination requires an analysis of the facts and the exercise of judgement. The fundamental question is whether our enforcement action would restrain people from accessing the protected area to receive essential service or engage in essential activities. Our obligation to refrain, to the fullest extent possible, from conducting a law enforcement action in or near a protected area thus applies at all times and is not limited by hours or days of operation.

If an enforcement action is taken due to exigent circumstances and prior approval was not obtained, HSI Special Agents must inform HSI Domestic Operations within 24 hours post-action and complete all necessary requirements for proper reporting.

#### ***Reporting of Enforcement Actions in or Near Protected Areas within*** (b) (7)(E)

In accordance with the Secretary's Guidelines, "Any enforcement action taken in or near a protected area must be fully documented in your Agency's Privacy Act-compliant electronic system of record in a manner that can be searched and validated." In compliance with this requirement, (b) (7)(E) will be utilized to ensure the proper recording of applicable enforcement actions. HSI Special Agents are directed to include protected area information within the Enforcement Operations Plan in (b) (7)(E). In particular, if the planned operation is in or near a protected area, HSI Special Agents will choose which type of protected area best qualifies and further choose (or define in text) which exception best prompts initiating an enforcement action in or near that particular protected area.

The following are the categories of protected areas in (b) (7)(E)

- Any School
- Medical, Healthcare Facility or Office
- Any Place of Worship
- Place where Children Gather or Recreate
- Social Service Office or Establishment
- Emergency/Disaster Response Shelter or Aid Location
- Place of Any Religious or Civil Ceremony, including Wedding or Funeral
- Gathering of People; Demonstration, Rally, or Parade
- Other (Text Box Fill-In)

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The following are the categories of exceptions in (b) (7)(E)

- National Security Threat
- Imminent Risk of Death, Violence, or Physical Harm
- Hot Pursuit Involving Personally Observed Illegal Border-Crosser
- Imminent Risk to Destruction of Evidence
- A Safe Alternative is Not Available
- Other (Text Box Fill-In)

Please ensure that all employees who are required to comply with this Memorandum receive instruction in conducting enforcement actions in or near protected areas. Instruction is delegated to all Special Agents in Charge or their designees to ensure that awareness of the Secretary's Guidelines is achieved and proper notifications and (b) (7)(E) entries are made.

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